



General Assembly

February Session, 2022

***Raised Bill No. 270***

LCO No. 2600



Referred to Committee on BANKING

Introduced by:  
(BA)

***AN ACT CONCERNING REPOSSESSION NOTICES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-785 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2022*):

3 (a) When the retail buyer is in default in the payment of any sum due  
4 under the retail installment contract or installment loan contract, or in  
5 the performance of any other condition that such contract requires the  
6 retail buyer to perform, or in the performance of any promise, the breach  
7 of which is by such contract expressly made a ground for the retaking  
8 of the goods, the holder of the contract may retake possession of such  
9 goods, provided the filing of a petition in bankruptcy under 11 USC  
10 Chapter 7 by a retail buyer of a motor vehicle, or such retail buyer's  
11 status as a debtor in bankruptcy, shall not be considered a default of a  
12 retail installment contract or ground for repossession of such motor  
13 vehicle. Unless the goods can be retaken without breach of the peace,  
14 the goods shall be retaken by legal process, provided nothing contained  
15 in this section shall be construed to authorize a violation of the criminal  
16 law. In the case of repossession of any motor vehicle without the

17 knowledge of the retail buyer, the local police department shall be  
18 notified of such repossession not later than two hours after repossession.  
19 In the absence of a local police department or if the local police  
20 department cannot be reached for notification, the state police shall be  
21 promptly notified of such repossession.

22 (b) Not less than ten days prior to the retaking, the holder of such  
23 contract may serve upon the retail buyer, personally or by registered or  
24 certified mail, a notice of intention to retake the goods on account of the  
25 retail buyer's default. The notice shall state that the retail buyer is in  
26 default and the period at the end of which such goods will be retaken,  
27 and designate (1) the obligations required to be performed in order to  
28 cure the default, including the dollar amount of any required payment,  
29 and (2) the date by which such obligations must be performed. The  
30 notice shall briefly and clearly state the retail buyer's rights under this  
31 subsection in the event such goods are retaken. In the case of  
32 repossession of any motor vehicle, the notice shall inform the retail  
33 buyer that he or she is responsible for removing all of his or her personal  
34 property from the motor vehicle prior to the date such repossession can  
35 take place. If the notice is so served and the retail buyer does not  
36 perform the conditions and provisions required under the contract to  
37 cure the default before the day set for retaking, the holder of the contract  
38 may retake such goods and hold such goods subject to the provisions of  
39 subsections (d), (e), (f), (g) and (h) of this section regarding resale, but  
40 without any right of redemption.

41 (c) If the holder of such contract does not give the notice of intention  
42 to retake, described in subsection (b) of this section, the holder shall  
43 retain such goods for fifteen days after the retaking within the state in  
44 which such goods were located when retaken. During such period the  
45 retail buyer, upon payment or tender of the unaccelerated amount due  
46 under such contract at the time of retaking and interest, or upon  
47 performance or tender of performance of such other condition as may  
48 be named in such contract as precedent to the retail buyer's continued  
49 possession of such goods, or upon performance or tender of

50 performance of any other promise for the breach of which such goods  
51 were retaken, and upon payment of the actual and reasonable expenses  
52 of any retaking and storing, may redeem such goods and become  
53 entitled to take possession of such goods and to continue in the  
54 performance of such contract as if no default had occurred. The holder  
55 of such contract shall, not later than three days after the date of the  
56 retaking, furnish or mail, by registered or certified mail, to the last-  
57 known address of the retail buyer, a written statement indicating (1) the  
58 unaccelerated sum due under such contract and the actual and  
59 reasonable expense of any retaking and storing, and (2) in the case of  
60 repossession of any motor vehicle, the holder of such contract shall also,  
61 not later than three days after the date of the retaking, and without  
62 regard to whether notice of intention to retake was given to the buyer,  
63 send a written notice (A) that the buyer is responsible for retrieving  
64 items of personal property that may have been left in the motor vehicle,  
65 other than items that may have been turned over to law enforcement,  
66 (B) that such property, if any, will be available for retrieval for at least  
67 sixty days after the date on which the motor vehicle was repossessed,  
68 unless the holder of the contract specifies, or the terms of the contract  
69 specify a date at least sixty days after the repossession after which the  
70 buyer may no longer retrieve the property, and (C) the contact and  
71 business hours information that the buyer can use to make  
72 arrangements for retrieval of the property. If the buyer retrieves some  
73 or all of the personal property more than fifteen days after the date on  
74 which the motor vehicle was repossessed, the holder of the contract, or  
75 an agent thereof maintaining custody of the personal property, may  
76 charge the buyer a reasonable storage fee not to exceed twenty-five  
77 dollars. Failure to furnish or mail such statement as required by this  
78 section shall result in forfeiture of the holder's right to claim payment  
79 for the actual and reasonable expenses of retaking and storage, and the  
80 holder shall be liable for the actual damages suffered because of such  
81 failure. If such goods are perishable so that retention for fifteen days  
82 under this subsection would result in their destruction or substantial  
83 injury, the provisions of this subsection shall not apply and the holder  
84 of the contract may resell the goods immediately upon such retaking.

