



**HAWAI'I LIFE**  
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**Foreclosure Facts & Opportunities ToolKit**

## Buying a Short Sale Property - FAQ

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

A short sale is a sale where the proceeds from the sale after all closing costs and commissions are less than the amount that is owed to the lender or bank (also known as the "lienholder"). If an owner owes \$200,000 and the sale proceeds net only \$180,000 the bank will be SHORT \$20,000 of the amount that it is owed.

### **How do I find Short Sale properties for purchase?**

There are many short sale listings available in the MLS that services your island. The MLS for Kauai and Hawaii is Hawaii Information Systems ([www.hawaiiinformation.com](http://www.hawaiiinformation.com)). The MLS for Maui is Tempo. The MLS for Oahu is called HICentral. Additionally, a short sale specialist may have access to many properties before the listings are activated. Especially in what is known as a HAFA short sale, there is a process and much paperwork to be done before the listing is activated. This type of agent may be a great source for new short sale listings.

### **Is the price of a Short Sale negotiable?**

While everything is negotiable, banks and lenders are not in the business of giving properties away. In terms of the listing price of the property, the price may or may not be a "bank-approved" price. If the price is not bank approved, even if you offer more than the listing price, there is no guarantee the sale will be accepted. The ultimate cost of a short sale can have several components due to the nature of the sale. Working with an experienced agent you can ascertain your total costs and determine if you are receiving a fair value when purchasing the property.

### **How does the offer process work?**

You write up the offer and it gets submitted to the seller's agent. You negotiate until there is an agreed upon price and terms with the seller. Your offer and accompanying addenda are submitted to the lender(s) for approval. The lender will order a valuation when they review the short sale (this can take from two weeks to three months). The lender will respond to the short sale offer with terms, conditions and price. If you don't accept the lender's terms you may counter. If you accept the lender's terms, the lender may need to present the offer to the investors and mortgage insurance companies involved. After that, the terms of the deal may (and often do) change. If you as the buyer accept these amended terms (if they are amended) you may proceed to move forward with your escrow and purchase the property.

### **Are there any benefits to paying cash vs. getting a mortgage?**

With a short sale, while a cash offer is stronger, there is not generally a bias as to how the buyer purchases the property. The foreclosing lender simply wants assurance and proof that the buyer is qualified to purchase the property. This is generally done through a pre-qualification or pre-approval letter or through asset statements that demonstrate that the buyer has the cash funds required for the transaction.

### **Must I be pre-approved for a loan?**

It is absolutely imperative that the buyer be pre-approved for a loan BEFORE viewing any available properties. Banks take the following factors into consideration when evaluating offers: the amount of any down payment, the type of loan, and the borrowing strength



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of the buyer. Another practical reason for pre-qualification is so that as a buyer you're only evaluating and considering homes that you could actually afford to purchase. The lender will require your pre-approval when your short sale offer is submitted. It is mandatory.

### **What about contingencies like an inspection?**

Getting an inspection is essential and may help your negotiating position. If you decide to put in a lower bid, make sure you can substantiate your reasons for doing so by providing repair estimates, pictures and other documentation as needed. It is not advisable to perform any activities that are part of a normal escrow such as inspections, staking, and appraisals until the lenders have accepted the offer you have presented. Until the lienholders approve, there is NO DEAL. That being said, the short sale disclosure usually provides that the terms of the contract in terms of all buyer contingencies and inspections commence on the day the short sale is accepted by the lienholder (s).

### **Will there be a seller's disclosure?**

In most short sales I have done, the seller is involved and the seller will provide this valuable information. The seller may not be in a financial position to do anything about needed repairs or known problems with the home, but the seller has an ethical responsibility to disclose what they know. This is one of the pluses to a short sale. It is generally easier to ascertain the property's status and condition with the seller's full disclosure.

### **What about my Earnest Money Deposit?**

The Earnest Money Deposit is the initial money that is placed into escrow by the Buyer. It is intended to show that the Buyer is "serious" about buying the property. Under the standard 12-page Purchase Contract from the Hawaii Association of Realtors the deposit is usually returned to the Buyer if the home does not close because of a financing or other problem that causes the Buyer to change their mind about closing on the home. In a short sale, many agents will not require the earnest monies to be deposited until the transaction is approved by the lienholder(s). If that is the case, once the deal is approved by the lienholder(s) the buyer must promptly transfer through wire, check, or other means, the funds as written in the original purchase contract



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### **What additional costs might the buyer have in a short sale?**

When the lender responds to your offer, the lender will indicate which of the seller side closing costs the lender is willing to pay for. For example, the lender may be willing to pay for \$400 for a termite inspection, but the actual inspection may cost more if the home is large. The settlement fee for closing the transaction may be \$1350.00, but Bank of America, as an example, will only pay for \$750.00 of that fee. Perhaps the 2nd lien holder is requiring additional funds from the owner that the owner does not have. The buyer may, if the foreclosing lender allows it, contribute funds to satisfy this condition. The bottom line is that a short sale has a lot of moving parts and the deal may change many times before it closes. The buyer simply must decide if after all the additional costs are added on, is the short sale purchase a good value for the buyer?

### **What's the bottom line to purchasing short sales?**

In the final analysis, when you buy a short sale you must be patient, very very patient. You are subject to the foreclosing lender(s) approval, the investor and mortgage insurer's guidelines, and the many demands that the various stakeholders will make. Despite your patience and best efforts, the sale will not close if multiple lienholders do not agree on the terms. Generally speaking any furniture that the owner has purchased will not be included with the sale and must be handled separately from the short sale transaction. It's imperative that your agent understands short sales and the right questions to be asking, and that you get timely answers so that as a buyer you can make the most educated decision in this type of real estate transaction. You may get a great deal in a short sale. Manage your expectations, be patient, and you can be successful in this type of transaction. I look forward to assisting you and making your transaction as stress free as is possible.