

What Is A Short Sale?

A Short Sale occurs when a homeowner owes more on their property than the property is actually worth, and the homeowner can get their lien holder to agree to take less than what is owed as payment in full. In other words the bank is willing to take a SHORT (discounted) pay-off.

Why Are Banks Willing To Do A Short Sale?

Banks are willing to do a Short Sale because the alternative in many cases is foreclosure and the foreclosure process is far more costly to the bank than taking a discounted or short payoff.

What Are The Benefits For The Homeowner In A Short Sale?

The primary benefit to the homeowner who participates in a Short Sale is avoiding the devastating effects of a foreclosure to their credit and the ability to negotiate their deficiency outcome. A short sale affects each individual seller's credit rating differently and depends on a multitude of factors.

What Qualifies A Homeowner For A Short Sale?

1. The homeowner *may be in default* with their mortgage lender (some lenders require this), and
2. The homeowner has *little or no equity* in the property, and
3. The homeowner has a *legitimate hardship*, as defined by their bank.

What Does Default Mean?

A homeowner is in default when they have failed to make their mortgage payment. A mortgage payment that remains unpaid as of the close of business of the last working day before the next due date is considered a delinquency of one payment of 30 days late, regardless of the number of calendar days.

How To Determine If You Have Equity?

With our help you can determine the market value of your property. Once you establish how much your home is worth you subtract the balance of your mortgage(s) and selling expenses. If this number is positive you have equity.

What Is A Legitimate Hardship?

Loss of job, reduction in pay or overtime, death, divorce, separation, disability, medical illness, increase in property taxes, increase in payment due to ARM adjusting, etc. You may have other circumstances that will qualify, and you must be able to prove your hardship to your lien holder. You will be required to write a "Hardship Letter" and provide that to your lien holder.

Communication

It is key that you keep open lines of communication with your REALTOR throughout the process and share any documents received or conversations you have with your lien holder(s). You should also communicate property occupancy and the status of all utilities at the property

THE BIG 3

Short sales have important ramifications for sellers.

TAX IMPLICATIONS OF A SHORT SALE

When a servicer/investor suffers a deficiency (loss) they are required by law to send you, the borrower a 1099-C indicating the amount of the loss. This is considered taxable income by the IRS. You will need to consult your tax professional to understand how this will apply in your unique tax situation.

Agent/Brokerage cannot give tax advice.

DEFICIENCY WAIVER— Our goal 100% of the time is to obtain full deficiency waiver.

Nevada is a recourse State. Servicers, investors and mortgage insurance companies have the right to pursue you for any amount owed even after they have taken the collateral or the property is sold, unless they **expressly agree** in the short sale approval letter to waive this right. A legal action to collect money after foreclosure or short sale is called deficiency judgment. You will need to consult legal counsel on this matter. In the short sale negotiation process we work diligently to obtain **FULL DEFICIENCY WAIVER** of any outstanding balance. If your lien holder does not agree to a full waiver you have the option not to proceed with the short sale. **Agent/Brokerage cannot give legal advice.**

CREDIT SCORE IMPLICATIONS

The short sale can have a negative impact on your credit report. The exact impact will vary based on many factors, including but not limited to, your credit before the short sale, the number of late payments, and how the short sale is reported by the servicer/investor. You are encouraged to seek counseling from a HUD approved credit counseling agency for information on how the short sale will impact your unique credit situation. **Agent/Brokerage cannot give credit counseling advice.** Below is a graph published by FICO that shows impact on credit scores.

Impact to FICO® Score

	Consumer A	Consumer B	Consumer C
Starting FICO® Score	~680	~720	~780
FICO® Score after these events:			
30 days late on mortgage	600–620	630–650	670–690
90 days late on mortgage	600–620	610–630	650–670
Short sale / deed-in-lieu / settlement (no deficiency balance)	610–630	605–625	655–675
Short sale (with deficiency balance)	575–595	570–590	620–640
Foreclosure	575–595	570–590	620–640
Bankruptcy	530–550	525–545	540–560

Source: FICO® Banking Analytics Blog. © 2011 Fair Isaac Corporation.

