

# **Seller Objections**

## **Frequently Asked Questions and Answers to Objections**

### **What is a short sale?**

A short sale is when your Lien Holder(s) agree to accept less than you owe in order for you to sell your home. They agree to a discount of the mortgage debt owed.

### **Why do lenders or banks accept discounts?**

A Lender or bank takes a discount or agrees a short sale because it saves them money. It gets bad debt off their books so they can reinvest that money by giving out another loan to a customer. On average a Lender loses between \$30,000 to \$80,000 on each property that they take back as a bank owned property. In many cases a short sale is necessary in order to get you out from under your mortgage debt. By doing a short sale, you will be able to take a large bite out of the money you owe to your mortgage company, so that you are no longer liable for the entire amount.

### **Will every lender or bank allow a short sale?**

The answer is no. The majority of the lenders do short sales however; there are a select few that do not do short sales.

### **Who qualifies for a short sale?**

Most everyone who is facing a true financial hardship qualifies for a short sale. However, each Lender and Loan Type has a different set of requirements specific to them. The general requirements for a seller to qualify for a short sale are: A provable financial hardship, behind on payments or facing imminent default, No equity in the property being shorted, no liquid assets, and a lender or loan type with a clearly defined short sale process.

### **How do I know what type of loan I have?**

Knowing what type of loan you have is crucial to the process. There are often specific short sale requirements unique to each loan type. You can find this information by looking at your mortgage statement, the settlement papers from when you originally purchase the property, or by calling your lender.

### **Will Lenders or Banks do short sales if the mortgage is current?**

Some Lenders will entertain taking a discount when a homeowner is current on their mortgage however they typically require the property to be listed for sale by a licensed real estate agent.

### **How long do I need to be in default before I can start a short sale?**

This depends on the Lender. Some Lenders require a property to be 90 days in default before they will entertain a short sale offer; other Lenders will entertain a short sale even if it is not in default.

### **Can the owner of the property also be the listing agent?**

Good Question! There is absolutely nothing wrong with that set up. The agent owner or agent spouse is not a financial beneficiary of the short sale by virtue of her commissions, therefore there is no conflict. BEWARE however. There is a small chance that some Lenders could take issue with it and reduce the

owner's side of the commissions accordingly.

### **What is required to process a short sale?**

Every Lender or Bank has its own set of required information and some may even have a set of paperwork specific to them. But, in general, most banks require at least the following: A handwritten hardship letter, financial statements, 2 years tax returns, 2 months bank statements, 2 months paystubs, and that you have the property listed for sale at fair market value. Throughout the process additional paperwork may be requested. So, be sure to keep everything handy.

### **Why should I give you my mortgage information?**

That's understandable. However, it is impossible for us to negotiate with your Lender without some basic information. Plus we are willing to put our time and energy into your property in order to assist you which we cannot do without your help. Rest assured, the information that you provide us is confidential and will not be shown to anyone but the foreclosing lender.

### **Is my information secure?**

Yes. We protect your documents and privacy as we would our own.

### **What is the process?**

The steps and process of a short sale can be broken into 9 main steps. The most important parts of the process for you are to help in the beginning to gather the paperwork required and to help list and sell your home. As your short sale is negotiated, you will be provided regular updates throughout the process.

### **How long does a typical short sale take?**

Depending on what state you are from, this answer will vary.

The short sale time-line is subject to your Lender or Bank. Many banks are overwhelmed right now with short sale requests. However, most do have an understandable review process. Unnecessary delays can be avoided by not sending incomplete short sale packages. Incomplete offers are often passed over or rejected. Your file is then closed and you would have to start over from the beginning. It is very important to be sure you provide everything required by your Lender and requested by the person helping you negotiate.

### **Can 2<sup>nd</sup> Mortgages or junior liens be discounted?**

Yes, absolutely. In fact, if the first mortgage is being asked to accept a discount, they will require that all other lien holders discount as well in order to give short sale acceptance.

### **Can IRS tax liens be negotiated?**

Yes, absolutely. Tax liens can be released from a property or reduced and paid at closing. Please consult the appropriate tax professionals for more information.

