SHORT SALES

4 the Clueless®

Joyce Freese

ShortSales4theClueless.com

Short Sales 4 the Clueless

(applies to ANY property in the US)

- ✓ **Are you a Seller hoping to avoid foreclosure but don't know how?**
- ✓ **Are you a Buyer sick of having your offers rejected without knowing why?**
- ✓ **Have you waited months for an answer from the bank & don't know why?**
- ✓ **Do lenders seem to be holding all the cards by keeping you in the dark?**
- ✓ **Are you unaware of your legal rights as a Seller or Buyer?**

If you answered YES to any of the above, then YOU are among the CLUELESS.

Read on.

WHAT YOU NEED TO KNOW

- Why are short sales now popular?
- Do I have other options?
- Do I qualify for a short sale?
- Can I do it by myself?
- How much does it cost me?

Why are short sales popular now?

Recently short sales have become popular due to TWO main events:

Adjustable rate mortgages reset to higher rates, causing higher monthly mortgage payments

&

People lost income, reducing their monthly cash flow.

The *First* Main Event . . .

As mortgages reset, consumers found themselves unable to keep up with rising monthly mortgage payments. Many did not initially fully understand the intricacies of the adjustable rate mortgage when they secured the loan.

Many thought that the adjustment would be minimal instead of the maximum allowable adjustment rate. Many saw their interest rates increase 2% per year.

As stated in the mortgage note, interest rates on these loans would remain the same, increase, or decrease , based on the current prevailing rate of either the treasury bills or cost of funds index, 30 days prior to the anniversary date of the loan (be it monthly, semiannually, yearly, etc.).

Unfortunately, we entered a period in our economy when the rates increased to the maximum

allowable limit, a scenario that many did not budget for.

These adjustable rate mortgages reset at various times, depending on the type of program that the borrower chose. A number of mortgages adjusted semi-annually or annually or every two, three, five years, etc. depending on the particular program. Some even adjusted monthly!

Homeowners saw their monthly payment increase with each adjustment period. Increasing an additional $300 to $400 per month was not uncommon for many.

Unfortunately, many homeowners had not planned for the increase, falling behind on their payments.

. . . Then the SECOND main event kicked in.

The Second Main Event . . .

The second main event that occurred was the loss of jobs, either from a single income household or from a dual income household.

As the economy worsened, so did the job market. As if losing a second income was not bad enough, when the primary income disappeared, it was devastating for many homeowners. No longer capable of paying their mortgage payments, many became 30, 60, or even 90 days late in no time.

In the beginning, the banks were overwhelmed with the amount of homeowners who could not make their monthly payments. Many homeowners gave up quickly, sending their house keys in envelopes to the bank instead of their mortgage payment.

Originally, there were few options for homeowners to redeem themselves.

Unequipped to handle the mass delinquencies that increased each day, the banks were headed for trouble as their own credit ratings plummeted.

Understaffed and untrained, it would often take six or more months to do a short sale. Buyers lost interest and withdrew their offers, hoping to move onto REO (real estate owned by the bank). These properties had already gone into foreclosure. The closing time was short since most offers were accepted within seven days and closed within 45 days.

In the beginning, no one wanted to touch a short sale, especially the buyer. It was an effort in futility.

Back then, those who attempted to do a short sale met with failure. Most of these homes went into foreclosure, becoming REOs, because the paperwork could not be done in time to grant a short sale.

B u t . . .

There is good news!

Times have changed. After grinding through this difficult period, the banks have learned and are now more receptive to doing more short sales instead of letting the homes go directly into foreclosure.

They have trained their staff and increased the number of employees, specifically handling short sales. They are especially motivated by a better bottom line. Short sales usually net the banks more money than foreclosures.

Do I Have Other Options?

There are several other options available, depending on the policies of your lender:

Repayment Plan

Home Saver Advance

Loan Modification

Short Sale (known as Pre-foreclosure)

Deed-in-lieu

Foreclosure

With the first 3 plans,

the homeowner stays in their home!!

