

What is a Short Sale?

A Short Sale is the sale of a home when the net proceeds do not fully pay off the existing mortgage loan(s) and the Mortgage Servicer is willing to accept a discounted payoff.

Why would any Mortgage Servicer accept less than what is owed on a mortgage?

Mortgage Servicers are in business to lend money, not to own real estate. They do not want the expense of the foreclosure process and/or the holding and maintaining of the property if it does not sell at foreclosure. The foreclosure process is very expensive and time consuming, so many lenders will agree to what seems a loss on the mortgage when they will actually save money by not completing the foreclosure and holding the property in their portfolio.

How much will it cost to sell my home as a Short Sale?

In most cases, the seller will not pay any out of pocket expenses if your Mortgage Servicer approves the Short Sale. All real estate commissions, normal and customary title and escrow fees, late taxes, homeowner association dues and some repair expenses are paid out of the net proceeds of the Mortgage Servicer, Investor or Mortgage Insurance Company as part of the Short Sale approval.

What foreclosure scams do sellers need to be aware of?

- Absolutely DO NOT deed your property to a third party without absolute confirmation your loan has been paid off or approved by your Mortgage Servicer! Deeding your property to someone without paying off the mortgage loan does not forgive you of the debt, and the property is still encumbered by a lien.
- Do NOT authorize a prospective buyer to deal directly with your lender. Buyers may not operate in the best interests of the seller.
- Never pay upfront fees to a company offering to negotiate a short sale on your behalf. All of the fees are typically paid by the lender out of the final net proceeds at the time the deal closes escrow and titles are transferred.
- Be cautious of pressure selling. Short Sales are not something to take lightly and you must weigh all of your options with legal counsel prior to jumping into a deal. Plus, a short sale is not a quick sale. They take time to complete properly. Sellers have plenty of time to seek legal counsel prior to making any decisions.
- Do not agree to sell at a huge discount prior to getting your Mortgage Servicer's approval. Always seek legal counsel and/or full bank approval prior to agreeing to a sales price.

What sort of hardship would my lender consider legitimate?

These are just some examples of a hardship that may or may not apply to you. When writing your hardship letter to the mortgage servicer, explain in detail your personal hardship so they can best serve you.

- Family illness or injury
- Job relocation

- Job loss or significant income loss
- Divorce or split of domestic partners
- Death of a spouse
- Adjustment in mortgage payment or unforeseen increase in living expenses
- Too much debt
- Military service

I am current on my mortgage, so will my Mortgage Servicer consider a Short Sale?

The answer is, maybe. Some Mortgage Servicers will consider a Short Sale offer on mortgage loans that are not delinquent. Other Mortgage Servicers will not consider a Short Sale offer until the loan is delinquent.

Do lenders approve all Short Sales?

No. Each property has its own mortgage servicer, investor and mortgage insurance guidelines. Each case must be analyzed according to the terms and conditions set forth in their contractual agreements. Plus, there are so many moving parts to a short sale and Realtors cannot provide any guarantee to the seller that the bank will accept or not accept prior to the property going to foreclosure

I have a second mortgage on my property, so can I still do a Short Sale?

Yes. It is very important that all lien holders are sent the short sale packet and all lien holders are negotiated with at the same time. This will eliminate future delays in getting the deal completed. If you have one lien or 15, they all have to approve the release of all liens with a full terms and conditions of short sale approval. It is very important that you let your authorized party know if you have a second mortgage, home equity line of credit (HELOC), or any type of lien against your property such as a Home Owners Association lien, tax lien or mechanics lien.

Can I receive cash from a Short Sale?

Part of the short sale approval requires the seller to understand that he/she will receive NO cash proceeds from the sale of the property. The Short Sale is only designed to get you out of your mortgage debt; consequently, the Mortgage Servicers are taking a loss. Because lenders are accepting less than what is owed on the property, any extra money will be sent back to the Mortgage Servicers to help cover some of their losses.

What is the benefit to using a Realtor for selling a short sale?

You wouldn't want to go to court without a lawyer, and the same principle applies here. A seller is not obligated to use a Realtor; but typically, it is recommended that you do find a Realtor that specializes in selling short sales. If you currently do not have a realtor, NASSP can help you find a Realtor experienced in Short Sales, to assist you throughout the entire process. Typically, mortgage servicers require the property to be listed by a Realtor at fair market value so they have the opportunity to get the highest and best of fair market value when determining what final net proceeds they will approve to get the property sold.

