

SHORT SALES SHORT SALES

For the buyer and investor



Short Sales are not for the weak or impatient person! If you are limited on time then a short sale is not for you.... Walk away now... Don't look back!

Currently in Colorado short sales out number the regular transaction by 10 to 1 if not more. Everywhere you turn there is a short sale property.

Below is some guidance thru the maze of the short sale world:

If you are interested in purchasing a property and you have time on your hands to do this then you have already made it thru the critical part of a short sale. Time! Most lenders are currently buried with short sale requests from approximately 9 States, some lenders are so buried that they are crippled. Some of the lenders in this situation are WAMU, Saxon, America's Servicing, Greenpoint, Carrington Mortgage, First Franklin, Wells Fargo, Countrywide, Aurora Loan Servicing, Litton Loan Servicing, Homecomings, GMAC.

If you, as a potential buyer on this property, understand what the lender is dealing with and how many requests come in daily then you will have more patience to allow the lender to process the file. The last time I asked the question the lenders were receiving anywhere between 300 to 400 requests in 1 day for a short sale.

The typical short sale will take 45 to 60 days for the lender to make a decision on whether they will approve the short sale. Keep in mind some lenders are longer, some are shorter. So asking the right questions are critical to give you an idea as to how long the process will take.

It would be a good idea to make arrangements for your agent to follow up with the listing agent once a week to check the status of the short sale file.

QUESTIONS TO ASK THE LISTING AGENT

1. Has the lender already approved the short sale?
2. If no, Who is the lender that you are doing the short sale with? Is there one lender or multiple lenders that have to approve the short sale?
3. What type of loan does the seller have? GOOD QUESTION!!! Because if it is an FHA that the seller is trying to do a short sale on they must owner occupy the property, and the buyer, you, cannot ask for any seller concessions.... Except for FHA non-allowables. If you are needing seller assistance to purchase the property you will need to find another property.
4. Has the Seller filed Bankruptcy?
5. Are there judgments against the property?
6. Where are you at in the process? (most lenders will not even start the process without an offer on the table)
7. Has the seller sent in the short sale package to the lender yet?
8. Has a rep or negotiator been assigned to the file?
9. How many short sales have you done personally?
10. Have you hired a 3rd party to assist you in this process? If yes, who is that company?
11. What is the turn around time for the lender to give us an answer? 30, 60, 90, 120 days?

Even if the lender approved the short sale in the past they still may need to approve your offer and that could still take a couple of weeks unless you have an awesome negotiator on the file. If you do, then they could approve it within 24 hours.

Also if the Seller has filed Bankruptcy that will slow down the short sale process. The lender will not be able to speak to anyone on the loan until the bankruptcy has been discharged and closed or a motion for abandonment has been signed by the Bankruptcy Courts. This will further delay the short sale process. Most of the times when there is a bankruptcy it could take 6 months to get thru that red tape. No joke.

If there are judgments against the property, the lender could require that the seller satisfy them prior to closing. If they are large amounts, for example \$24,000.00 for Child Support – you will not ever get the short sale approved. It will be a better move for the lender to foreclosure and wipe out the lien instead of paying it, that will mean more money in their pocket.

These are good to know prior to putting in your offer so you know what you are up against.

Frequently Asked Questions:

- Since the property is subject to short sale does that mean I can pick it up for less than fair market value? NO... Most lenders will perform either an appraisal or a BPO (Broker Price Opinion) to determine what fair market value of this property is before they can respond to your offer. The lender will allow a slight margin 10 to 15%, some will want exactly what the valuation came back at. (the lender will start bargaining with you once they have foreclosed and are the seller, but not until)
- Should I do my inspection and appraisal before we have written approval of the short sale? NO... Make sure you have written approval before you start spending money on a property you may not be able to purchase.
- If a property has went to foreclosure sale can we still do a short sale? Not if the property is governed by the new laws where the seller does not have any redemption rights. Once it goes to sale the property is now owned by the bidder at the foreclosure sale.
- Will the lender postpone the foreclosure sale date in order to review the short sale? Yes, this is a possibility but no guarantee. Ultimately it will be up to that lender and whether or not they want to postpone. Lenders can postpone the foreclosure sale date up to 9 months before they would have to start the whole process over again.
- Can I ask the lender for inspection items? NO..... A short sale transaction is considered "As-Is" by the lender unless the seller is willing to handle the inspection items prior to closing. Most of the time the seller will not have the funds to do this.