85 (d) If the retail buyer does not redeem such goods within fifteen days  
86 after the holder of the contract has retaken possession, the holder of the  
87 contract shall sell such goods at public or private sale not less than  
88 fifteen days and not more than one hundred eighty days after the  
89 retaking. When the holder of the contract retakes possession by legal  
90 process, and an answer is interposed, the holder of the contract may, at  
91 the holder's election, hold such retaken goods for a period not to exceed  
92 thirty days after the entry of final judgment by a court of competent  
93 jurisdiction entitling the holder of the contract to possession of such  
94 goods before holding such resale. The holder of the contract shall give  
95 the retail buyer not less than ten days' written notice of the time and  
96 place of any public sale, or the time after which any private sale or other  
97 intended disposition is to be made, either personally or by registered  
98 mail or by certified mail, return receipt requested, directed to the retail  
99 buyer at such retail buyer's last-known place of business or residence.  
100 The holder of the contract may bid for such goods at any public sale.  
101 The proceeds of the resale shall be considered to be either the amount  
102 paid for such goods at such sale or the fair cash retail market value of  
103 such goods at the time of repossession, whichever is the greater, except  
104 as otherwise provided in subsection (g) of this section.

105 (e) Proceeds of the resale shall be applied in the following order of  
106 priority: (1) First, to the payment of the actual and reasonable expenses  
107 of such resale, (2) if, after application pursuant to subdivision (1) of this  
108 subsection, there are proceeds remaining, then to the payment of the  
109 actual and reasonable expenses of any retaking and storing of said  
110 goods, and (3) if, after application pursuant to subdivisions (1) and (2)  
111 of this subsection, there are proceeds remaining, then to the satisfaction  
112 of the balance due under the contract. Not later than thirty days after  
113 the resale, the holder of the contract shall give the retail buyer a written  
114 statement itemizing the disposition of the proceeds. Any sum remaining  
115 after the satisfaction of such claims shall be paid to the retail buyer.

116 (f) Even if the proceeds of the resale are insufficient to defray the  
117 actual and reasonable expenses of such resale, and such actual and

118 reasonable expenses of any retaking and storing of such goods and the  
119 balance due under the contract, the holder of the contract may not  
120 recover the deficiency from the retail buyer or any surety or guarantor  
121 for the retail buyer, or from anyone who has succeeded to the  
122 obligations of such retail buyer, except as provided in subsection (g) of  
123 this section.

124 (g) If the goods retaken consist of a motor vehicle the aggregate cash  
125 price of which was more than four thousand dollars, the prima facie fair  
126 market value of such motor vehicle shall be calculated by adding  
127 together the average trade-in value for such motor vehicle and the  
128 highest-stated retail value for such motor vehicle and dividing the sum  
129 of such values by two. Such average trade-in value and highest-stated  
130 retail value shall be determined by the values as stated in the National  
131 Automobile Dealers Association Used Car Guide, Eastern Edition, as of  
132 the date of repossession. If an average trade-in value is not stated in said  
133 guide, the highest-stated trade-in value stated in said guide for the  
134 motor vehicle shall be used. If the goods retaken consist of a boat the  
135 aggregate cash price of which was more than four thousand dollars, the  
136 prima facie fair market value of such boat shall be calculated by adding  
137 together the average trade-in value for such boat and the highest-stated  
138 retail value for such boat and dividing the sum of such values by two.  
139 Such average trade-in value and highest-stated retail value shall be  
140 determined by the values as stated in the National Automobile Dealers  
141 Association Appraisal Guide for Boats, Eastern Edition, as of the date of  
142 repossession. If an average trade-in value is not stated in said guide, the  
143 highest-stated trade-in value stated in said guide for the boat shall be  
144 used. In the event that the value of such motor vehicle or boat is not  
145 stated in such publication, the fair market value at retail minus the  
146 reasonable costs of resale shall be determined by the court. The prima  
147 facie evidence of fair market value of such motor vehicle or boat so  
148 determined may be rebutted only by direct in-court testimony. If such  
149 value of the motor vehicle or boat is less than the balance due under the  
150 contract, plus the actual and reasonable expenses of the retaking of  
151 possession, the holder of the contract may recover from the retail buyer,

152 or from anyone who has succeeded to such retail buyer's obligations, as  
153 a deficiency, the amount by which such liability exceeds such fair  
154 market value, as defined in this subsection. If the actual resale price  
155 received by the holder exceeds such fair market value, as defined in this  
156 subsection, the actual resale price shall govern.

157 (h) After the holder retakes possession as provided in subsection (a)  
158 of this section, or if the holder obtains a prejudgment remedy against  
159 the goods under chapter 903a, the retail buyer or anyone who has  
160 succeeded to such retail buyer's obligations shall not be liable for any  
161 balance due, except to the extent permitted by subsection (g) of this  
162 section. The holder may seek a monetary judgment on the contract  
163 against the retail buyer unless the goods have been repossessed, with or  
164 without judicial process. Goods purchased under the contract shall not  
165 be executed upon to satisfy such judgment. When such judgment  
166 becomes final, the holder's security interest in the goods shall be  
167 extinguished. If the contract covers a retail sale of a motor vehicle  
168 required to be registered, the holder shall comply with section 14-188.

169 (i) If the holder of the contract fails to comply with the provisions of  
170 subsections (c), (d), (e), (f), (g) and (h) of this section, after retaking the  
171 goods, the retail buyer may recover from the holder of the contract such  
172 retail buyer's actual damages, if any, and in no event less than one-  
173 fourth of the sum of all payments which have been made under the  
174 contract.

175 (j) No act or agreement of the retail buyer before or at the time of the  
176 making of a retail installment contract or installment loan contract nor  
177 any agreement or statement by the retail buyer in such contract shall  
178 constitute a valid waiver of the provisions of subsections (c), (d), (e), (f),  
179 (g), (h) and (i) of this section.

180 (k) After the delivery of the goods to the retail buyer and prior to any  
181 retaking of such goods by the holder of the contract, the risk of injury  
182 and loss shall rest upon the retail buyer.

183        (l) The commissioner may adopt regulations in accordance with the  
184        provisions of chapter 54 to implement the provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2022</i>	36a-785

**BA**        *Joint Favorable*