### **How will I know what is happening in the short sale process?**

If you provide an email address that you check daily, you will be given continuous e-mail notification each time something is done to your file, new paperwork is needed, notes are posted, or any progress is made.

## **Do I need to call my Lender?**

No. You are not required to call your lender. However, in certain instances it is often helpful to the process for you to call.

## **What is an Authorization to Release?**

This gives the people negotiating on your behalf permission to talk with your lien holder(s).

## **A foreclosure sale date has been scheduled for my property. Can I still short sale my property?**

Yes, absolutely. However, certain immediate steps may be necessary to get the foreclosure date postponed. You need to quickly complete the package of required forms, get your property listed right away, and cooperate wholly with your agent. A 3-way call to your lender may also be necessary to speed up authorization. There are no guarantees that there is enough time to get a postponement.

## **What is the foreclosure process?**

Contact Legal Counsel to receive information on the Foreclosure Process.

## **Will the foreclosure process stop when we submit a short sale offer to the lender?**

No. The foreclosure clock will continue to tick. Postponement requests can be made if necessary. Your Lender will only postpone foreclosure proceedings if they are certain a buyer will perform.

## **When should a default property that needs a discount be listed?**

Immediately. The Lender typically will not stop or slow down a foreclosure unless a property is listed for sale by a licensed real estate agent.

## **Must a property in default be listed?**

Yes and no. Some Lenders require a property to be listed when they take a short sale or short payoff. Ask the Foreclosing Lender, at the beginning of your short sale, whether you need the property listed.

## **I am not going to list the property that low...my neighbors' house just sold 2 years ago for \$50,000 more than that.**

I understand. However the market has changed and every property is different. There has been a reduction in the average value of comparable homes in your area and you must sell your home right away to avoid a possible foreclosure. To do this requires that you list your home at a price that will sell. Understand that Buyers will always look for the best deal. If your property is priced higher than competing homes, Buyers will pass it by.

## **I do not want to advertise the home as a short sale, pending foreclosure, or any other negative ownership conditions.**

I understand. Depending on your circumstances it may not be necessary to advertise your situation. However, you need to list the home at a price that is below what you owe. That means that all offers you receive must be contingent upon approval of a short sale. Our MLS (Multiple Listing Service) guidelines requiring that such contingencies be fully disclosed when we place your listing the the MLS. The remarks must, at the very least, include that the sale of the property is "Short Sale Lender Approval Required."

## **Will all offers be contingent?**

Yes. It is likely necessary to list your home for an amount that is less than you owe on your mortgage and not enough to cover all other associated fees. To sell requires short sale approval from your Lender or Bank. That makes all offers received subject to your Lien Holder(s) approval of a short sale.

## **I want my lender to consider the debt paid in full at closing. Can I include this request in the contingency?**

Yes. However, not all lenders will honor such requests. If this is important to you, be sure that a special stipulation clearly defining your request is included in all purchase offers.

## **Do we have to have a purchase offer to get short sale acceptance?**

Yes. Most lenders require that a short sale offer be submitted before they will even accept a short sale package, order an appraisal, and make their review. They typically will not spend the time and resources to review your situation unless they know that a buyer will perform.

## **What do I need to do to help sell the home?**

Be sure that you are doing as much as you're able to help your agent sell your home. Keep the home show-able, stay in communication, be available to review or sign paperwork, support any of your agent's marketing efforts, and keep the utilities on for Buyer inspections.

## **I cannot afford to make any repairs...**

When you are listing your property make sure your real estate agent adds the remarks "home to be sold AS-IS". By doing this, Buyers will be aware that you cannot or will not make any improvements on the property. Be sure that your agent clearly expresses this to the Selling Agent and protects you in negotiations.

## **Can an immediate family member buy the home and I stay living here?**

Typically not. The foreclosing lender will not allow anyone to purchase the home through which you could become a direct beneficiary of the property and potentially re-sale for a profit. Furthermore, by allowing you the privilege of a short sale you are required to relinquish all use and benefit associated with the property.