Repayment Plan

Many times a borrower falls behind on their mortgage payment due to a temporary setback: a layoff, unusual medical bills, additional family member, temporary job loss, etc.

Depending on the lender and the type of loan that the borrower has, a repayment plan can be initiated if the lender is convinced that the borrower is now back on track and can remedy the situation with additional short term payments that will get the loan and any delinquent fees current.

The lender must be convinced that the temporary financial stress has been relieved and that the borrower shows improvement of future income to repay the delinquent debt as well as future monthly mortgage payments.

Often the lender will allow the borrower to make consistent incremental payments on top of their regular monthly payment, including any late fees, until the loan is current, usually within a six to eighteen month period of time.

Home Saver Advance

In this particular plan, the homeowner has incurred fees that could not normally be paid within a 9 month period of time. Some of these fees are: delinquent mortgage payments, escrow shortages, late HOA fees, and foreclosure attorney costs. A promissory note for the amount in arrears is given to the borrower to reinstate the delinquency and to bring the borrower current.

For the first 6 months, this promissory note requires no payments and does not accrue interest, but thereafter, this note becomes fully amortized at a low interest rate for the remaining term of the note (up to 15 years). This note generally cannot exceed an amount of $15,000 or 15% of the original unpaid principal balance of the mortgage, whichever is less.

Remember that the homeowner must be solvent to carry their original mortgage payment as well as this additional note. The hardship that caused the original delinquency must be over and the borrower must be financially capable to handle the additional note.

Loan Modification

A loan modification changes the terms of the borrower's original loan to make the monthly payment more affordable. This is a good solution for the borrower who feels that he/she may experience long-term financial problems resulting in an ongoing inability to make the current mortgage payment under the original terms of the loan.

Typically, a loan modification converts the original mortgage to a fixed rate and/or extends the life of the loan: for example, from 30 to 40 years. Usually it also allows the homeowner to become current with any delinquent amounts, including interest on delinquent mortgage payments and escrow shortages. This delinquency will be added to the unpaid principal balance.

In addition, a modification may also be used to reduce the interest rate on the note to below the current interest rate. Some lenders will gradually increase this interest rate over the years while others may approve a permanent interest rate reduction.

Typically loan modification will not occur until 3 or 4 mortgage payments have not been paid.

Short Sale (known as Pre-foreclosure)

A Short Sale (pre-foreclosure) should only be considered when the homeowner decides that he/she <u>can no longer afford to remain</u> in the home. Instead of foreclosing on the home, the homeowner attempts to sell his home at a price that is less than the amount owed on the loan.

For example: A homeowner may have taken out a mortgage for $150,000 as a first mortgage. Subsequently he/she may have also taken out a second mortgage or home equity line of credit for $50,000. The total indebtedness is $200,000.

Since many real estate markets have gone down in value, the value of the home may currently be $100,000. There is then a $100,000 shortfall in what is owed.

Often, the lender or lenders (if a first and second lien is attached to the property) will agree to settle for less; in this case, $100,000 less.

Why would the lenders do this? Ultimately they will avoid foreclosure costs and the cost of marketing the property should they have to take it back in a foreclosure. A short sale will save them a lot of money.

FYI: Often the lender will offer up to $2,500 in relocation assistance to homeowners who cooperate with this type of sale.

Why? Typically the homeowner will leave their property in better condition with this incentive.

Deed-in-Lieu

A deed-in-lieu occurs when the borrower <u>voluntarily relinquishes the property</u>. In other words, the property is given back to the bank. The bank agrees to accept ownership of the property <u>prior</u> to a foreclosure sale. The borrower's debt is satisfied and he/she avoids foreclosure.

Prior to the lender taking back the property, the borrower <u>must agree to list the property</u> on the open market for at least 3 months. If there have been no reasonable offers on the property, the bank will consider a deed-in-lieu. There also can not be any other outstanding liens on the property.