SHORT SALE PROCESS

Preparing To Put Your Home On The Market

- Meet with an short sale specialist to determine if you pre-qualify you for a short sale - in default or going to be in default, no equity & legitimate hardship.
- You then complete and provide a list of documents for the short sale package.

- You should consult your CPA and an attorney with any legal or tax questions you have.
- A market analysis is completed to establish market value.
- Listing Agreement and supporting documents are signed.
- Your lien holder(s) are contacted for specific documents required.
- Authorizations your agent and escrow officer are submitted to the your lien holder(s).
- The lien holder(s) are notified that you are attempting to complete a short sale.

Putting The Property On The Market

- Once all of the short sale and listing documents have been completed the home will be placed on the market.
- It is key that you put your best foot forward and keep your home in showing ready condition.
- Our goal is to price your property to obtain an offer as quickly as possible and as close to fair market values as possible, so that we can begin negotiations with your lien holder(s).

At Time Of Accepted Offer

- Offer is reviewed to make sure it meets the criteria your lien holder will accept.
- Offer is forwarded to escrow to prepare a HUD-1 or Estimated Closing Statement reflecting the terms of buyer's offer and estimated closing costs.
- Short sale package is completed and sent to your lien holder(s).

Approval Process

- Within 48-72 hours after the short sale package has been submitted, your agent should begin calling your lien holder(s).
- The first goal is to ensure that the package has been received successfully. The amount of time it takes for each lien holder to verify receipt can vary from 48 hours to 3 weeks.
- The next step will be to find out if a negotiator has been assigned to the file. Every lien holder has a different procedure for how short sale files are handled. Many will not assign the file to a negotiator until the BPO (Broker Price Opinion) or property valuation has been completed.
- Throughout this process your agent should communicate weekly via email or phone to keep you updated, or more often if information becomes available.
- Once written approval is given by your lien holder(s), the buyer will then proceed with the inspections etc. and you can move forward to close escrow.

The Short Sale Package

In order to be considered for a Short Sale your lien holder(s) will require you and your agent to put together a list of documents, as well as a hardship letter. The documents include tax returns or W-2s, pay stubs, a financial worksheet, bank statements and more. This can be a time consuming process, but is crucial to getting the short sale process started.

Authorization To Release Information

This form is used to give your lien holders) authorization to speak with your agent and your escrow officer so that they can negotiate and facilitate your short sale.

Patience

The process can take time. The marketing of your property can take 30-60 days or more and once an offer is received it can take **60-90 days or more for the lender to review your file and send an approval.** You must maintain your property throughout this period, as well as the utilities.

Cost to You To Do A Short Sale—NONE

You will not be allowed to receive any funds from this transaction unless provided by your lien holder, and in turn the first mortgage holder will pay the commissions and closing costs on your behalf. In some cases, depending on your assets and the lien holder's loss you may be required to make a cash contribution or sign a promissory note to obtain the short sale approval. All costs associated with the sale are paid from the sale proceeds your lien holder(s) will agree to take.

Liens and Judgments

If you have any liens or judgments against your property it will be critical for you to let your agent know as soon as possible so that the agent can assist you in dealing with these issues. If you are late on your homeowner's dues, taxes, utilities, sewer, or garbage bills your agent will need to know.

Tax Ramifications

When the bank accepts a short payoff, the IRS considers the difference between what you owe and what the bank receives from the sale as ordinary income to you. You will receive a 1099. You will need to consult your CPA to determine exactly how your individual tax position will be impacted by this. Everyone who has debt forgiven receives a 1099.

Impact On Your Credit

A short sale is reflected on your credit report as "Discounted Payoff", "Paid In Full" or "Settled for less than owed." The impact this will have on your credit rating varies depending on many factors. The number of months you are late in making payments before and during the short sale will also have an effect on your credit.

It is highly recommended that you consult an accountant for tax implications, an attorney regarding the legal implications of a short sale and a credit counselor for credit score implications. Our expertise is in the marketing of your property and working with your lenders to approve a short sale.

