



HAWAI'I LIFE
REAL ESTATE BROKERS

Foreclosure Facts & Opportunities ToolKit

FAQ about Short Sales

What is the goal of a short sale?

The goal of a short sale is to help you avoid foreclosure if you are no longer able to remain in your home. In the short sale process, you sell your home and settle your mortgage debt for less than the amount that you owe.

What are the requirements for doing a short sale?

You have a hardship, such as a job loss, divorce or medical emergency

You owe more than your house is worth

You're unable to afford your current monthly mortgage payment

What sort of hardship would my lender consider legitimate?

To some extent, that will depend upon the mortgage company considering the Short Sale request. Generally, so long as the hardship is real and the mortgage company believes the loan is likely to become delinquent as a result, the Short Sale request will be processed by the Loss Mitigation Department. A big key to getting Loss Mitigation to accept a hardship is to submit a strong hardship letter. The hardship letter sets the tone for the entire file.

Below you will find a list of "hardships" that are common and frequently accepted by mortgage lenders:

- Family illness or injury

- Illness or injury in the extended family - particularly if it forces relocation

- Job relocation when the property is equity deficient

- Job loss or significant income loss

- Divorce or split of domestic partners

- Adjustment in mortgage payment or unforeseen increase in living expenses

We can provide some sample letters to assist you in this process.

What information will I need to provide to pursue the short sale?

Requirements vary from lender to lender and from program to program. There are several different types of short sales. Most all will require 2 years of tax returns, last 2 months of bank statements (all pages). You will need income verification in the form of your last two paystubs or if self-employed a profit and loss statement current through the most recent month. Additional forms such as a 4506T form from the IRS, an RMA form if a HAFA sale, a Dodd Frank form, and/or utility bills and asset statements may also be required.

How do I submit the required documentation?

We will collect all your documents, scan them into digital form and either fax them or upload them to the lenders system at no cost to you.



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Who benefits from a short sale?

Short sales can be a win-win situation. Mortgagees(you) get the relief they need and are able to sell their property and avoid foreclosure. A short sale is reported to the credit reporting agencies for "paid in full for less than the balance owed". This is less detrimental to your credit score than a foreclosure or a deed-in-lieu. Lenders and Mortgagees can benefit from a successful short sale. Mortgagees get the majority of their money back, and avoid having to foreclose and sell the property as "Bank-Owned" which often means selling for less than the short sale price. Buyers get to buy a property at a more affordable price.

How long does the process take?

Once all required documentation is submitted a decision is typically completed within 90 days. Common reasons decisions may be delayed include incomplete set of seller documentation or out-of-date financial records, low offers for your property which are under fair market value, and junior liens held by other banks or individuals that also need to agree to a short sale. Depending on the type of loan, an investor and/or insurer may also need to approve the sale.

What are the steps of a short sale?

The borrower or their agent contacts the lender and asks to have the mortgage account flagged for a possible short sale.

The borrower next lists the home with a Realtor. A clause is worked into the agreement including separate HAR addenda which specifies that the property is subject to a short sale and the transaction requires a third party approval.

A potential buyer makes an offer on the real property. The offer price is less than the payoff on the outstanding mortgage.

The borrower accepts the offer from the potential buyer and presents it to the lender.

The lender accepts or counters the offer from the potential buyer and the real estate transaction proceeds. Once an agreement is reached the parties can move into the escrow process. When the transaction closes successfully, the lender marks the mortgage as satisfied and paid in full and issues a 1099-C to the borrower for the amount of the shortage.

Shall I continue to pay my mortgage during the short sale?

Yes, if you are able to do so. The fewer mortgage payments you miss, the less your credit score will be effected. If you are unable to make your payments, the short sale will still complete successfully in most cases. If you stop paying, use the opportunity to save up and get back on your financial feet and have monies to move to the next place you live

Will I have any tax liabilities?

Consult your tax advisor to see if you will incur any tax liabilities as a result of the short sale. The bank will issue a 1009-C for the cancellation of your debt. If you owe the bank \$400,000 and the bank nets \$250,000 from your short sale, you will receive a 1099-C for \$150,000. You may be eligible for an exemption from this tax liability if a) this is your primary home or b) you are deemed insolvent by IRS criteria. Once again, consult your CPA or tax advisor or speak to a tax attorney.

How will a Short Sale affect my credit?

The completion of a Short Sale may affect your credit rating. The final disposition of a completed Short Sale may be reported as "Account paid in full for less than the full balance" on your credit report.



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How much will it cost me to do the Short Sale?

Ideally, nothing. The lender will pay the closing costs which are often negotiated in the short sale. This includes the Realtor's commissions. The lender may ask you the borrower for either a cash contribution or promissory to pay some of the deficient balance. In many cases, we are able to get these seller contributions waived. In most short sales there are some minor fees the lender will not pay for. Generally, the buyer will pay for these costs but it can be negotiated.

I signed up with a Short Sale negotiation service. Will the banks pay their fee?

Usually not.. Most banks will not pay any 3rd party Short Sale negotiation or processing fee nor allow this type of fee to be deducted from the proceeds of the sale of the property.

Will I be required to pay back the amount of the shortage or the deficiency balance?

The approval letter will specify the terms of the Short Sale approval. Your Loss Mitigation specialist at the lender will be able to explain whether the deficiency balance will still be owed. We also seek the language in the approval letter which has the lender "waive their rights to pursuing a deficiency". This policy is determined by different stakeholders in your loan including the investor and Mortgage Insurance company.

My loan is in Foreclosure. Can I still be considered for a Short Sale?

Yes, however the Foreclosure may continue during the process. It is highly recommended to start the short sale a minimum of 45 days before the foreclosure. The more time the better.

My loan is current. Can I still be considered for a Short Sale?

Yes, however the required financial documentation must be submitted along with a detailed Hardship letter explaining the inability to continue to maintain your loan payments.

Can FHA or VA loans be eligible for a short sale?

Yes

I have two loans. Can I still be considered for a Short Sale?

Yes, however if the 2nd loan is with another bank they will need to approve the Short Sale separately. When there are multiple lienholders, the short sale can be more complex. This is one of the reasons it makes sense to work with an expert in this field.

My property is a rental. Can I still be considered for a Short Sale?

Yes, however you must include rental income documentation, which will include bank statements, rental agreements or an explanation letter if rents are not being generated.

Do property taxes need to be paid during the Short Sale process?

Yes, if your property taxes are not escrowed as part of your loan payment and they become due they should be paid. If the taxes are escrowed, the bank will continue to pay these taxes in most situation



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I filed Bankruptcy. Can I still be considered for a Short Sale?

Yes, however consult your Bankruptcy attorney regarding the process of selling your property during a Bankruptcy.

Why not just let my lender foreclose?

Not a good idea. The first thing banks do when they foreclose on a property is hand it over to a real estate agent to get rid of it! The foreclosure process is a legal process. It involves attorneys and it costs money. Once they get the property back via foreclosure they must often sell it for MUCH LESS than market value and pay broker commissions and all customary closing costs. Since Act 48 became law on May 5, 2011, foreclosures are being done as a judicial process through the courts. This gives the bank the opportunity to pursue a deficiency judgement. This judgement is good for 10 years and can be renewed for another ten years. **NOT A GOOD IDEA!**

I want to deed my property to the bank. I have heard this is possible through a Deed in Lieu of Foreclosure. Is this an option?

This may be an option however it is recommended the Short Sale option is reviewed first. A short sale is a preferred solution by the bank and is more beneficial to the homeowner most of the time.

If you have further short sale questions, I will be glad to answer them. Email me or call me. I am available to help homeowners in the state of Hawaii.