Frequently Asked Questions About Short Sales

What is a Short Sale?
A short sale is a negotiated settlement. This is when the lender agrees to accept less than the amount owed as a payoff on a loan.

Why would my Lender want to allow a Short Sale to help me?
The reason is simple; a short sale often has a better return on investment to the lender than a foreclosure. The average savings a lender sees from a short sale property compared with a foreclosure property is $14,000. Not only does the lender receive this savings, they're also paid on the loan six months earlier than in the foreclosure process, on average. This allows them to collect and cash-out earlier than they would in a foreclosure. Plus, lenders spend a great deal of money with attorneys to complete the foreclosure process. Lenders created the short sale process as a foreclosure alternative for those reasons. The incentives to perform a short sale on your property are in place to motivate you to participate.

How long does it take for you to complete a short sale once we fill out the paperwork?
Typical transactions are completed within three months. If you have a foreclosure sale date approaching we will attempt to complete it sooner. We have often found buyers quickly and have used our relationships with the banks to push back your foreclosure sale date.

What is a Deed in Lieu?
A Deed in Lieu is when the property is deeded back to the lender with the approval of the borrower prior to foreclosure. (This process may still leave a negative impact on the borrower's credit.)

Why should a lien holder accept less than the outstanding debt?
After the lender does an appraisal on the property and discovers that the value is less than the payoff, the lender will decide if it is worth further legal actions and cost. A business decision is made to either continue foreclosure action or accept the short sale offer.

What is a HUD 1 Closing Statement?
A form used at closing that gives an account of the funds received and paid at closing, including the escrow deposits for taxes, hazard insurance, and mortgage insurance.

What is a Deed?
The legal document conveying title to a real property.

What is a Deed of Trust?
A deed of trust is an instrument used in many states in place of a mortgage. Property is transferred to a trustee by the borrower (trustor), in favor of the lender (beneficiary) and re-conveyed upon payment in full.

What is Depreciation?
A loss of value in a real property brought about by age, physical deterioration, and functional or economic obsolescence.

What is Loss Mitigation?
Loss Mitigation is a process to avoid foreclosure. The lender tries to help a borrower who has been unable to make loan payments and is in danger of defaulting on his or her loan.

What is a Loan Modification?
A mortgage modification is a loss mitigation option that allows a borrower to refinance and/or extend the term of the mortgage loan and reduce the monthly payments.

What is a Forbearance Plan?
A forbearance plan is a loss mitigation option where the lender arranges a revised repayment plan for the borrower that may include a temporary reduction or suspension of monthly loan payments.

What is an Offer on a property?
An offer is an indication by a potential buyer of a willingness to purchase a home at a specific price, which is generally put forth in writing.

How long is a Short Sale process?
Depending on the mortgage company and the state in which the home is located, a short sale process can take between 2-5 months. However, at Hounchell Real Estate-RE/MAX Metro, our typical short sales transactions are completed within three months.

What is the difference between a Satisfaction of a Lien vs. a Release?
A satisfaction is a total release from the debt owed. A release is when the lender releases the lien from the property to allow the home to be sold. (The borrower may still be required to repay the balance of the debt.)

How do a foreclosure and a short sale show up on my credit?
Foreclosures show up as FORECLOSURE, and can stay on your record for seven years. Anytime you apply for a new loan or have your credit run, the foreclosure will show up and is usually a required disclosure you must make on most credit and job applications. A short sale is listed as SETTLED DEBT, and is much less harmful to your credit. Please consult a credit company for more information.

What liability do I have when doing a short sale?
Historically, in a short sale, it is possible the bank could issue a 1099 Form to you for the difference in what you sell your property for and what you owed. This means the IRS could consider the difference as income, and you could be taxed on that income. The bank might also ask you to pay a portion of the difference back in the form of an unsecured note, which is similar to an I.O.U. – It is a negotiation, therefore, Hounchell Real Estate-RE/MAX Metro employs tactics to have the bank consider the debt settled. (George Bush signed legislation to waive the tax on the difference as income. – Consult your tax advisor for more info.) Historically, in a foreclosure, your house is sold at an auction, which typically causes the difference of the total amount you owe and the foreclosure sale price to be much greater. This means you have a higher potential tax liability. Additionally, the bank may come after you for a Deficiency Judgment. Although there are no guarantees, a successful short sale should eliminate a deficiency judgment, minimize your tax liability, and keep the foreclosure off your credit. (George Bush signed legislation to waive the tax on the difference as income. – Consult your tax advisor for more info.) IRS Publication 908 also addresses this issue. – In many cases, where the seller is insolvent, the 1099 penalty can be avoided all together. For more information on deficiency judgments and the tax liability you may face based on your current situation, consult your attorney/tax advisor.