As with a short sale, the lender can offer up to $2,500 in relocation assistance to the borrower.

FORECLOSURE

Foreclosure is a <u>last resort</u> for the borrower. Neither the lender nor the borrower wins in this scenario. Both bear high costs.

The borrower loses his/her home. The home is offered for at auction, typically for the price of what is owed on the property. A notice of the pending foreclosure will be sent to the borrower with a date of the auction.

In many cases, the value of the property has gone down so much in value that there are no bidders. The property is not worth what is owed on it. The bank then takes back ownership of the home.

Once the foreclosure has occurred, the borrower is expected to be out of the house. Often, the borrower may have the home rented, usually when the borrower is an investor. Frequently, the renter will be unaware that the home has gone into foreclosure.

Typically, once the bank owns the property, the occupant will be asked to vacate within a 2-3 week period of time. Oftentimes, the bank will offer the occupant what is called <u>Cash for Keys</u> in which a monetary amount will be given to the occupant when he/she vacates the home. The home must be free of ALL debris, inside and out, and left in clean condition.

. . . Continued Foreclosure

Who Wins? NO ONE

The bank can easily lose more than 50 cents on the dollar. Often the homes have been left in a state of disrepair. Frequently, vandals have damaged the home from removing everything in the kitchen, all plumbing fixtures, carpeting, etc. Some have even snipped electrical wires in the home, sprayed paint on the walls, and poured concrete down the drains!!

The borrower also loses. Not only has he/she lost the property, but his/her credit is also ruined. It will take years, typically up to 4 years to repair the credit. There is also the stigma of having a home go into foreclosure.

Neighborhoods also suffer. Just take a look at any neighborhood in which there is a high foreclosure rate. You will see boarded up homes, poorly maintained ones, and a backlog of homes on the market. With each new foreclosure, property values plummet as crime in these neighborhoods rise.

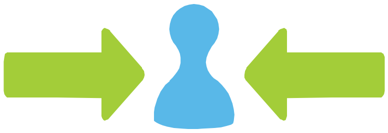
Cities and counties are also adversely affected from lost utility payments to lost property taxes to unpaid HOA fees. This loss of necessary fees can affect financing of schools and public services such as police and fire protection.

Do I Qualify for a Short Sale?

In most cases, the borrower is behind on their mortgage payments and cannot sell the property for enough money to cover what they owe on it plus any required fees to close. This is referred to as being *upside down* on your property.

Usually, the borrower is behind on their payments, but some lenders will consider a short sale even if you are current with your payments.

You MUST meet the following criteria to qualify:



- **Be experiencing a TRUE financial hardship.**

A Financial Hardship is defined as:

- **Loss of Employment**
- **Reduction in Wages**
- **Relocation**

Continued: Do I Qualify for a Short Sale?

- **Death**
- **Divorce**
- **Inability to repay the loan****

  (Resetting of adjustable rate mortgage, increase of buy-down rate, etc.)

A financial hardship will be defined by your lender. * Bottom line is that you are experiencing a <u>reduction in income</u> due to any of the circumstances listed above and you do not have enough money coming in to pay your mortgages(s). If you do qualify, you must be prepared to <u>prove</u> it to the lender.

- **Be in default of your loan or future inability to repay it.**
- **Have <u>no equity</u> in your home**
- **Have no available assets to repay the loan**
- **Your lender must be willing to do a short sale.**

Remember, most lenders will consider a short sale since it is financially better for them instead of a foreclosure.

Can I Do It by Myself?

You can try but it will be quite difficult. Remember, you are trying to beat the clock before you receive notice of a pending foreclosure.

If you do not allow yourself enough time, then you will have wasted all your efforts to close a short sale and fail because the home has been foreclosed upon before the short sale could close.

In the short sale process, time is one of the most important elements in closing a successful short sale. If there is too little time to complete the process, then you are doomed to end up in foreclosure.

