

SHORT SALES

KEYS TO CLOSING MORE SHORT SALES



Short Sale Process Overview

A short sale occurs when a lender accepts a negotiated amount on a mortgage less than the balance due to the lender. Of ALL short sale transactions 40% will NEVER reach the closing table because the "Servicer" cannot obtain the formula from the end investor to compute the short sale figure or does NOT have the "Legal Authority" to make the final decision on a short sale amount. This 40% was bundled and sold in the "Securities" markets as derivatives. The servicers of these loans DO NOT have the legal authority to accept an amount short of the full loan payoff on behalf of the investors.

Of the remaining 60% of loans, approximately 50% of these mortgages were sold in the secondary mortgage market. The "Servicer" of these loans has been delegated "Legal Authority" to accept an amount short of the balance due and has been given the "Formula" to determine the minimum short sale amount. The remaining 10% of the loans are owned by the servicer and therefore have the ability to deliver a short sale amount.

Would you like to know how to select the 60% of loans most likely to be accepted as a short sale resulting in a closing?

AND THE OWNER IS?

Determine Who Owns the Loan

Determine if either Fannie Mae or Freddie Mac owns the loan, go to:

- www.fanniemae.com/loanlookup
(1-800-7Fannie)
- www.freddie.mac.com/mymortgage
(1-800-Freddie)

Enter the loan number to determine if the loan is owned by either Fannie Mae or Freddie Mac.

If the loan is either Fannie Mae or Freddie Mac, you are "Leading the Pack" out of the gate! Both Fannie Mae and Freddie Mac have defined processes to manage the short sale to expedite the transaction closing.

Which Way Do We Go?

Don't let the name fool you: selling a home through a short sale can take several months, and Brokers need to be prepared for the process.

Short sales aren't taking as long as they did in previous years, but , nationwide, the average time it takes to close on a short sale is currently 90 to 120days but a short sale could take as long as a year to close.

Keys to Closing More Short-Sales:

- Identify Who Owns the loan
- Determine borrowers eligibility for a short sale
- Decision Making: List it or Let It Go to Foreclosure



Determine if Borrower is Eligible for a Short-Sale

Eligibility for Fannie Mae/Freddie Mac short-sale can occur if an eligible homeowner with a documented financial hardship. Eligible borrowers can be **Current** or **Delinquent** on a mortgage loan but must demonstrate a qualifying hardship:

Delinquent Borrower

- Delinquent on mortgage payments; and
- Evidence of an eligible financial hardship; and
 - Death of a borrower, primary or secondary wage earner in the household
 - Unemployment
 - Divorce
 - Long-term disability
 - Distant employment transfer/relocation (More than 50 miles one way)
 - Increased housing expenses
 - Disaster (Natural or Man-Made)
 - Business failure
- Cannot qualify for a loan modification; and
- Borrower has not entered into a program or arrangement where a third party takes title to property and arranges a short sale in exchange for a fee.

Non-delinquent Borrower

- Current or less than 31 days delinquent; and
- Short Sale is an Arm's Length Transaction
- Occupy the property as a primary residence; and
- Have a monthly debt-to-income ratio greater than 55 percent (service members with PCS orders are exempt from this requirement)
- Evidence of an eligible financial hardship:
 - Divorce or separation
 - Death of borrower or primary wage earner
 - Borrower or dependent family member has a long-term or permanent disability
 - Distant employment transfer or relocation, including Permanent Change of Station orders for service members
- This type of short sale is much harder to get approved.



LIST OR LET IT GO (FORECLOSURE)

Market Research & Analysis

If all retention options have been exhausted or are not possible, a short sale "MAY" be a good alternative to foreclosure provided it is one of the 60% that has the elements to make it to the finish line.

Is Listing the Property a Viable Alternative?

1. Will The Market Bring A Viable Sale Price?

If the market will bring a sale price that is workable with a lender agreeing to a reduced payoff then marketing the listing is a viable alternative.

2. Approval Of Short Payoff Contingency

Once the property is placed in (MLS), it should be noted that the eventual purchase contract is subject to the lenders approval of a reduced payoff.

3. Advertising Permission

Any notations in the MLS or any advertising regarding the distress of the seller should only be done with the sellers' written permission.

4. Commission Issues With Cooperating Brokers

All licensees should KEEP IN MIND that in the negotiation of a "short sale" both Brokers' commissions could be affected and this should be taken into consideration in discussions with the co-operating Broker if an offering of compensation is made in the MLS.

5. Deficiency Judgment and/or Taxation Liability

A "Deficiency Judgment" refers to the amount of money still owed on a mortgage after a Short Sale. The remaining amount plus collection costs, attorney's fees and interest make up the deficiency balance. Unfortunately, Deficiency Judgments are often overlooked.

Whether or not the bank can collect a Deficiency Judgment depends on the terms of the loan documents and State of borrower.

It's important to understand that any amount the bank agrees to waive may be treated as "Income" by the IRS.

So, even when the bank agrees to waive the deficiency balance and not pursue a Deficiency Judgment against the homeowner, they may still be required to issue a "1099" declaring the waived amount to be income. Can't win for losing!



It is important to consider what the market will bring and analyze whether it is reasonable to sell the property as opposed to letting it go into the foreclosure.

A short sale may make sense if:

- Borrower does not qualify for any options to keep the home, including a loan modification, forbearance, or reinstatement.
- Borrower needs to move to keep or obtain employment
- Property will not sell at a price covering outstanding mortgage debt.



KNOWLEDGE + SKILL = RISK MANAGEMENT

Be A Resource

Brokerage-Owners, Managing Brokers and Brokers should not take on tasks beyond the scope of their authority, knowledge and skill set. When getting involved in a new area of the business like "Short Sales", Brokers should also obtain training necessary to ensure competence. Additional security against lawsuits by making sure E & O insurance coverage on Short Sale transactions before accepting these extra duties.

As a matter of office policy, notes, e-mails, and phone call logs should be maintained to document the thoroughness of all interactions between clients and agents.



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