## **My situation has changed and I can afford the monthly payments. Do I have other options?**

Yes. Be sure to research your options. Your agent may be able to assist you further.

**My situation has changed and I am making enough money to rent but not enough to pay my full mortgage, but I still need to do a short sale to sell my property. Should I save the extra money?**

Yes, absolutely. You will need money for moving expenses. Also, in some rare instances you can offer a good faith payment to your lender to encourage them to approve your short sale.

**Can I make any money on the sale of my property?**

A homeowner cannot accept money from the sale of their home if a Lender accepts a short payoff or a short sale. However, there are exceptions to this statement; for example an FHA (Federal Housing Authority) insured loan will allow a homeowner to receive up to \$2,500.00 when taking a short payoff.

**Will I need to bring money to closing?**

In most instances you will not. A short sale is designed to assist the homeowner. All items due and payable at closing are meant to come from the Buyer's funds. You will generally not have any out-of-pocket costs to pay real estate commissions, closing costs, or any other items due and payable at closing.

**Do I have to pay any processing fees or real estate commissions if the short sale is not successful?**

Unless your REALTOR® has a retrainor's fee, if a ready, willing and able buyer is not found and the Foreclosing Lender does not accept "an acceptable offer" then there will be no expenses due from the seller/homeowner. Contact your REALTOR® for clarification

**I may file bankruptcy. Will this affect the short sale?**

Yes. If you file for bankruptcy protection you Lender or Bank will be unable to discuss the terms of your short sale until the bankruptcy is released or discharged. A bankruptcy puts an "automatic stay" on any credit/debt collections which include negotiating a short-pay of your mortgage(s). Any pending foreclosure sale dates will be postponed as foreclosure is also a credit collection. Be sure that you inform your agent immediately upon making this decision. If you choose to file, please provide your agent with any paperwork involving the property that you receive from the Lender of bankruptcy trustee. For further information, please consult with a bankruptcy attorney.

**What happens if the Bank or Lender counters the current offer?**

The Buyer will need to either increase their offer to meet that number or your agent will need to find another buyer that meets your Lender's requirements.

**Will filing bankruptcy STOP foreclosure?**

No. Filing bankruptcy will not stop the foreclosure process, just delay it. The property will eventually be out of bankruptcy protection and be back in the foreclosure process where it was when bankruptcy was filed. For further bankruptcy information, please seek the advice of legal counsel.

## **How does a bankruptcy affect my credit?**

Bankruptcy will stay in your credit reporting agency files for ten years. Now, declaring bankruptcy doesn't necessarily mean that the door to future credit will be forever closed to you. If you take the proper steps after declaring bankruptcy and also manage your credit responsibly, you can rebuild an improved credit reputation in a few years. Please consult a credit counselor or a major credit bureau for more information.

## **Regarding credit: Which is worse, a foreclosure or short sale?**

Please consult your own financial advisor or the credit bureaus directly for the answer to this question. From experience only, we can say that foreclosure is much more damaging to your credit. A short sale will most commonly be listed as "settled debt" and is less harmful to your credit.

## **How many years after filing bankruptcy can I buy a house?**

You will not have to wait 10 years to be considered for a home loan. However, do expect to wait at least Three - five years and only then will a lender consider your loan application if you have stayed current on your bills after the bankruptcy.

## **How many years after a successful short sale can I buy a house?**

There are new loan programs designed to help people who have recently had to short sale their home. You can apply for a home loan in as little as two years provided you have maintained your credit with good payment history, kept your debt-to-income ratios within lending guidelines, and have verifiable income.

## **If I let the bank foreclose on my house, how long until I can purchase another property?**

Unfortunately, there is no specific answer for it except to say that it could be a considerable amount of time (more than the 2 years on a successful short sale). Most lenders view your financial history as an indicator of what you will likely do in the future. If you missed several months of mortgage payments leading up to your foreclosure, then a lender will see you as a likely candidate to default on a future loan -- in other words, you are a big risk.

