



MISSED REPAYMENTS ON YOUR HOME LOAN

Disclaimer: Consumer Credit Legal Service (WA) Inc. produced this information as a general guide only. The information is not legal advice. You may ring us on (08) 9221 7066 for more help.

CASE STUDY

Lisa has a home loan. Two months ago she lost her job and could no longer afford to make any loan repayments. She hasn't made any repayments on the home loan since she lost her job. She has now received a default notice in the mail and has called CCLSWA to see what she can do. Lisa tells CCLSWA that she does not want to sell the house. Lisa believes that she will soon be able to make repayments. She is advised to apply for a hardship variation with her lender.

If you miss a payment on your home loan, you will be in default. It is important to act as soon as possible and not ignore the situation.

Have you received a default notice?

If you default on your home loan, your lender will send you a **default notice** allowing you at least 30 days to fix the default.

If you pay the outstanding amount owing and your normal repayment due before the 30-day notice period expires, you have fixed the default. It is important that you pay both the outstanding amount owing and the normal repayment. Paying one but not the other does not fix the default.

If you do not pay the outstanding amount owing and any normal payment that is due during the 30-day notice period, the lender may repossess and sell your home.

How does a lender repossess my home?

If you do not fix the default within the time stated in the default notice, the lender may:

- (a) ask you to vacate the property and give them vacant possession; or

- (b) start legal proceedings in the Supreme Court of Western Australia. The lender will ask the court for judgment which allows them to repossess the property and for you to pay all of the money owed on your home loan.

Unless you have a valid defence to the lender's claim, the court will enter judgment against you.

If you believe that you have a defence for defaulting on your home loan, you may want to contact us for advice.

What can I do before judgment is entered?

Your options are:

- (a) To apply for a hardship variation;
- (b) To pay the outstanding amount and make regular repayments. You can also ask the lender to withdraw the default notice. If it is not withdrawn, the lender can rely on this default notice in the future;
- (c) Refinance the loan; or
- (d) Negotiate with the lender for time to sell. If the lender refuses to negotiate, you could lodge a dispute with the Australian Financial Complaints Authority (contact details below).

What happens if the lender gets judgment?

If the lender gets judgment, you will probably have 28 days from judgment to deliver vacant possession of the property to the lender. The court may give you more time to do so.

It may be possible for you to negotiate with the lender to delay enforcing the judgment. For example, you may try to ask for more time to move out. However, it is up to the lender to agree.

For further information contact:

Consumer Credit Legal Service (WA) Inc.

Website: www.cclswa.org.au

Advice line number: (08) 9221 7066

Australian Financial Complaints Authority

Website: www.afca.org.au

Telephone number: 1800 931 678

Financial Counsellors' Association of Western Australia

Website: www.financialcounsellors.org

Telephone number: 1800 007 007