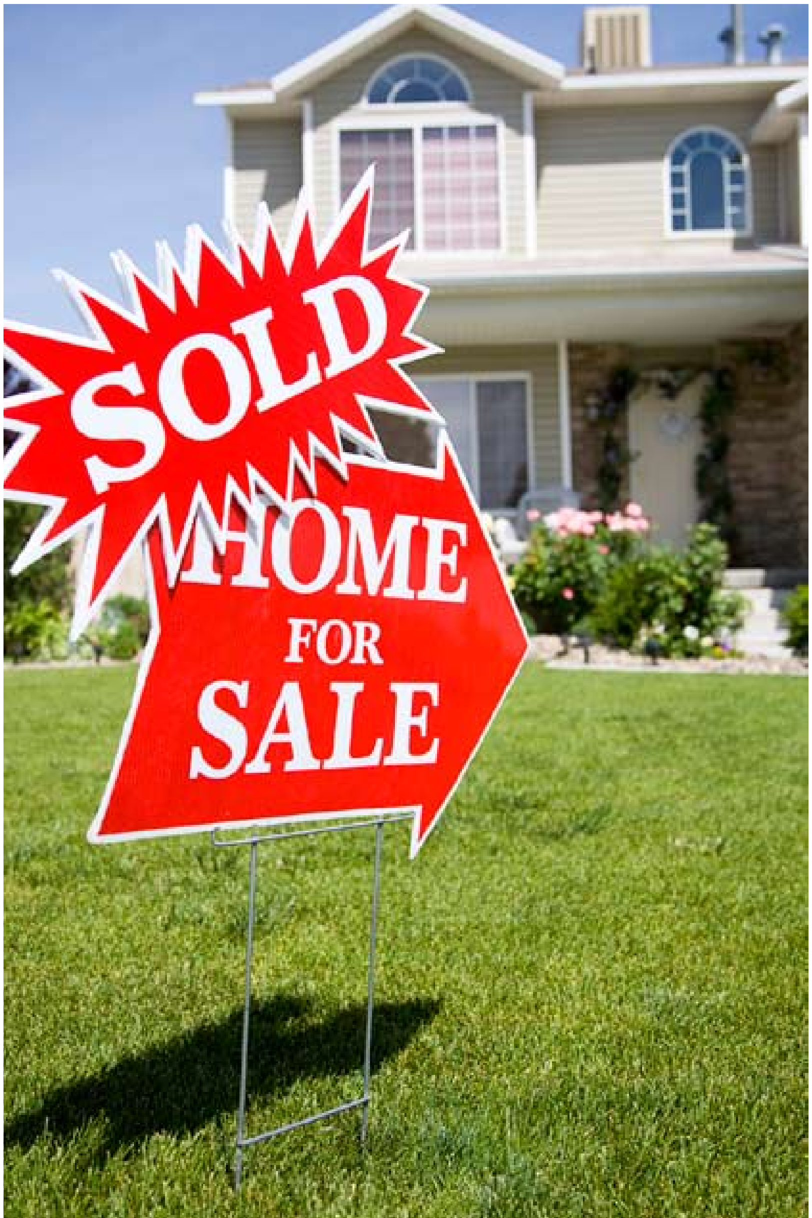

A Brief Introduction to Short Sales

Presented by Chicago Title

Chicago Title
San Diego, California

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At Chicago Title - San Diego, we're proud to produce 100% of our Preliminary Title Reports and Plotted Easements in San Diego. You get the PR when you need it - from people that know San Diego!

Please Note: This packet contains general guidelines only. Your transaction will vary based on the lender or lenders and your unique situation. You will want to advise your personal tax and legal advisor regarding your particular transaction.

Short Sale Tips & Comments

- Finding the right person at the lender could be one of the hardest parts of the Short Sales. Make sure to contact the Lost Mitigation Department. Contacting the Customer Service department won't help, their job is to collect past due loan payments.

- Most mortgage companies will need a brief letter from the seller giving them permission to speak with your real estate agent. This will also help build credibility with the lender.

- Watch for discrepancies between the Short Sales Package and the seller's income that was used to obtain the loan. Large differences could raise red flags as to mortgage fraud, unless circumstances change drastically.

- If the loan is less then a year old, your Short Sale package could be rejected by the lender. The original lender may have to buy the loan back from the servicer.