Quick Facts On Nevada Foreclosures

- Judicial Foreclosures Available: Yes
- Non-Judicial Foreclosures Available: Yes
- Primary Security Instruments: Deed of Trust, Mortgage
- Timeline: Typically 120 days.
- Right of Redemption: Yes
- Deficiency Judgments Allowed: Yes

In Nevada, lenders may foreclose on deeds of trust or mortgages in default using either judicial or

non-judicial foreclosure process.

Judicial Foreclosure

The judicial process of foreclosure, which involves filing a lawsuit to obtain a court order to foreclose, is used when no power of sale clause is present in the mortgage or deed of trust. Generally, after the court declares a foreclosure, the home will be auctioned off to the highest bidder. The borrower has one year (12 months) after foreclosure to redeem the property if judicial foreclosure is used.

Non-Judicial Foreclosure

The non-judicial foreclosure process of foreclosure is used when a power of sale clause exists. A "power of sale" clause is a clause in which the borrower pre-authorizes the sale of the property to pay off the balance of the loan in the event of their default. This is the most common type of foreclosure in our area.

Timelines:

Delinquency Period—borrower fails to make payments, lender sends notices.

Notice of Default/Election To Sell—filed with the county recorder and notice sent to borrower. Can be filed as early as 30 days + 15 day grace period after you miss your first payment.

Within 35 Days After Notice of Default—borrower may payoff delinquent amount, reinstate the loan and stop foreclosure.

90 Days After Notice of Default—Notice of Sale can be filed setting the sale date and time.

25 Days Before Sale—Notice of Sale sent to IRS if applicable.

21 Days Before Sale—Notice of Sale posted and mailed to all parties. Must be published 3 consecutive weeks in newspaper.

Trustee's Sale Held—property is sold to highest bidder on courthouse steps. If not sold it goes back to the mortgage holder.

IMPORTANT NOTE: Once a Notice of Sale has been filed against the property the lender, at their discretion, can postpone the sale date up to 3 times to allow time for a short sale to close. Your agent should track this and make the request to your lien holder to postpone the sale if you are in the process of a short sale.

AB284 - A new law was passed into effect on 10/1/2011. This law requires your lien holder to have all their documents in order and a representative of the bank to sign an affidavit saying they have personal knowledge of all assignments of your note. At this time many banks are unable to foreclose in Nevada due to this new legislation.

THE SHORT SALE PACKAGE

The documents required for a short sale vary by lien holder. The following is a general list of what most lien holders will require. Your agent will provide lien holder specific documents if they are required.

Authorization to Release Information

This gives your authorization to your lien holder to allow both your agent and your escrow officer to speak with them regarding your short sale.

Hardship Letter

This is one of the most critical pieces of the short sale package. You will want to write a comprehensive and convincing explanation of your situation. You should be prepared to support whatever you put in your hardship letter. You will want to be concise and limit the letter to one page.

Financial Worksheet

The financial worksheet requires you to list all of your assets, debts, income sources and monthly expenses. Your lien holder is looking to see that your monthly expenses exceed your monthly income. They are looking for validation that you can no longer make your payments. Note: If you are self-employed you will be required to provide a year-to-date profit and loss statement and balance sheet.

Tax Returns

Your lien holder will ask for a minimum of 1 years tax return, the most current available. Many ask for 2 years. If you have not completed the current year's return you may provide a W-2. You will also be asked to sign an IRS 4506T form that allows your lien holder to get copies of your tax returns directly from the IRS for verification.

Bank Statements

You will be asked to provide bank statements for all borrowers and for all accounts that you have. Typically banks want the 2 most recent month's statements.

Pay Stubs

You will be asked to provide pay stubs for the 2 most recent pay periods for all borrowers. If you are unemployed you will have to provide unemployment statements if you are collecting unemployment. If you are retired you will need to provide social security or pension income statements.

Lien Holder/Loan Specific Documents

You may also be required to fill out additional documents specific to your bank or loan type. Your agent will provide these once they are provided by the lien holder.

Your agent will provide the following documents which make up the remainder of the short sale package:

1. Listing Agreement
2. Purchase Agreement, Buyer's Pre-approval Letter & Copy of Earnest Money Deposit
3. Short Sale Addendum
4. Estimated Closing Statement (HUD-1 provided by escrow)

A complete short sale package is the **KEY** to getting our file looked at quickly and processed

sooner. Your cooperation in compiling these documents is crucial to our short sale timeline.

