

Short Sale

In real estate, a **short sale** is a sale of real estate in which the proceeds from the sale fall short of the balance owed on a loan secured by the property sold. In a short sale, the [bank](#) or [mortgage](#) lender agrees to discount a [loan](#) balance due to an economic or financial hardship on the part of the mortgagor. This negotiation is all done through communication with a bank's [loss mitigation](#) or workout department. The home owner/debtor sells the mortgaged property for less than the outstanding balance of the loan, and turns over the proceeds of the sale to the lender, sometimes (but not always) in full satisfaction of the [debt](#). In such instances, the lender would have the right to approve or disapprove of a proposed sale. Many Short Sales leave a deficiency balance for which the Mortgagor / Borrower is still liable. In 99% of all cases it is not a settlement-in-full. A deficiency balance will remain as a potential liability for the Mortgagor / Borrower. The bank's opportunity of pursuit of a deficiency judgment will vary from state to state

Extenuating circumstances influence whether or not banks will discount a loan balance. These circumstances are usually related to the current real estate market and the borrower's financial situation. An important thing to know about a short sale is that it has to be handled by a real professional who knows how to work these deals. Most REALTORS® don't handle short sales. However ABC Real Estate Services, Inc can help.

A short sale typically is executed to prevent a home [foreclosure](#), but the decision to proceed with a short sale is predicated on the most economic way for the bank to recover the amount owed on the property. Often a bank will allow a short sale if they believe that it will result in a smaller financial loss than foreclosing as there are carrying costs that are associated with a foreclosure. A bank will typically determine the amount of equity (or lack of), by determining the probable selling price from a [Broker Price Opinion BPO](#) or through a valuation of an [appraisal](#). For the home owner, advantages include avoidance of a foreclosure on their credit history and partial control of the monetary deficiency. A short sale is typically faster and less expensive than a foreclosure. In short, a short sale is nothing more than negotiating with lien holders a payoff for less than what they are owed, or rather a sale of a debt, generally on a piece of real estate, short of the full debt amount. It does not extinguish the remaining balance unless settlement is clearly indicated on the acceptance of offer.

Short sales are common in standard business transactions in recognition that creditors are not doing debtors a favor but, rather, engaging in a business transaction when extending credit. When it makes no business sense or is economically not feasible to retain an asset, businesses default on their loans (called bonds). It is not uncommon for business bonds to trade on the after-market for a small fraction of their face value in realization of the likelihood of these future defaults.

Negotiations

Lenders have a department (typically called "loss mitigation") that processes potential short sale transactions. Today, lenders may accept short sale offers or requests for short sales even if a [Notice of Default](#) has not been issued or recorded with the locality where the property is located. Given the unprecedented and overwhelming number of losses that mortgage lenders have suffered from the current foreclosure crisis, they are now more willing to accept short sales than ever before. This is great news for borrowers who are "[under-water](#)" or in other words those who owe more on their mortgage than their property is worth and are having trouble selling to avoid foreclosure because of this. They are type of distressed borrower who needs a short sale the most.

Lenders have a varying tolerance for short sales and mitigated losses. The majority of lenders have a pre-determined criteria for such transactions. Other distressed lenders may allow any reasonable offer subject to a loss mitigator's approval. Multiple levels of approvals and conditions are very common with short sales. Junior liens - such as second mortgages, [HELOC](#) lenders, and HOA (special assessment liens) - may need to approve the short sale. Frequent objectors to short sales include tax lien holders (income, estate or corporate franchise tax - as opposed to real property taxes, which have priority even when unrecorded) and mechanic's lien holders. It is possible for junior lien holders to prevent the short sale. If the lender required [mortgage insurance](#) on the loan, the insurer will likely also be party to negotiations as they may be asked to pay out a claim to offset the lender's loss in the short sale. The wide array of parties, parameters and processes involved in a short sale makes it a relatively complex and highly specialized type of real estate transaction which is why unfortunately short sale deals have a high failure rate and often do not close on time to save homeowners from foreclosure when they are not handled by a knowledgeable and experienced professional. The best sources of knowledge and expertise in short sales are short sale negotiators, loss mitigation specialists, and real estate lawyers who specialize in short sale.

Credit reporting

A short sale does adversely affect a person's credit report, though the negative impact is typically less than a foreclosure. Short sales are a type of settlement. Like all entries except for bankruptcy, short sales remain on a credit report for seven years. Depending upon other credit information it is typically possible to obtain another mortgage 1-3 years after a short sale.

While it is frequent if not common for a lender to forgive the balance of the loan in question, it is unlikely that a lien holder that is not a mortgagee will forgive any of their balance. Further, it is common for a lender to omit updating mortgage balances to reflect a zero balance after a short sale. However, willfully misrepresenting information on a credit report can constitute libel in some jurisdictions, and lenders may be sued in civil court for engaging in this behavior.