- Keep a close watch for unethical investors who will try and take advantage of distressed Owners.

- It is very important that the seller seek tax and legal counsel before doing a Short Sale. There could be huge tax consequences. The seller must account for the dollar amount forgiven by the lender as income and pay taxes on that amount. The IRS will be informed of the amount that was forgiven by information submitted from the lender on Form 1099.

- The loan forgiven could have a negative effect on the seller's credit. If the seller is going to rent or lease an apartment, they should do it before their credit worsened.

- Call Chicago Title to help you with any of your Title and Escrow needs.

The Short Sale (also known as a Short Pay)

General Definition

A "Short-pay" sale occurs when the proceeds from the sale of a property (generally residential, owner –occupied) are not sufficient to pay off the lender (or lenders) of record in full. The lender(s), upon review of the purchase agreement, escrow instructions, estimated closing statement, appraisal and other documentation as the lender may require, may agree to accept a pay-off that is less than the amount actually owed. The seller will net zero proceeds. All proceeds, less usual costs and expenses as approved by the lender will be paid to the lender at close of escrow.

The Lender's Perspective

A short sale can save many of the costs associated with the foreclosure process – attorney fees, the eviction process, delays from borrower bankruptcy, damage to the property, costs associated with resale, etc. In a short sale scenario, the lender is able to minimize these losses by avoiding becoming the owner of the property. The job of the Realtor or borrower (the property owner) is to convince the lender that they will fare better by accepting less money now.

The Seller's Perspective

Negotiating a short sale with the lender is a difficult, communication-intense process. There can be a great deal of wait time and "bouncing around" until you make contact with the person who can authorize a short sale of the property. A seller must be prepared to fully disclose and document their financial situation and work with all parties involved to make the transaction as smooth as possible. It is beneficial, though not required, to enlist the services of a Realtor experienced with short sales to facilitate the process.

The Buyer's Perspective

The Buyer must observe the laws of "equity purchasing" and be careful not to be perceived as taking advantage of the financial hardship. The offer should be priced according to the condition of the property and the market value. These properties will normally be sold "as is", so buyers need to be aware of this when selecting their financing. Buyers of short sale property need to keep in mind that approvals are not easy to come by, and exercise patience and understanding throughout the transaction.

The Realtor's Perspective

To succeed in the short sale arena, Realtors must have a thorough understanding of foreclosure timelines, training in what Lenders require in their short sale packages, be highly organized, and be able to complete a well-prepared package to submit for approval, possess patience and persistence.

Do’s and Don’ts

Do:

- Get and stay fully informed. Familiarize yourself with the various lenders who accept short pays and what their requirements are. Contact the “loss mitigation” departments of these lenders and ask for their work-out and short sale packages.
- Call Chicago title and order a short sale profile package with a copy of the deed, all open deeds of trust, and any other liens of record on the property.
- Establish open, honest communication with your lender & real estate agent.
- Disclose the fact that the sale is subject to short sale to all parties involved.
- **Seller should always seek tax and legal counsel.**

Don’t:

- Get too emotionally involved.
- Submit a package without a bona-fide purchase contract with a real buyer.
- Withhold information from the escrow and title company. If there is an issue, time is of the essence. You don’t want title to stumble upon the issue at the last minute and delay or prevent the closing.
- Engage in business practices that could be considered fraudulent in any way. There is strong legislation on the books that protects Sellers facing foreclosure. Lenders are scrutinizing short sale proposals carefully for any evidence of fraud.

The Escrow Process

Open Escrow

Open your transaction with an experienced escrow officer knowledgeable in short sale transactions. Many of our Chicago Title escrow officers have received in-depth training in short sales. Your Chicago Title escrow officer will provide confidential, professional service throughout the transaction, assisting you and communicating between all parties. Our experienced title staff can foresee, communicate, and work to remove potential obstacles as they arise, to ensure the best possible outcome for your clients.

Submit Your Documentation to Escrow

Along with the purchase contract, submit a copy of the short sale package to your Chicago Title escrow officer. It will be an essential reference during the transaction. Additionally, if the package or one of the documents needs to be resubmitted at any point, your escrow officer can send a copy from the file.

Time is of the Essence

The seller should execute all title and escrow documents quickly and return them to the escrow officer. If you prefer, your escrow officer would be happy to arrange for you to come in and sign the documents, answering any questions you may have about the escrow process.