The foreclosure laws changed in January 2008, the homeowner used to have 75 days to redeem their property once it went to foreclosure sale. Effective January 2008 the homeowner does not have a redemption right any longer. What they have done is increased the cure period for the homeowner so once the Notice of Election and Demand is recorded the foreclosure sale date will be set anywhere from 110 to 125 days from that date instead of 45 to 60 days. Also the lender can postpone the foreclosure sale date up to 12 months before they would have to start the foreclosure process all over again. So once a property goes to foreclosure sale there are no options available to the homeowner since they no longer own the property.

There are many circumstances that can lead to foreclosure such as loss of job, loss of wages, divorce, medical reasons, death of a spouse and adjustable rate mortgage; these are just a few of the reasons. Every homeowner has their own unique situation that can be defined as a hardship.

Usually this is a very emotional time for a homeowner and if you do not practice Real Estate on a daily basis you may not be familiar with Loss Mitigation and how it can help you.

For homeowners that are facing the loss of their home due to foreclosure there are several options that are available to you. Each lender has either a Loss Mitigation Department or a Workout Department that can assist you with these options.

Forbearance

If you are behind in your payments and all you need is help to get the payments caught up the lender could tack on the delinquent payments to the end of the loan for you to help you catch up. There are requirements to do this and not every homeowner will qualify, it will depend on your loan and your lender.

Loan Modification

There are more and more lenders that are making this option available to homeowners since the bail out. Countrywide started this up effective November 1st. They will review your loan to see if you would qualify for this assistance and it could even reduce your principal balance. In the past when a homeowner would call and inquire about a loan modification the lender would ultimately increase the monthly payment which defeated the purpose but hopefully now the lenders will be more realistic with their loan modifications. You have to qualify for this which means they will want financials from you such as pay stubs, bank statement, tax returns and a financial statement. This can take 4 to 6 weeks for the lender to process if not longer.

There are also lenders that are doing Short Sale Refinances.

Short Sale

If you are a homeowner and you do not qualify for any of the above options you may be able to qualify for a short sale. This when your lender accepts less than what is owed on your property in order to release their Deed of Trust against the property. You must qualify for this program. First you must have a financial hardship and you must prove to the lenders that you cannot afford the payments. The lender could require all of your financials in order to process the file. The financial documents they typically need are financial statement, pay stubs, bank statements, 401K or retirement account statements, tax returns and a hardship letter, the hardship letter should be hand written and explain to the lender when the hardship began, what has transpired since and what are you asking the lender to do. What the lenders will accept as far as a net amount will be based on the valuation they have done on your property. The lender will either have an appraisal or a BPO (Broker Price Opinion) done. It will also depend on what type of loan you have, FHA, VA., Conv or 2nd mortgage.

FHA

*FHA loans are very specific what they will allow with regards to a short sale. The homeowner **must** owner- occupy the property. The homeowner **must** go thru HUD Counseling – there is no charge for this counseling so if someone is trying to charge you to do this you need to report them to FHA. What the counseling will do is advise you of all of your options that are available to you so you can determine what will be best for you and your family. The property **must** qualify to participate in a short sale: the appraised value that the lender has done must be at least 63% of the total payoff on the loan. If the value of the property is less than 63% then the property will not qualify to participate in a short sale. The third part of the short sale is the offer, the seller cannot pay any part of the buyer's closing costs or down payment and the lender must net 82% of the appraised value after all fees are deducted.*

VA

VA Loans are not as strict as FHA loans but they do have some requirements. Homeowner must have a financial hardship and they must net 88.13% of the appraised value of the property. VA does not require that the property be owner occupied and they will consider buyer's closing costs or down payment paid by seller. Just keep in mind if you do a short sale with a VA loan you will not be able to obtain another VA loan until the deficiency has been satisfied.

Conventional

Conventional loans are not as specific because there are so many variables you will not know, such as if the loan has an investor attached to it or if there is Private Mortgage Insurance. Lenders usually do not require that the homeowner occupy the property and some conventional loans will allow the seller to pay a portion of buyer's closing costs or down payment.

