

Buying Short Sale Properties  
The Basics You Need to Know

WHAT IS A SHORT SALE?

A short sale is a real property sales transaction wherein the seller's mortgage lender agrees to accept a loan payoff of less than what is owed.

Your real estate agent may know which properties listed for sale are short sales, using resources such as multiple listing services and property profiles. If you make an offer on such a property, and your offer price is less than what the seller needs to pay off existing loans and other obligations secured by that property, the seller may accept your offer, but also require that his or her lender approves the sales transaction.

**Question:** *What is a REALTOR®?*

**Answer:** *The term REALTOR® is a registered membership mark that identifies a real estate agent who is also a member of the NATIONAL ASSOCIATION OF REALTORS® (NAR). REALTORS® are real estate professionals who, among other things, voluntarily subscribe to NAR's strict Code of Ethics to protect and promote the interests of their clients.*

The seller involved in a short sale may try to convince the existing lenders to take a payoff of less than what may be rightfully owed them. Lenders may be unenthusiastic about this request and may carefully evaluate the overall situation.

STEP ONE

With the help of your real estate agent, make your offer to purchase, negotiate any details, and get your offer accepted by the seller.

Buyers involved in short sales may need patience as these transactions may take more time to process compared to other sales transactions. Short timeframes may be difficult to accomplish due to the lender's scrutiny of the situation.

Be prepared to show that you are pre-approved and therefore qualified to get a new loan on the property if needed.

## STEP TWO

Your accepted offer is generally sent from the seller to the lender for consideration. The seller's agent may help the seller forward to the lender documentation of hardship, income, assets, loan amounts, and the current market value of the property. Additionally, a short sale lender typically requires a breakdown of the estimated costs to complete the sales transaction, including anticipated sales proceeds if any.

The lender may take several weeks to decide whether to approve a short sale, according to the lender's size, location, and staffing.

It may be useful to remember:

- Without the lender's approval to reduce the loan amount, the seller may not be able to go forward to complete a sale to you.
- Lenders are generally not obligated to reduce their loan balances or to make any concessions to the seller or you.
- Lenders may choose foreclosure as an alternative process if they can recoup more money than agreeing to a short sale.

Your real estate agent may provide you with a Short Sale Addendum published by the CALIFORNIA ASSOCIATION OF REALTORS® (C.A.R.). This Short Sale Addendum, if incorporated in your purchase agreement, spells out your time frames and other rights. Until the lender gives the seller written approval of the sales transaction, you may wish to hold off spending money on inspections, reports, and an appraisal. ***In a short sale contract, the seller's performance is generally contingent upon the short sale lender's approval.***

***Question:*** Why would a lender agree to accept a short sale rather than foreclose?

***Answer:*** Lenders have plenty of reasons to accept short sales.

- *If the lender takes back the property through a foreclosure sale, the lender then becomes responsible for property taxes, maintenance, utilities, Homeowners' Association dues, and possible eviction of the previous homeowner and vandalism of the property.*
- *The time line for the foreclosure process may be another deterrent for lenders, as it usually takes a minimum of about 4 months after the homeowner starts missing payments and the lender records a notice of default.*
- *Even after the lender forecloses, the lender may be faced with selling the property in a saturated market and incurring additional costs to sell the property.*

*With these issues, lenders may give serious consideration to short sale requests involving financially qualified buyers.*

### STEP THREE

Once the lender approves your sales transaction, the escrow timeframe may begin.

You may want to check with your real estate agent to see if the seller submits other offers to the short sale lender that may be better than yours. This may be a difficult situation. You may be the initial buyer with the seller's acceptance of your offer, but the short sale lender may ultimately refuse your short sale transaction, and opt for a competing offer that comes in. The lender's rationale is likely to be to minimize its losses, and there may be tax and other benefits for the seller as well.

You may be able to improve your position by making your initial offer as strong as you can to encourage the short sale lender to approve your purchase transaction.

### CONCLUSION

Although there are obstacles to purchasing a short sale, this type of transaction may also offer an excellent opportunity to find your ideal home at an extraordinary price. Some keys to success are having the time and persistence and a good real estate agent to guide you through the process. Good luck!

### SPECIAL NOTE TO INVESTMENT BUYERS

Special handling may be required when you buy investment property of 1-to-4 residential units occupied by the seller as his or her principal residence, and an outstanding Notice of Default is recorded against the property. Under these circumstances, you may be required to comply with California's Home Equity Sales Contracts Law, beginning at section 1695 of the California Civil Code. The purpose of this law is to protect homeowners in foreclosure from unscrupulous people. Under this law, the sales contract must, among other things, provide the seller with the right to cancel the agreement within the statutory period. The law also requires a buyer's representative to provide a declaration and proof of a sales license with the Department of Real Estate.