Get Any Pre-Approved Work Done and Submitted for Payment at Once.

Remember, the lender is not obligated to approve the short pay. Last minute invoices may be rejected and could jeopardize the short sale approval and closing.

Seller Must Net Zero.

Even if there are funds left over at the close of escrow due to a reduced expense, lower tax pro-ration, etc, any excess funds MUST BE SENT TO THE LENDER or disbursed as per the lender's instructions.

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Will the Lender Accept the Short Sale

Not all lenders will accept short sales or discounted payoffs, especially if it would make more financial sense to foreclose. Some lenders, as a rule, never accept. Review who the lenders are and contact their loss mitigation department for their short sale packet as soon as possible.

Sample Call Script:

“Have you ever accepted a short payoff as a workout prior to a foreclosure?”

If the Answer is:	**Then Reply:**
“Yes” in any form	“Thank you. I am currently in the process of compiling the proper documentation to submit to you for consideration. Do you have a short sale packet, or shall we submit our own documents? What address can I sent this packet to at the end of this week? What is your direct line?”
“Maybe” in any form	"I can definitely understand your hesitation. After the appraisal of the house, I believe it would make more financial sense to move this property now rather than see it through the foreclosure process (add any statistical backup you may have). Would it be acceptable if we submitted the documentation for you to consider?"
“Absolutely Not”	Thank the person for their time, and consider other options.

Lender Requirements

Property Information/Market Conditions

The lender will need a clear picture of what the property is worth. Generally, the lender will hire a local real estate broker or appraiser to evaluate the property (called a broker's price opinion or "BPO"). You can also submit your own appraisal or comparable sales information. Additionally, you will want to submit as much specific negative information about the property as possible - local newspaper articles relative to the economy, neighborhood, price trends, inventory gluts, etc. You may wish to submit an estimate for any repairs necessary to sell the home. (Please note, these repairs will most likely not be made if the short sale is approved unless they are required by the borrower's lender. This estimate is included mainly to show how the lender's cost to sell the home would be increased by the repair amount if it were to become an REO property.)

Financial Information about the Borrower(s)

The borrower must prove to the bank that they are insolvent and unable to afford the mortgage payments. They must demonstrate that they have no other source of income assets to repay the loan. Pay stubs, tax returns and bank statements are usually required to demonstrate this, along with a "hardship letter" explaining the unique circumstances faced by the borrower. It is important not to lie in this letter, but to convey the situation in a way that makes the Lender empathize with your borrower and want to be in a position to alleviate their circumstances.

Required Documentation: (This list will vary by lender and is just here to provide a general guideline)

- Hardship Letter
- Completed financial statement
- Documents proving hardship
- IRS tax returns for last two years
- Pay stubs for last two months
- Bank statements for past four month
- Listing agreement
- Purchase contract
- Preliminary Title Report
- Estimated Sellers Costs or Preliminary HUD-1
- Marketing History / Profile, comps and market conditions

The Purchase Contract

Generally, the Lender will not consider a short sale until a purchase contract has been signed and executed by all parties. Estimated closing costs should be submitted along with the purchase contract so that the Lender can see the Seller is not receiving any cash from the transaction. If the Lender requires a preliminary HUD-1, work with your Chicago Title escrow officer in providing one for you.

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Approaching the Lender

Ask for Terms, and Follow through Quickly.

Every lender, and even possibly different employees within the same company, will prefer the information to be submitted in different ways. If you are able to talk with the lender, submit the promised information as quickly as possible. If they have a specific package or format they require, follow their guidelines very closely. If they ask that the package be submitted by fax or email, follow up with a hard copy package with three sets of documents.

Be Patient

It normally takes a lender 10 to 60 days to accept or reject a short sale offer. If you have not heard back from the lender in 15 days, check in with them. Make sure your voice messages are pleasant and positive – you don't want to end up back at the bottom of the approval pile.

Be Available

Provide all your contact information to the Lender and watch for their calls – they often have a number of calls to make each day and you want to make this process as easy for them as possible.

Have a Game Plan.

If the lender agrees to the short sale, they typically give you between 30 and 45 days to close the transaction. After this period, the lender's offer could be withdrawn. Work diligently with the buyer of the property and your agent to ensure the transaction can close on time.