What is a Deficiency Judgment?
A Deficiency Judgment can arise when the bank sells the house at foreclosure auction. The bank can sell the house at auction for any amount less than the total amount owing on the debt, plus fees. A deficiency judgment can arise if the bank sells the house for less than the mortgage debt. The lender then holds you responsible for the unpaid portion of the loan. For instance, if you owe $100,000 to the mortgage servicer and they see proceeds after the auction of $55,000, the remaining difference of $45,000 can be moved into a judgment against you. This will also appear on your credit report along with the foreclosure. The lender may be allowed to take further legal action, such as garnishing wages, to pursue payment based on the laws of your state. Some states have restrictions and regulations on deficiency judgments, but unfortunately the majority does not. Some lenders will choose the deficiency judgment while others may pursue a path to write off the loan. If they choose to write off the loan, the lender may issue a 1099 form, on which you will have to pay taxes for the calendar year.

Do I need to give my Realtor power of attorney?
No.

Does the Realtor ever take title to my property?
No.

Why does it take so long to get through each step with the lender(s)?
Frankly, it's because the lenders are overwhelmed. Each Loss Mitigation Consultant at the bank can, and probably does, have up to several hundred files on their desk that they are negotiating at any given time. For this reason, it can be extremely difficult to get through to or return calls from the banks. Often they will take days, or even weeks, to return phone calls. Sometimes we are forced to call them (with up to two hours on hold per call) as many as 10-12 times before they return calls.

How are non-owner occupied properties affected when short selling them?
For the purposes of short sale negotiations, non-owner occupied properties are handled in the same way as owner occupied properties.

Can the listing agent be the purchaser on a short sale?
Generally speaking, it is best to maintain arms length relationships in short sale transactions. It would be unlikely that a bank would pay a real estate commission to the purchaser of the property. This should not be construed, however, to dissuade real estate agents from buying short sales.

I'm a real estate agent and am at risk of losing my home through a foreclosure. Can I list my own home as a short sale?
In a short sale, the seller is not allowed to benefit financially from the transaction. Therefore, there is no advantage to listing your own house. It is Hounchell Real Estate-RE/MAX Metro's recommendation that you have another agent handle the listing and sale of your property.

If I receive multiple offers on the home, should I submit each of those offers to the bank?
No. We do, however, need the highest offer and a list of the prices of each additional offer.

If there isn't a hardship situation, can they do a short sale?
Never say never. It definitely looks better if you are in a hardship situation, but it all depends on the bank.

Closing Dates – How should they be handled?
We are at the mercy of the bank, and the short sale process can take any where from 2-5 months for an approval.

How can I sell the home with a reduced selling office commission when agents in my area refuse to work for less than 3%?
Our experience has shown that when priced right, homes sell regardless of the offered selling office commission.

Why does my Realtor request photos of the home?
Lenders rely on the information we provide them. They have no way of knowing the extent of the homes disrepair without someone telling them. The old adage "a picture is worth a thousand words," really holds true here. Photos of tarps on a roof, for example, can be far more telling than simply stating that the roof leaks. Always photograph EVERY deficiency in the home.

Why should I order prelim title as soon as I list my property?
Immediately ordering preliminary title allows us to review and check for undisclosed liens. It is quite common to find liens on the title that were not known or disclosed by the seller at the time the listing was taken.

What if I need to short sale multiple properties?
While Hounchell Real Estate-RE/MAX Metro would still need short sale packets filled out for each of the properties, the hardship letter, financial statement, bank statements, and many of the other supporting documents will only need to be sent to us once.

Can you negotiate a short sale on commercial and Multi-Family Properties?
Yes.

Can I sign a form authorizing my Realtor to reduce the price automatically each week?
Yes, in fact Hounchell Real Estate-RE/MAX Metro recommends automatic price reductions of 5% per week.

Can the buyer be John Doe and/or assigns or Mega Business, Inc.?
No. Lenders prefer not to sell to investors, and while they don't prohibit such transactions from occurring, they might choose not to sign off on a transaction that is assignable, or that is being purchased by a corporation.

Can the buyer be a trust?
Yes. Most lenders will allow this.

Can we short sale multi-million dollar homes?
Yes. As a matter of fact, the greater the price, the higher the likelihood the bank will accept the short sale

Can you negotiate a short sale within less than 2 weeks prior to the auction date?
On a case-by-case basis.

How do I know if I should do a short sale?
A homeowner should generally do a short sale any time you have a transaction in which there will not be enough money to pay all underlying lien holders (This would include excise tax, mortgages, closing costs, agent commissions, etc.).

What are the benefits of outsourcing my short sale?
Knowing that it can take 40-100 hours of phone time alone to negotiate a short sale, many people would rather utilize their time by concentrating on other priorities.

What are the fees for a short sale?
Hounchell Real Estate-RE/MAX Metro DOES NOT CHARGE UPFRONT FEES. Our success (and our compensation) is entirely contingent upon your success, and that of the transaction. If the short sale does not close successfully, we don't get paid. In fact, there is talk of potential legislation to go after short sale companies that charge up-front fees. One would surmise that if a short sale company truly believes in their ability to close a transaction that they would be confident enough to get paid at closing. – The bank will pay short sale fees from the proceeds of the sale.