If you have been notified of a PENDING foreclosure on your home and have less than 30 days to close a short sale, then there is not enough time to successfully close the short sale.

Time has run out!!

It is best to work with a realtor who is TRAINED to do short sales!!

How Much Will It Cost Me?

Typically, all costs are absorbed by the lender(s), including but not limited to: mortgage debts(s), closing costs, realtor's fees, and any other fees incurred to satisfy the short sale.

BUT . . .

(And there's always a BUT)

Remember, when we discussed who would qualify for a short sale (page 17 & 18), I mentioned that the borrower cannot have any equity in their property nor can they have any available assets. The bank will diligently check to make sure that you are telling the truth.

If by some chance, you stretched the truth and did have either equity in your home (They will do an appraisal.) OR you have assets that you can use to help repay the debt, then, the lender will most likely ask you to contribute towards the payoff of the debt.,

BUT . . . if you told the truth, then, most likely all costs will be absorbed by the lender(s). For some loans (Ex: Fannie Mae), the lender can even pay you at the close of escrow up to $2,500 in relocation costs, providing this money is not used to pay off a junior lien or make necessary repairs to close the loan for the new borrower's lender.

Unfortunately, if you have a VA loan, the guaranty on the loan (what insured the home for the borrower's lender in case of foreclosure) would have to be paid back by the veteran prior to having his/her certificate of eligibility reinstated. In other words, before the veteran could buy another home with VA financing, he/she would have to pay back the guaranty which could cost thousands of dollars.

However, once the veteran is capable of purchasing another home, he/she may also consider other financing options.

Now that I know my options,
How do I begin the short sale process?

1. **You must first seek legal, tax, and credit counseling advice BEFORE you do anything.**

I know you don't want to do this. I know you don't have the time or the money. I've heard every excuse you can give me, but trust me—you must do this!!

Just ask yourself:

- *Are you hoping to decide on the very best plan to make yourself more financially solvent?*
- *Are you hoping to avoid foreclosure and bankruptcy?*
- *Are you hoping to buy another home in approximately 2 years?*

If your answer is YES, then you need to pick up the phone and call the professionals!

(Do you honestly believe that you are an expert in law or tax or credit counseling?)

Every scenario is different. You need to first consult with these experts before you make a decision. You need to know ALL your legal rights before you begin.

2. AFTER, you have consulted with the experts suggested above, then, you need to make an appointment with a realtor to begin the short sale process.

Make sure that you use a realtor who has been specially trained in the Short Sale Process and understands the procedures to get the property sold in a reasonable time frame.

If you do not use a realtor who is trained in this procedure, valuable time may be wasted and you could end up in foreclosure. Remember, this is about you and your attempt to regain financial solvency. It is not about helping a friend who doesn't know what they are doing or using a relative who means well but cannot deliver.

3. Your realtor will list your home after:

A Comparable Market Analysis has been done by your realtor.

The home must be listed at a realistic fair market value price—not above it or below it to generate offers on your property. If the property is priced too high, there will be no offers. If the property is listed too low, the bank will feel that they could have received more for the home and will reject a low offer. In either event, you lose—especially valuable time. Remember, the clock keeps ticking.

4. Your realtor will submit the following to the lender BEFORE an offer is submitted:

A handwritten Hardship Letter from you, explaining your **situation: when it began, why it happened, and a plan to fix it**

A Financial Worksheet—Your Budget

2 Years most Recent Tax Returns with W-2s

2 Most Recent Pay-Stubs or Profit & Loss (if self employed)

An authorization letter signed by you, allowing your realtor to convey information about your file

Copy of recent mortgage statement (s)

Copy of any correspondence received regarding the property from attorneys to lien holders to bankruptcy trustee

Property tax records

All HOA information

Any paperwork regarding liens &/or judgments

**** Your realtor will assist you with preparing these forms.***

What happens now?