How much will it cost me to do a short sale?

Sellers should never pay any upfront fees to a company to process a short sale. All fees and closing costs are incorporated into the final net proceeds of the transaction. If a company is asking for upfront fees for processing, it may just be a scam.

What if I am considering filing or have filed bankruptcy?

Sellers will need to check with their Bankruptcy Attorney to verify if they can proceed with a Short Sale. Most of the time if a seller files for bankruptcy, the mortgage servicer will stop all short sale negotiations unless a written letter from the bankruptcy attorney states that we can proceed with the negotiation and upon successful short sale approval, the bankruptcy attorney will release the property from the bankruptcy to get the property sold prior to foreclosure.

How long does it take to complete a Short Sale?

Although response times vary from lender to lender, it can take 60 to 120 days from the time you submit a full and complete short sale packet to the bank to get a short sale approval. Once you get an approval, it can usually take 30 to 45 day escrow to fully close the escrow. This also depends on the levels of management approval the file needs to receive. Some mortgage servicers have full power of attorney to make the decisions for their investors who own the loan and the mortgage insurance company. Some short sales have to get full investor and mortgage insurance approval prior to getting a fully executed short sale approved.

Do I have to make repairs to the property to sell or can I sell in “as is” condition?

Purchasing a Short Sale is like purchasing any other home, in that everything is negotiable. However, most homes sold as a Short Sale are in “AS IS” condition. The type of loan the buyer gets will determine if any repairs are requested to acquire the loan to purchase the property. Mortgage Servicer(s) often take into consideration repair costs when determining whether to approve a Short Sale offer or not. Most banks will analyze the cost factor as if they had to take the property back as a foreclosure and what it will take to repair the property and sell it in the future.

Do I need to prequalify with a lender before attempting a short sale?

Yes, you will be required to submit this documentation with your Short Sale offer to your mortgage company to be reviewed for full submission. Every property that has negative equity is eligible for a short sale.

If a buyer wants to purchase a Short Sale as either an investment property or an owner occupied property, what questions should they ask the Realtor?

Purchasing a Short Sale property is like purchasing any other home. Here are specific questions to ask when deciding if you are going to make an offer on a short sale property.

1. How long ago did you submit the short sale packet to the lien holder? If there is more than one lien holder, has the short sale packet been submitted to all lien holders?
2. Has the bank ordered a brokers price option/evaluation on the property yet? If so, has it been received by the bank yet?

3. Has the file been assigned to a negotiator for each lien holder?
4. Has an offer been submitted to the lien holders and when?
5. Has the short sale been previously approved by the bank(s)?

This is a good start..... Experienced short sale agents will have the answers to these questions right away.

Exactly what types of documents go in a short sale package?

- Bank Required Disclosures, if applicable
- Financial Statement regarding monthly budget
- Letter of Reasoning/Hardship
- Pay check stubs or Commission statements with Verification Of Employment
- Authorization Statement for the agent to communicate with the bank
- Last 2 years Taxes and or documentation of extension
- W2 or Profit and Loss and/or 1099s
- 2/mths most recent bank statements
- Purchase Agreement and Hud 1 Statement reflecting offers normal and customary closing costs and realtor fees
- Homeowners Association (HOA) Payoff demands for all all HOA or Specialized Improvement districts
- Comparable Market Analysis (CMA) from real estate agent
- Rental Agreements, if any
- Divorce Decree, if any
- Preliminary Report. Review for any potential issues prior to HUD submission
- Payoff Statements from all lien holders
- Bankruptcy Documentation
- Inspection Report from Certified inspector
- Repair items list, itemized with 3 different bids for repair.
- Death Certificates, Probate info, letter of testimony attorney info. (if applicable)
- Any Pending Law suits and all their documentation
- Realtors Listing Agreement signed by seller
- Any Child support, alimony and/or tax issues

What happens if I get a Notice of Default or Notice of Trustee Sale recorded while I have my property listed as a short sale?

Immediately contact your Realtor. In most cases, if there is a qualified buyer available and an offer that makes sense, you can work with the Mortgage Servicer, Investor and/or MI Company and get the Foreclosure put on hold to give the Short Sale a chance.

