

# What is a Short Sale?

**WHAT IS A SHORT SALE?** A "Short Sale" or "negotiated settlement" or "short pay" occurs when a Lender agrees to accept less than the amount owed to payoff a loan as an alternative to foreclosure. If the property is worth less than the amount owed on the loan, then even if the Lender forecloses and takes back the property, they know they are going to take a loss. We can often convince a Lender that they will "do better" if they take less than what is owed now rather than taking the property back by foreclosure and trying to sell it later.

**HOW LONG WILL IT TAKE? The Short Sale negotiation process is a lengthy one.** It may take several weeks or more likely several months to get an approval. Many Lenders have several layers of bureaucracy, insurers, and investors that we will have to maneuver through in order to get a Short Sale approved. So it is important to be patient during this long process.

**BUT MY HOUSE IS GOING TO FORECLOSURE, WILL I HAVE ENOUGH TIME?** Maybe, maybe not. Just starting a Short Sale will not automatically stop a foreclosure. However, many times we can convince a Lender to stop the foreclosure to let us attempt to negotiate the Short Sale. So, while there are no guarantees, it does not hurt to try.

**CAN I STAY IN THE HOUSE?** The key word in "Short Sale" is *sale*. The purpose of a Short Sale is to get the property sold. So you will be moving. This is not a program that can stop a foreclosure and allow you to keep the house indefinitely. It will be easier to sell the house if it is vacant, so you should make plans to move as soon as possible.

**HOW DO I KNOW THIS WILL WORK?** You don't. We cannot, have not, and will not make any promises to you that this will work. Once you missed a payment, the Lender is in charge and can proceed to foreclosure if they want to. But we know they do not want to and we are very good at presenting alternatives to the Lender that they often want to accept rather than foreclose. We are very good at what we do, but NO PROMISES are being made as to whether or not the Lender will accept a Short Sale – they may or may not.

**WILL I GET ANY MONEY FROM THE SALE?** NO. A universal requirement of Lenders in granting a Short Sale is that the borrower will not get any proceeds from the sale of the property. The Lender is going to take a loss on your loan – they are not going to let you get any money.

**WHAT HAPPENS IF THIS DOESN'T WORK?** Your house will likely go to foreclosure. A Short Sale is something we try after you have exhausted your other options.

**WHAT IS A "RELEASE"?** A Lender may offer to "release" its security interest against the property in exchange for less than the total amount of the note. A release will allow the property to be sold without paying off the obligations of the note. However, the note is not satisfied. *Advantages:* This successful Short Sale will allow the property to be sold and thus avoid a foreclosure. *Disadvantages:* The remaining debt on the property (sometimes called a "deficiency") still exists. You are still liable for the note – in other words – you still owe the money. *Reality:* It is not likely that the Lender will pursue the deficiency unless you have other significant assets, and if you don't try a Short Sale and the property goes to foreclosure, you are going to have a deficiency anyway.

**WHAT IS A "SATISFACTION"?** A Lender may agree to accept less than it is owed as complete and total satisfaction of the note and release its lien against the property. *Advantages:* Your note and obligation to the Lender are satisfied for less than you owe. When the property is sold, the debt is paid off completely. *Disadvantages:* You may have some tax consequences that you should discuss with your tax advisor due to the fact that the Lender is making money you owe disappear. Sometimes our negotiations are successful in obtaining a satisfaction. Sometimes all we can get is a release.

**WILL THERE BE TAX CONSEQUENCES?** The Mortgage Forgiveness Debt Relief Act of 2007 provides the discharge of indebtedness up to \$2 million is not considered taxable income from Short Sales of a Seller's purchase money mortgage on his or her primary residence of at least 2 years. As always, questions regarding your individual tax situation should be directed to your tax advisor.

**WHAT IF I FILED BANKRUPTCY?** Since a bankruptcy prevents debt collection activity, and foreclosure is a collection activity, and a Short Sale is an alternative to foreclosure, lenders should not discuss a Short Sale if the property is involved in an active bankruptcy. Therefore, if you have filed a Bankruptcy, we will not be able to negotiate a Short Sale until either: the Bankruptcy is discharged or dismissed, the Trustee abandons its interest in the Property, or the Court issues an Order granting relief from the automatic stay and specifically allowing the Short Sale.

**HOW CAN I HELP?** The Lender will require a review of a financial package that usually includes: two months' bank statements, two months' pay stubs, two years' IRS tax returns and other information. The leading cause of delay and even denial of our offer to the Lender is caused by the Seller failing to deliver these items in a timely manner. To help us succeed, please find as much of this information as you can right now and complete the attached "Financial Worksheet" – this will help us work faster and increase our success.

Acknowledged this day of \_\_\_\_\_, 2009.

SELLER: \_\_\_\_\_ SELLER: \_\_\_\_\_

Print Name: \_\_\_\_\_ Print Name: \_\_\_\_\_