Keys To A Successful Short Sale

- Your ability to demonstrate a hardship.
- Your cooperation and willingness to work with your agent to avoid foreclosure and successfully complete the short sale.
- Your lien holder's willingness to participate in a short sale.
- Getting an offer that is within your lien holder's acceptable range. This is typically 88-92% of fair market value which is determined by an appraisal or BPO (broker price opinion.)
- Number of mortgages on the property and number of lien holders involved. If there is more than one mortgage on the property it is more difficult to get both lien holders to agree. Two mortgages with the same lender are preferable, but even then you may be dealing with two different departments.
- Level of buyer and buyer's agent education of the short sale process. Your agent will make every effort to inform the buyer's agent that this process can take 60-90 days for approval and if the buyer needs to move in less time that they should not make an offer on a short sale.
- Communication. Your agent's ability to communicate with the negotiator, you, and the buyer's agent is key to successfully closing a short sale. Your agent should update all parties weekly at minimum, more often if information becomes available.

Have You Considered All Your Options?

- **Keep the Property** - If you don't have to move at this time, it may be more advantages to wait until market conditions improve to sell your home. Can you find short term solutions that may allow you to retain your home?
- **Sell The Property & Bring Cash To Close** - This might not sound appealing, but it can be a good choice for seller's who are in a position to make up the difference between market value and what is owed on the property.
- **Loan Modification or Workout With Your Lien Holder** - Have you called your lien holder to pursue any options that they may have to offer you?
- **Deed In Lieu**—This is basically trading the property for cancellation of the note. You should consult an attorney before pursuing this option. This is also referred to as a "friendly foreclosure" and has many of the same outcomes on your credit etc.
- **Foreclosure** - This is usually the worst option and can do the most damage to your credit. In the case where your lien holder will not release you from the right to collect any remaining balance this may be an option for you to consider. We strongly recommend that you consult an attorney.

FORECLOSURE VS. SHORT SALE

ISSUE	FORECLOSURE	SUCCESSFUL SHORT SALE
Future Fannie Mae Loan Primary Residence	A homeowner who loses a home to foreclosure is ineligible for a Fannie Mae backed mortgage for a period of up to 7 years . (See FannieMae.com)	A homeowner who successfully negotiates and closes a short sale will be eligible for a Fannie Mae backed mortgage after only 2 years .
Future Fannie Mae Loan Non Primary	An investor who allows a property to go to foreclosure is ineligible for a Fannie Mae backed investment mortgage for a period of up to 7 years . (See Fannie Mae.com)	An investor who successfully negotiates and closes a short sale will be eligible for a Fannie Mae backed investment mortgage after 2 years .
Future Mortgage Applications	On future 1003 application, prospective borrower will have to answer YES to questions regarding previous foreclosure.	There are currently no similar questions regarding short sale.
Credit Score	Score may be lowered anywhere from 250 to over 300 points . Typically will affect score for over 3 years .	Only late payments on the mortgage will show after the sale is reported as Paid or negotiated. Typically this will lower the score as little as 50 points all other payments are being made. A short sale's affect can be as brief As 12 to 18 months .
Credit History	Foreclosure will remain as a public record on a person's credit history for 7 years or more.	Short sale is not reported on credit history . Typically reported 'paid in full, settled' or "paid as negotiated."
Security Clearance	Foreclosure is the most challenging issue against a security clearance outside of a conviction of serious misdemeanor or felony. Security clearance can be revoked.	On its own, a short sale does not challenge most security clearances.
Deficiency Judgment	In 100% of Nevada foreclosures the bank has the right to pursue a deficiency judgment.	In some short sales the lender gives up their right to pursue a deficiency.
Deficiency Amount	Foreclosure deficiencies typically result in a higher balance due to foreclosure costs. the deficiency is the amount of the mortgage, plus any costs incurred by the lender.	In properly managed short sales the home is sold at a price close to market value and in almost all case will be better than an REO sale resulting in a lower deficiency.

Source: Distressed Property Institute LLC.