- **The home is put on the Multiple listing Service & marketed.**

- **Pre-Offer short sale package sent to lender.**

- **Purchase offer is received & accepted by you, the borrower.**

- **The purchase offer accepted by you is then put together in what is called a Short Sale Package and sent to the bank <u>for their approval</u>. The <u>bank must agree</u> to the terms of the offer that you, as the borrower accepted; otherwise, there will be no accepted contract. Your realtor will order a preliminary title statement--HUD1.**

- **The bank orders an appraisal of the property.**
- **Negotiations may occur with the bank.**
- **The property has a successful closing!!**

Buyer Beware!!

As a buyer, you need to be aware of your role in the short sale negotiation process:

- **Price**

  - **You must be realistic in your offering price; otherwise, your offer doesn't stand a chance of getting accepted.**

  - **Most short sale properties will be listed at market value (not what is owed on the property). Your realtor will do a comparable market analysis to determine fair market value.**

  - **Most likely you will be competing with other buyers who also have made offers on the property. Sometimes, you may even have to pay above list price.**

  - **After submission of your offer, but BEFORE acceptance by the lender, there may be other offers on the table that you are competing with. Just**

assume that there are other offers. Make your offer, YOUR BEST OFFER. You will only have one chance.

- **Remember, that even though the seller (original borrower) signed your purchase offer, accepting your price and terms, the lender(s) must also agree to your price and terms BEFORE there is a completed acceptance of your offer, resulting in an accepted purchase contract. This is known as an Agreement Notice.**

Contingencies

- **There are NO home sale contingencies. Remember, the initial borrower is trying to beat the clock before foreclosure occurs.**

- **Typically, the lender will accept a financing contingency ONLY if you can provide in writing from your lender a statement of your ability to secure the loan. Many banks are now requiring a preliminary workup of your**

financial solvency, commonly known as Desk Top Underwriting. Your lender should be able to provide this to you. This will be submitted in the short sale package along with your offer.

- **If you can provide this, you will be heads above the competing buyer(s) for the property. Remember, it is always better to over supply rather than just provide the bare minimum.**

- **The better you look to the bank, the more seriously they will look at your offer. The bank wants a buyer who will see the short sale to a closing. The more you look like you can deliver, the better chance you have.**

Closing Costs

- **For each dollar that you ask the seller &/0r the bank to pay, you REDUCE your chance of getting your offer accepted. Typically, the seller does not have any money to pay your closing costs, so it will be up the lender. Often,**

there just isn't enough money to pay your closing costs after all fees are considered by the bank. In rare circumstances, it may even be better for the bank to foreclose, if the bottom line will be higher.

- **Repairs**

  - **Again, the seller and/or the lender may not have enough funds for any repairs. Be prepared to accept the property AS IS and to make the necessary repairs after the closing.**

  - **A word of caution: If you are financing FHA or VA, some repairs may have to be done (prior to the closing) before your lender will approve your loan.**

  - **Your realtor should know which homes will qualify for either FHA or VA financing. If you are securing this type of financing, you should not be looking at homes that will not qualify. Otherwise, it is an exercise in futility.**

Inspections

- **You, as the buyer, will have an opportunity to do your due diligence (inspections) after your offer is accepted. If for any reason <u>during the inspection time period</u>, you are dissatisfied with the home, you may cancel and receive your earnest money back.**

Response Time

- **As I mentioned, it is a waiting game. The time that it takes for the lender to respond to your offer depends on the efficiency of the short sale programs that the lender has in place as well as their polices. Some are better than others.**

- **Also the skill and aggressiveness of your realtor will be a <u>primary factor</u> in getting your offer accepted in a timely manner and seeing it through to the closing. If you are impatient, then you**

will be daily frustrated as you attempt to buy a short sale property.

Frequently Asked Questions

When do I begin the short sale process?

Only after you have consulted with your attorney, tax consultant, credit advisor, and realtor.

Do I need to be behind in my payments to qualify for a short sale?