Can I do a short sale if I have already missed payments and already in default?

Yes. A mortgage is considered to be in default once you have missed one or more payments. The mortgage services see this as a good sign of true hardship and want to be proactive in solving the problem before it goes

to foreclosure. Some banks are even telling people that they have to miss payments before they will entertain a short sale. This is also a myth. Banks will do short sales even if you haven't missed any payments.

What are my options when facing foreclosure?

1. Do Nothing – If a homeowner does nothing, he/she will most likely lose their home at foreclosure auction. Credit reports, tax ramifications and deficiency judgments may apply without the opportunity to negotiate terms and conditions. In some cases, doing nothing and letting the property go to foreclosure leaves you open to the lender coming back to you AFTER the foreclosure in an attempt to collect the debt.

2. Payoff/Refinance/Short Refinance– Completely paying off the entire loan amount plus any default amount and fees. Usually this is accomplished through a refinance of the debt. With properties worth less than what is owed, you must negotiate with the bank to take less than what is owed. Must not be late on payments & qualify for new loan.

3. Reinstatement – Paying the entire default amount plus interest, attorney fees, late fees, taxes & missed payments.

4. Loan Modification – Utilizing the existing mortgage company to extend the terms of the loan by negotiating changes in interest and/or principle. This may allow the homeowner to catch up at a more affordable level. To qualify, you must prove to the lender you have fixed the problem that caused the late payment.

5. Forbearance – Lender may be able to arrange a repayment plan based on the homeowner's financial situation. The lender may even be able to provide a temporary payment reduction or suspension of payments. Information will be required from the lender to show that you are able to meet the new payment plan requirements.

6. Partial Claim – A loan from the lender for a 2nd loan to include back payments, costs and fees.

7. Deed in Lieu of Foreclosure – Give the property back to the bank instead of the bank foreclosing. Banks generally require the home be well maintained, all mortgage payment and taxes must be current. Most loan applications ask if this has ever happened because it's considered a voluntary repossession and treated much like a foreclosure on your credit report.

8. Bankruptcy – This option can liquidate debt and/or allow more time. NASSP can refer you to a qualified bankruptcy attorney in your area.

--Chapter 7 (Liquidation) to completely settle personal debt.

--Chapter 13 (Wage Earner Plan) Payments are made toward a plan to pay off debts in 3-5 years.

--Chapter 11 (Business Reorganization) A business debt solution.

9. Sale/Short Sale – Straight Sale applies if the property has equity (money left over after all loans and monetary encumbrances are paid). The homeowner may sell the home without lender approval through a conventional home sale. In this case, the homeowner will get cash from the sale. On the other hand, a Short Sale, also known as a pre-foreclosure sale, can be negotiated with your lender by your Real Estate Professional if what is owed is MORE than the property's value.

What are Advantages to a Short Sale?

- Avoid foreclosure on your credit
- Avoid potential bankruptcy
- Avoid being evicted from your home due to foreclosure
- Less potential tax liabilities

- Easier to clean up your credit and reduce the time it takes to re-qualify for future homeownership
- Get out from underneath a depreciating asset
- Lenders generally pay for normal and customary closing costs & real estate commissions
- Can potentially avoid liability for their mortgage debt and negotiating on your own terms the delinquency judgment if it applies.
- In most cases, sellers will have no out of pocket expenses unless requested by the Mortgage Servicer(s)
- Homeowner education & clear understanding to make the best decision for your situation

How do I find a Realtor who has the proper education and experience to sell my home as a short sale?

NASSPro has a nationwide network of certified Realtors that can assist you with your short sale. Look under “Find a Short Sale Specialist” and just put in your zip code to find a qualified Realtor in your area.

How do I know if I should try to attempt a short sale?

- Do you owe more than your property is worth?
- Do you have difficulty making your payments every month?
- Are you short the money to cover the difference to sell and pay closing costs and realtor commissions?
- Do you have an adjustable rate mortgage?
- If you have a hardship of any kind

***Just to name a few**

What are the typical steps to the Short Sale Process?