## **Will I receive a 1099 if my mortgage lender takes a discount?**

Yes it is an IRS code. The IRS code states that "a reduction of debt is a taxable event." However, the Government has passed the Mortgage Debt Forgiveness Act. It states that for a certain period of time, some homeowners with primary loans on primary residences may be exempt from receiving a 1099. Please click here for more information: <http://www.irs.gov/individuals/article/0,,id=179414,00.html> or consult a local tax attorney in your area for any changes or updates in reference to this Bill.

## **This is an investment property, not a primary residence. In this situation, will the reduction of debt be a taxable event?**

Yes it is an IRS code. Since the property is not a primary residence, you may not be eligible for an exemption. Please see the answer to the previous question and consult with a tax attorney.

## **Can I do a short sale on more than one property?**

Yes. You may short sale more than one property.

## **Someone told me that I can file as “insolvent” if I receive a 1099 from my lender?**

There are certain tax codes that enable someone in a financial hardship to be exempt from any tax liability outside of the exemptions already allowed in the Mortgage Debt Forgiveness Act. Please consult with a tax accountant for more information.

## **Will the Bank or Lender pursue a deficiency judgment for the amount they lost from the short sale?**

Your lender can pursue a deficiency. This does not mean that they will. You can have your agent request in the negotiations a full release of lien and that your lender(s) consider the debt settled or satisfied and paid in full. The bank could ask you to sign an unsecured promissory note or to ask you contribute money at the time of closing. Be sure your agent negotiates the best outcome for you.

## **What if my lender requests a promissory note or money at closing?**

Your lender can make such requests. Whether or not you choose to agree must be a personal decision based upon your financial situation. Keep in mind that any amount requested by your Lender or Bank will likely be much less than they could potentially pursue from you as a deficiency judgment if the property were foreclosed upon.

## **What about the new federal government Bailout plan?**

To determine your eligibility, please visit: [www.financialstability.gov](http://www.financialstability.gov)

## **Will I need an accountant?**

We always recommend that everyone in your situation seek the advice of an accountant or other tax professional.

## **Do I need an attorney to represent me?**

It is always important to seek legal counsel when making these types of decisions.

## **I am behind on property taxes...**

These can be negotiated into the buyers offer and paid at closing. The payment of taxes owed will simply be another reduction in the amount paid to your Lender. Please note: if the Lender forecloses on your property, this is an expense they will have to pay.

## **I have not paid my HOA dues...**

We will try to negotiate a discount for all current and past HOA dues and have them paid at closing from the funds to your Lender. Several lenders are not paying the HOA dues or transfer fees and requiring that the Seller come in with these costs at closing

## **Can I rent the property?**

We cannot advise you to or not to rent the property. Keep in mind that if you are not paying the mortgage payment you should not be profiting from rental payments. If you chose to rent the property be sure to keep accurate expense records and put all rents earned in escrow due to the fact that if you are not paying your mortgage then those rental payments are owed to the foreclosing lender (s). Please

consult a real estate attorney before making this decision.

### **The property is vacant. Do I have to keep the utilities on?**

Yes. Per your listing agreement. However, if you cannot leave the utilities on you should consult with your agent to make arrangements to have them turned on for the buyers inspection.

### **When should I move out?**

Different loan types have requirements regarding occupancy that could affect your eligibility for a short sale. Before making the decision to move, be sure that you have talked with your agent and your Lender about your plans.

### **Can I take anything with me?**

Anything that you are going to take from the property needs to be clearly disclosed to any Buyers viewing the property. Be sure to leave all fixtures that traditionally remain in the sale of most homes, in working order.

### **The property is in bad condition...should I do anything?**

Extensive repairs or clean-up will be considered by potential buyers and reflected in the list price. Should some clean-up be necessary to assist in the sale of the home, your agent will make that request and work that out with you.

### **What will happen if I do nothing?**

If you do nothing and are not making your mortgage payments, your lender will foreclose. You will have a foreclosure on your credit report, be liable for any deficiency, and/or subject to a taxable event.