

REPLACING A VEHICLE WHILE IN A CURRENT CHAPTER 13 CASE

OK, you're currently in a Chapter 13 case and your car just broke down. What do you do? First, of course, find out what it will take to replace the vehicle. Remember that if you purchase a new vehicle, you'll have a down payment to come up with, a new purchase sales tax to pay, likely higher registration fees each year, and typically higher auto insurance depending on the replacement vehicle you pick out. You'll also typically get less than you expected for your trade in of the broken down vehicle ... or nothing at all if the vehicle still has a loan against it. If an accident was involved, the old vehicle will likely be worth nothing to you. So, if the vehicle is capable of being repaired, it will likely best to simply get it repaired and go on with it for the remainder of the term of your Chapter 13 plan.

Despite this, there **are** times when replacing a vehicle a car while still in your Chapter 13 case makes perfect sense. For example: If the car simply can't be replaced or the car isn't worth the expense to replace it. If so, do the following:

1. First, go search for a replacement vehicle. There are a number of dealerships and auto brokerages that have financing people that specialize in getting car loans approved while the person is still in a Chapter 13 case. Several of those are listed at the end of this article.
2. Once you find a dealership and finance person who will work with you, determine what type of car interests you, what financing might be available, and determine what the loan amount, monthly payment and interest rate would be. Understand that you simply won't get the dealership rebates or low interest rate deals that are advertised.
3. Once that information is determined, ask the finance person whether or not the intended lender will require the Chapter 13 Trustee to approve the new loan. Some finance companies require this, others don't. Since getting the Trustee's permission will involve telling him/her about your current budget and the fact that you may have more income now than you did when you originally filed the case, it is better to not have to get his/her permission if possible.
4. If the Trustee's permission will be required, you will need to apply to "incur a new debt." In that case, go to the Client Only web page entitled "*After Filing: Documents*" and check out the information on "*Application to Incur New Debt.*" (If you don't already have it, the password for Clients is "**bkinfo**"). This will give you the forms and the information you need to give to your attorney to file that application. Filing an application normally requires additional attorney fees of \$200, the filing of a revised and updated budget, and often takes about a week to be approved after it is presented to the Trustee.
5. **DO NOT TAKE THE VEHICLE that you intend to purchase from the dealer's lot** until the permission from the Trustee has been received. If you don't get that permission and have to return the car, there will be expensive rent and mileage charges to pay!

6. Once you have received the Trustee's approval of your application, go pick up and enjoy your replacement vehicle. However, if your old vehicle had a loan against it that has not been paid off (possibly from insurance money if in an accident), there is still some work to do.
7. Since the original vehicle was being paid "outside the plan," that is the plan payments that you make to the Trustee is not paying for the loan on that vehicle, you are still liable for that loan and it won't be discharged in your bankruptcy case **UNLESS** a modified plan is filed that changes the status of the car from being "paid outside the plan" to being "surrendered." If this modification is filed and approved by the court, the remaining loan on the old vehicle WILL be discharged when you complete your Chapter 13 plan. This is important and be sure to talk to your attorney about this. Even so, there is currently one judge that will not approve this type of modification. If your case ends with ABC, please call us before you do anything further. If we have to modify your plan, there are typically no additional attorney fees to pay. However, the Trustee will again want to see a new budget and whether your plan payments will decrease, increase or stay the same will depend upon your circumstances when your modification is filled. Again, talk to us and we'll see what would happen if we filed to modify your plan.

THESE ARE SOME DEALERS THAT UNDERSTAND BANKRUPTCY AND BAD CREDIT AND CAN HELP GET YOU A CAR LOAN WHEN NO ONE ELSE CAN. There are other dealerships who may be able to help as well, but these dealerships have finance people who are experts in your situation:

TYNAN'S NISSAN
(Aurora area)
Contact: Shean Kirin
780 S. Havana, Aurora
Tele: 303-341-3262
E-mail: shean.kirin@tynans.com

LARRY MILLER DEALERSHIPS
(Lakewood & Golden area)
Contact: Daniel Fortin
Tele (Direct Cell): 404-483-4332

JFR & Associates, Inc.
Contact: Mark Ford
8371 Southpark Lane
Littleton, CO 80120
Tele: 720-266-4941
Website: www.afterbankrutpcyauto loans.com