



## Short Sale Frequently Asked Questions (FAQ)

**WHAT IS A SHORT SALE?** A “Short Sale” occurs when a Lender agrees to accept less than the amount owed to pay off a loan as an alternative to foreclosure. If the property is worth less than the amount owed on the loan(s) (after deducting out what you would have to pay in commissions, closing costs, and state excise taxes), then even if the Lender forecloses and takes back the property, they know they are going to take a loss. Lenders can often be persuaded that they will “do better” if they take less than what is owed now rather than taking the property back by foreclosure and trying to sell it later.

**HOW LONG DOES A SHORT SALE TAKE?** The Short Sale process takes time. It may take several weeks or more (possibly even months) to get a Short Sale approved. Many Lenders have several layers of management, insurers, and investors that will have to be dealt with in order to get a Short Sale approved. So it is important to be patient during this long process.

**IS THERE ENOUGH TIME TO DO THIS BEFORE A FORECLOSURE?** Maybe, maybe not. Just starting a Short Sale will not automatically stop a foreclosure. However, many times a Lender can be convinced to postpone the foreclosure to let a Short Sale negotiation take place. So, while there are no guarantees, it does not hurt to try.

**DOES THIS ALWAYS WORK?** It doesn't. No promises or guarantees can be made to you that this will work. Once you fall behind on you loan, the Lender can proceed to foreclosure if they want to. But typically, Lenders don't want to foreclose and, if effectively presented with smart alternatives, Lenders will often agree to a Short Sale rather than foreclose. Again, NO PROMISES can be made as to whether or not the Lender will accept a Short Sale – they may or may not. If a Short Sale is attempted but *doesn't work*, your house may well go to foreclosure. A Short Sale is something to try if you need to sell your house, and if your house is worth less than the amount owed on the loan (after deducting out what you would have to pay in commissions, closing costs, and state excise taxes).

**WHAT IS A “RELEASE”?** A Lender may offer to “release” its security interest against the property in exchange for less than the total amount of the note. A release will allow the property to be sold without paying off the obligations of the note. However, the note is not satisfied. Advantages: This successful Short Sale will allow the property to be sold and thus avoid a foreclosure. Disadvantages: The remaining debt on the property (sometimes called a “deficiency”) still exists. You are still liable for the note – in other words – you still owe the money. Reality: It is not likely that the Lender will pursue the deficiency unless you have other significant assets, and if you don't try a Short Sale and the property goes to foreclosure, you are likely going to have a deficiency on any “wiped-out” junior mortgages you might have anyway.

**WHAT IS A “SATISFACTION”?** A Lender may agree to accept less than it is owed as complete and total satisfaction of the note and release its lien against the property. Advantages: Your note and obligation to the Lender are satisfied for less than you owe. When the property is sold, the debt is paid off completely. Sometimes Short Sale negotiations are successful in obtaining a satisfaction. Sometimes all that can be obtained is a release.

**ARE THERE TAX CONSEQUENCES? (UPDATED)** If a Lender agrees to a satisfaction, the Mortgage Forgiveness Debt Relief Act of 2007 provides that debt cancellation of up to \$2 million is not considered taxable income if such debt involved acquisition indebtedness on the owner's principal residence of at least 2 of the previous 5 years. The law has been extended to include debt forgiven through 2012. A debt cancellation will, however, affect the property's cost basis. Insolvency or bankruptcy may also alleviate some of the tax burdens of a debt cancellation resulting from a Short Sale. You should always confirm tax matters with your tax professional.

**WILL I GET ANY MONEY FROM THE SALE? NO.** When Lenders approve a Short Sale, they require that the borrower (seller) not receive any money from the sale of the property, since the Lender is going to take a loss on the loan.

**CAN I KEEP THE HOUSE THROUGH A SHORT SALE?** The key word in “Short Sale” is sale. The purpose of a Short Sale is to get the property sold. So you do not keep the house, and you will be moving (typically at time of closing of your sale; although it is certainly alright to move in advance of closing). This is not a solution which will allow you to remain in the house. If you intend to remain in your house, other options should be considered besides a Short Sale.

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