

FREQUENTLY ASKED QUESTIONS

1. What is a short sale?

A short sale is a sales transaction in which the seller's lender(s) agrees to accept a payoff of less than the balance due on the loan and, in most cases, agree to pay the associated costs of sale.

2. Do lenders always agree to pay the costs of sale?

No! Short sale transactions do not follow a standard "blueprint." Each transaction is evaluated based on the extent of loss, seller financial position and market conditions.

3. How long does the average short sale take?

It can take anywhere from 28 days to six months or longer once the lender is in receipt of a fully executed offer. The process frequently moves slowly. Currently, many lenders are working to revamp their systems to speed up and streamline the procedure.

4. If a short sale transaction can take up to six months, why do they call it a "short sale"?

Clearly an oxymoron! Or you could look at it this way: the value and therefore the contract price is "shorter" than the loan amount.

The truth is a short sale has multiple phases that may affect the transaction time frame. Depending on market trends, price positioning, and other factors, it can take up to 180 days or more for a property to sell. Once the negotiations between buyer and seller are complete, the short sale proposal is sent to the lender who will evaluate it from a financial perspective. In addition, the homeowner must establish eligibility for the short sale by showing some level of hardship by providing supporting documentation such as, paycheck stubs, bank statements, tax returns, and other detailed financial and/or other documentation. Understandably, this process takes time!

5. What are the basic eligibility requirements for short sale consideration?

As mentioned in number four above; homeowners typically have to prove some level of hardship. Hardships may vary in nature ranging from financial, marital status, relocation, military deployment, salary reductions and so on. Your Realtor® can assist you in contacting your lender(s) to determine their specific criteria. Be honest and thorough in your assessment of your current situation.

6. Can you explain the difference between a "strategic" and a "non-strategic" short sale?

A short sale (or default) may be considered strategic if the homeowner decides to sell the property or stop making payments merely because the property has lost equity or because they just no longer want to make payments and/or keep the property. Strategic short sales may be less likely to receive lender approval.

A non-strategic short sale (or default) occurs when the homeowner no longer has the financial wherewithal to continue making payments and maintain the property.

7. Do I have to be in default (behind in my payments) to be considered a candidate for a short sale?

No! It is imperative that every homeowner understand that failing to make their payments may seriously damage their credit. In addition, after the prescribed legal time period and with proper legal notice, the lender may exercise their right to foreclose and you could lose your home!

8. How do I determine if a short sale is right for me?

Homeowners ought to be aware of their options before considering a short sale. Other alternatives include: Loan Modification, Refinance, Forbearance, Repayment Plan, Deed-in-Lieu of Foreclosure, Deed-for-Lease™, Foreclosure, and Bankruptcy. Non-profit counselors are available to advise homeowners on the advantages and disadvantages of each of the foregoing options. A directory of counselors may be obtained at www.hud.gov. Your tax, financial and legal advisors ought to be an integral part of the decision making process.

9. Why would a lender agree to a short sale?

There are various reasons why a lender may agree to a short sale. The foreclosure process takes time, and as is often said, "time is money."

The expense to the lender is a significant factor. Foreclosure costs may include: internal fees and expenses, eviction, repairs and maintenance of the property, security, as well as Home Owners Association (HOA) dues and utilities. These factors, combined with the federal and state government's push to halt foreclosures, make it easy to see why a short sale may be in the lender's best interest.

10. Is a short sale still an option if foreclosure has already taken place on my home?

For the most part, the answer is no. Once the lender has completed the foreclosure process, a short sale is not a viable option. For that reason, it is vital that homeowners understand the importance of early communication with the lender. Don't wait until it is too late. Speak to your lender, and let him or her know that you are having financial or other difficulties. If you want to retain ownership of your home, you may be able to work with your lender to explore alternatives to foreclosure. However, there are RARE circumstances that may allow for a reversal of trustee sale in order to put a short sale back on track.

11. If my Realtor® and I are successful in achieving short sale approval from all lenders do I remain responsible for the deficiency realized as result of the short sale?

In California, if a lender (note holder) agrees to a short sale in writing, they are prohibited from pursuing the homeowner ("mortgagor") for a deficiency judgment. The governing law is found in CA Civil Code Section 580(e) and is a result of the passage of Senate Bills 931 and 458. Under this law all loans recorded against residential property with one to four units are essentially deficiency proof. If a short sale is agreed to by the lender(s). It is important to note the following: (i) in the event of fraud the law does not protect the mortgagor (ii) in the event of waste against the property the law does not protect the mortgagor (iii) if the mortgagor is a Limited Liability Company, Limited Partnership or a corporation the law does not apply. Please consult real estate attorney for a full analysis of the law.

12. I have a second mortgage on my home. Does this make me ineligible for a short sale?

In many cases, a short sale can be achieved on properties with multiple loans. Depending on the extent of the loss to the junior lien holder (second trust deed), short sales are possible. When multiple loans are recorded against the property the process becomes more challenging. Proposals for short sale consideration should be submitted to all lenders, including Mortgage Insurer (if any), at the onset.

13. Once I have an offer on my home, what happens next?

Your REALTOR® will assist you in negotiating the best price and terms. Once the negotiations between buyer and seller are complete; the offer and all supporting documentation should be packaged and submitted to the lender's loss mitigation department. Follow-up and ongoing communication is a significant factor in a successful short sale.

14. Will I have to pay capital gains taxes if I sell a property as a short sale?

A short sale has no bearing on the calculation of capital gains taxes. However, there are other tax liabilities that must be evaluated. Seek the advice of tax, financial and legal advisors before agreeing to a short sale. For additional information, you may visit www.irs.gov to learn more about taxation of short sales.

15. Will a short sale affect my credit?

Yes. Your tax advisor will be able to address your specific situation.

16. How is Coldwell Banker Residential Brokerage streamlining the short sale process?

Coldwell Banker Residential Brokerage has been working diligently on a multi-faceted program to educate its managers and sales associates regarding the intricacies of the short sale. In response to the unprecedented challenges today's homeowners face, the company has developed a unique short sale package that allows Coldwell Banker Residential Brokerage sales associates to deliver comprehensive proposals to lenders, thereby increasing the likelihood of a successful and swift transaction. In addition, our agents are able to employ strategic negotiation strategies.

***Any homeowner considering a short sale should consult with legal, financial and tax advisors. A directory of non-profit counselors is available at www.hud.gov**

Information provided courtesy of Clyde Jenkins, Kathy Mehringer and Coldwell Banker Residential Brokerage.

Clyde Jenkins DRE# 01874671