

DEMYSTIFYING SHORT-SALES

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A short-sale is a situation where the homeowner owes more money to its lender than the property's actual market value.

- Homeowner must demonstrate hardship
- Include a request for the bank to bear all of the seller's closing expenses

The homeowner must be able to show that they are in a hardship or that events have taken place which will lead to a hardship, which will in turn, cause the homeowner to become late or unable to continue making payments. Keep in mind that most of the time a homeowner will be insolvent or close to insolvent. Therefore the request to the bank will also include a request for the bank to bear **all** of the seller's closing expenses including realtor's fees, legal fees, title charges, etc.

The Process: An Overview

- Typical short-sale process: 45 to 60 days
- Bank- implemented system called “**Equator**”
- Can get some documents into bank once property is listed

A typical short-sale will take anywhere from 45 to 60 days. It is possible to accomplish a short-sale in 30 days but it depends on the bank and the competence of the person navigating through and negotiating the short-sale. Now that banks are seeing more and more short-sales, they have “perfected” their short-sale processing, which allows for quicker results than what we were seeing several years ago. However, the process can still take longer if you are delayed in providing the lender with the required documentation. This is why it is imperative that you take the time up front, to submit a complete file to the lender. Once the file is reviewed by the negotiator and the offer is accepted by the lender, the file is then submitted to the lender’s investor for final review. This may take about one to two weeks to finalize.

One bank, Bank of America, has implemented a system called “Equator” which has proven to reduce the sometimes lengthy process of the short-sale. It is a system where all documents are uploaded thru a secure online system. There is no interaction with an actual person. The bank assigns “tasks” to the person negotiating the short-sale and those “tasks” must be completed by a specified date. Of course, if you have questions or are having problems on a file, you can always contact the bank’s short-sale department. This system was created to cut down on the amount of phone calls a bank can get on any given day on a short-sale request.

Once you are in contract with the prospective purchaser, a standard short-sale package will be submitted to the bank for processing. For the most part, all banks require the same documents but you should always contact the bank to confirm what documents they are requiring. Some documents that you will be required to submit will include: 1. A hardship letter, 2. A financial worksheet, 3. 2 years worth of tax returns, 4. 2 months of bank statements, 5. 2 consecutive and recent paystubs, 6. Listing agreement with realtor, 7. Fully executed contract of sale and 8. A listing of all closing costs that you will ask your lender to pay on your behalf at closing.

While it is possible to submit some preliminary documents to your bank once your property is listed so they know you are going to do a short sale, the bank will not proceed with the file until a fully executed contract of sale is submitted and may end up closing your file if it takes too long for the contract to be provided to them.

Once you have submitted all the requested documentation to the bank, an appraisal will be ordered through your lender with your real estate broker. The lender will always require this so that they will have a better idea of what the property is worth. *Keep in mind that your lender is in the business of making money and minimizing losses, so they will be looking to get as close to market value on your property as possible.*

Time Is NOT On Your Side

- 30 days to close the file once short-sale approval is issued
- Purchasers should process their mortgage before short-sale approval

One of the most important things to keep in mind when involved in a short-sale is to stress to the purchasers that they cannot and must not wait until the short-sale approval is issued, to process their mortgage. **Once a short-sale approval is issued, you will have 30 days to close the file.**

If the purchaser has not commenced the mortgage process, you may have a problem. The bank will always provide an extension on the first request. However, if additional extensions are needed, the bank may either charge a per diem penalty which will have to be borne by the purchaser as the seller is usually insolvent; or the bank may decide to reduce the realtor's commission.

Line Up Your Team of Professionals To Assist Your Homeowner

- Homeowner may want to seek the advice of a bankruptcy attorney
- Mortgage holder has the right to pursue a deficiency balance
- Some mortgage holders will forward a 1099 income statement
- Tax consequences to the homeowner

There may be tax consequences to the homeowner so it is important that the homeowner be advised of this and given the opportunity to speak to a tax advisor. A mortgage holder has the right to pursue a deficiency balance under the terms of the Note that the homeowner signed at their closing. Some mortgage holders will forward a 1099 income statement to the homeowner for the tax year in which they closed, but if the homeowner utilizes the home as his/her primary residence, generally there will be debt forgiveness *on a first lien*. However, if there is a second lien holder on the property, that lien holder may not be so forgiving and may request that the homeowner make arrangements after closing to continue to pay the deficiency. The mortgage holder's intentions are generally made clear in their approval letters. In this event, the homeowner may want to seek the advice of a bankruptcy attorney and explore their options.

Success With Short-Sales Comes Through Efficiency, Documentation, Follow-Up

The short-sale process can be a tedious process but it is not difficult to get through. So long as you have all documentation that the bank needs and you are efficient in your follow-up with the bank, the process can go smoothly. The key to the short-sale process is simple: give the bank what they want when they want it and make weekly follow-up phone calls to stay on top of the process.