2nd Mortgages

2nd mortgage lenders will want 10% of the unpaid balance. This is usually not what they receive, especially if the 1st mortgage lender is part of the short sale. The 1st mortgage lender will dictate what they will allow the 2nd mortgage lender to get. If the 1st mortgage lender is participating in the short sale they will typically allow a maximum of \$3,000.00 to the 2nd mortgage lender.

The deficiency

It is possible that the lender will want the homeowner to pay back the amount that they are short. If the homeowner does make payment arrangements with the lender to repay the deficiency then there will be **no** 1099 issued and the lender will not file a deficiency judgment against the homeowner.

If the lender does not require that the homeowner repays the deficiency back then the lender will possibly issue a 1099 to the homeowner which could be liable to pay taxes on that amount as if it were income.

President Bush signed the mortgage debt relief act in 2007 with regards to 1099s so homeowners do not have to pay taxes on the deficiency. **THIS DOES NOT COVER ALL HOMEOWNERS.** You will want to seek legal counsel or counsel from a certified public accountant regarding this issue to determine whether or not it will protect you. This bill will be in affect for 3 years.

One thing to always remember in a short sale is you are the homeowner of the property and you still have the right to reject, counter or accept any offer on your property.

Deed in Lieu

The last possible option you may have is a deed in lieu of foreclosure. This is when you sign a quit claim deed back to the lender. You and the property would have to qualify to do this option as well. Usually the lender will only do a deed in lieu of foreclosure when there is only a 1st mortgage against the property, if there is a 2nd mortgage behind the 1st mortgage you may not qualify unless you can get the 2nd mortgage lender to agree to a settlement in order to release their deed.

Lenders

All of the lenders are buried with defaulted loans at this time and they are receiving anywhere from 300 to 400 requests a day so to say the least they are not able to stay up with the demand. It will take lenders 30 to 120 days to process a short sale. It will all depend on your lender so patience is required for this endeavor.

Conclusion

To be successful with any of the above options you will need to be persistent and have time to follow up with the lender. If you do not have time to follow up with the lender then I would recommend hiring someone to assist you. Please keep in mind it will take time so patience is a requirement! Good Luck!

CERTIFIED FORECLOSURE PREVENTION CONSULTANT.



**This Certificate Verifies
John Braswell
Has Successfully Completed:
Foreclosure Prevention Consultant
Training as of March 25, 2008**

x Roger Butcher

Roger Butcher Certified Loss Mitigation Consultant

SHORT SALE FEASIBILITY

AGENTS: Save yourself and your homeowner time and frustration. Fill out this form before you list a short sale and evaluation to see how good of a short sale you really have.

Agent Name: Cell Phone#: Home Phone#:
 Agent Email: Company Office Phone#:

Primary Homeowners Full Name: Date:

Property Address: City: State: Zip:

1st Mortgage Type: FHA VA Conv-Fixed Conv-ARM Does Your Loan Have PMI or MMI?
 Yes No Don't Know

	Mortgage Lender Name	Loan Balance	
1st	<input type="text"/>	<input type="text"/>	How Many Payments Behind? \$ <input type="text"/>
2nd	<input type="text"/>	<input type="text"/>	Money Saved In All Accounts? \$ <input type="text"/>
HELOC	<input type="text"/>	<input type="text"/>	Market Value \$ <input type="text"/>

VERY IMPORTANT! Explain Any Liens or Judgements

VERY IMPORTANT! Notice of Default Date: Foreclosure Sale Date:

Other than this property, How many other properties do you own? Are you current with your property taxes? Yes No

If you belong to a homeowners association, are your dues current? Yes No N/A Amount Behind: \$

Rate the condition of the home: Excellent Good Fair Poor

Tell Us About the Homeowners Hardship. What Caused Them to Get Behind?

After gathering this information from your homeowner please email completed copy to

If you have any questions please contact our office at

John Braswell

Owner - Broker

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**Full Service Real Estate Inc.
For Sale by Owner Real Estate Inc.**

Independent Companies
Working Together

107 S. Public Road
Lafayette, CO 80026
Bus. 303-665-5525



Cell 720 690 9506
Email john@fsbosp.com
Website www.fsbosp.com