

## What if I'm in Default ?

If you are no more than one or two months in arrears every once in a while, chances are that nothing serious will happen. However, if the arrears persist or if they increase to three months of arrears, or more, your lender may not accept your payments unless you pay the full amount of arrears including late fees. You will first get late notice(s), followed by letters from your lender advising you of **potential options** such as a modification, short sale or deed-in-lieu of foreclosure. Under a **mortgage modification** the lender would end the problem with arrears, that would otherwise cause a foreclosure, by adding the arrears to the principal, and would lower monthly payments by lowering interest and extending the loan term. To the extent that you have regular income you should consider negotiations with your lender. Our office can maximize your chance of succeeding with such negotiations by representing you, as your attorneys, in such negotiations. If you are unable to catch up with mortgage payments or to enter into a negotiated agreement with the lender, you will receive after several months a notice of default, which advises you that due to your arrears you are now in default but that you can still cure such default by paying the arrears and late fees.

If you continue to miss mortgage payments and cannot obtain a mortgage modification or other negotiated settlement with your lender, you will eventually be sent by your lender a letter giving you a 90 day notice of foreclosure. This letter indicates to you the amount in arrears and gives you another opportunity to resolve the situation. While a foreclosure proceeding often does not start within 90 days, it may start several months later. The amount of time the lender will wait before it actually starts foreclosure proceedings can vary greatly and other than the above notices the lender will not actually tell you the precise time it will start the proceedings. While modification or other negotiated solutions require the lender's cooperation, another way of preventing a foreclosure proceeding from starting, which does not need the lender's consent, is a **Chapter 13 bankruptcy** case, where one can catch up on their mortgage arrears over a five (5) year plan while resuming regular monthly mortgage payments.