Not necessarily so. Many lenders will consider a short sale when the borrower knows that they will not be able to keep up with their mortgage payments in the future.

I'm behind on my mortgage by 30 days. Should I wait to do a short sale?

No! By waiting, you could lose valuable time to secure a short sale or even end up in foreclosure.

If I don't want to leave my home, do I have other options?

Yes! You could do a Repayment, Home Saver Plan, or Modification. You will not have to leave your home.

Does everyone qualify to do a short sale?

No. You must show a financial hardship, not have any equity in your home as well as having no assets.

Will I make any money on the short sale?

No. You are not allowed to receive any proceeds from the sale of your home if it is a short sale.

Will the bank help me relocate once my home is sold?

The can may possibly give you relocation assistance up to $2,500, depending on the circumstances.

In the long run, is it better to do a short sale instead of a foreclosure?

Each individual circumstance is different. Only your attorney, tax consultant, and/or your financial advisor will know if a short sale is best for you.

However, in many cases, a short sale is better because it is not as damaging to your credit and you most likely will be able to get back on your feet and possibly buy a home much sooner than you would if you had a foreclosure (possibly 2 years).

Will I be liable for any deficiency (the difference between what I owed on the property and what it actually sold for)? Will I have a tax consequence because of the deficiency?

You need to speak with your attorney and tax consultant for this answer. Depending on your situation and the state in which the property is based, you may or may not be responsible for the deficiency or have tax consequences.

It will also depend on your lender. Many will consider the debt *settled or satisfied* for a successful short sale.

As mentioned earlier, if you had a VA loan, you will be responsible to repay back the guaranty before you buy another home with a VA loan.

If I am a buyer what do I need to know about short sales?

Realize that most short sale properties are valued at market value. (Have your realtor do a comparable market analysis before you make your offer to be sure.) If you make a low offer, your offer will be rejected over and over again. You, most likely, will become frustrated and cease looking at homes.

Work with a good realtor and a good lender who understand the short sale process and who have been specially trained in short sales.

It's all about the packaging. If the package isn't submitted to the bank in correct order, your offer will be rejected.

Be patient. It may take a little longer than a traditional sale to close, but it will be worth it!

What is the difference between a <u>traditional</u> sale of property and a <u>short sale</u>?

Many more people are involved in the negotiation process with a short sale. It is far more complicated and takes much longer. The borrower has to be patient to see it through.

TRADITIONAL SALE OF PEOPLE INVOLVED:

AGENTS

Title	Seller	Buyer	Lender
		Appraiser	Underwriter
		Inspectors	

SHORT SALE OF PEOPLE INVOLVED:

AGENTS

Title **Seller**

Liens

Loan Servicer

Customer Care Center
Short Sale Department

BPO/Appraiser

Litigation:

Mortgage Insurer

Mortgage Investor

- Primary
- Pool

Closing Department

Buyer

Inspectors

Appraisers

Buyer's Lender

Underwriter

Investor Guidelines

Joyce Freese

Callie Shay Realty
Phoenix AZ

480.650.4552

Jfreese5@cox.net

ShortSales4theClueless.com

Joyce Freese has been selling real estate for the past 30 years. She has worked in markets that saw 21% interest rates go down to eventually 4% over the years.

Working with all types of financing from adjustable rate mortgages to interest only to land contracts, she has seen the gamut. However, the present short sale market has been the most challenging.

Specially trained in maneuvering through the process of short sales, she offers this simplified guide to any Seller or Buyer who is attempting to do a short sale but just doesn't quite know how to begin or whom to ask. Every question is answered in simple, direct language that even the clueless can understand.

Previously published, she has written, *Layperson's Guide to Buying and Selling a Home, Stories from the briefcase* and *Instant Rewards*, a management book. She also has written two screenplays and two mystery thrillers.

GO TO:

ShortSales4theClueless.com

to receive your Ebook or hard copy book on Short Sales.