1. Sellers must Know their Options when facing the decision to do a short sale.
2. Contact a Realtor in your area that is NASSP certified in selling Short Sales .
3. Gather all financial information required from your Mortgage Servicer (s).
4. Get a listing agreement signed between you and your Realtor and immediately get the your property listed at current market value.
5. Request that the Mortgage Servicer(s) order the property evaluations and get the short sale package assigned to a negotiator right away to get the process started.
6. Once an offer has been received, immediately submit your offer to the Mortgage Servicer(s).
7. Allow the bank ample time to get the evaluation back and submit their request for a short sale approval to management, investors who own the loan, and the mortgage insurance company, if applicable.
8. Once Mortgage Servicers have reached proper terms and conditions for full short sale approval and buyers & sellers agree to the terms and conditions, the fully executed contract & short sale approval will be submitted to title & escrow and all other parties to the contract, such as attorneys and/ or any legal counsel necessary to make the proper decisions for your short sale approval.
9. A normal and customary title & escrow start processing the file and will follow the guidelines of the short sale approval letters as well as the contractual agreement between buyer and seller
10. Successfully close the escrow per the sale date and move on to rebuilding your financial freedom!

There are Multiple facets to getting a short sale done and this is just a snap shot of a complex foundation.

What are the implications of a deficiency judgment?

Every short sale has its own finger print. NASSP always recommends that you seek legal counsel with any questions related to deficiency judgments. These rules not only differ from state to state, but also on how the short sale terms & conditions are negotiated for full approval, and on your personal financial situation.

Will I still have to pay taxes if I do a short sale?

One often overlooked aspect of short sales is that a seller must count any amount forgiven by the lender as income and must report it to the IRS, even if no actual money was received. The IRS requires lenders to submit form 1099 stating the forgiven amount. Sellers who meet the Internal Revenue Service definition of insolvency (either in bankruptcy or with debts exceeding assets) will not have to pay taxes on the forgiven amount. The Mortgage Debt Relief Act of 2007 may eliminate taxes on any debt forgiven on a principle residence through either and short sale or foreclosure. This is also done on a case by case basis, so sellers should consult a CPA or Tax attorney regarding their individual situations.

This is also an issue for which NASSP recommends that sellers seek legal counsel. Again, how your taxes will affect you is all based on your personal situation and if you qualify for:

- The Mortgage Debt Relief Act of 2007. This may provide some relief for homeowners that are in a short sale position and may owe taxes on debt relief to the IRS.
- If you get a 1099c from your bank or a promissory note to pay remaining debt.
- The Tax Form 982: a form for a Reduction of Tax Attributes due to a discharge of Indebtedness. Need to prove insolvency.

There are also tax attorneys that can help you negotiate your tax bill with the IRS much like negotiating a short sale.

How do a foreclosure and a short sale show up on my Credit?

The credit consequences of a short sale and foreclosure vary slightly. The general consensus is that a short sale will show up on your credit report as a 'settlement', 'settlement for less than owed', a "pre-foreclosure in redemption", or SETTLED DEBT, and can be much less harmful to your credit than a foreclosure. There is also the possibility that through negotiation with the lender you can avoid having the short sale reported to a credit agency. A foreclosure on your credit report can take 7-10 years to remove and can cost your credit rating (FICO) up to 200-280 points, which is a very big hit.

A credit bureau is the only true source of information for determining how a short sale or a foreclosure are going to affect your credit. From our experience with homeowners, which is not to be taken as any form of legal advice, foreclosures usually show up as FORECLOSURE and can stay on your credit report for seven years. If you apply for a new loan or have your credit run, you run the risk of the foreclosure showing up. It is also a common disclosure many employers require you to make on job applications. Please consult a credit bureau to find out how a short sale or a foreclosure would actually affect your credit.

What Liability do I have when doing a short sale?

NASSP always recommends that anyone attempting a short sale get advice from proper legal counsel regarding anything involving deficiency judgments, tax ramifications, credit issues, garnishments, etc. The possibilities for properties differ from state to state. These differences, and any recent changes to laws such as Mortgage

Debt Relief Act of 2007 will make your case unique. Realtors can provide you with a source for legal counsel, but not the counsel itself. Please seek true legal counsel. For Example:

- Tax Attorney or CPA
- Bankruptcy Attorney
- All Attorney
- Credit Repair
- Debt Consolidation or negotiation company