

WHAT IS A SHORT SALE?

- **Why should I attempt a short sale?**

A short sale could be valuable because it could save you from needing to file for bankruptcy. It would save you from a foreclosure as well. If the bank(s) and lien holders agree to a short sale of your home, they could agree to complete the sale and release your debt as paid in full.

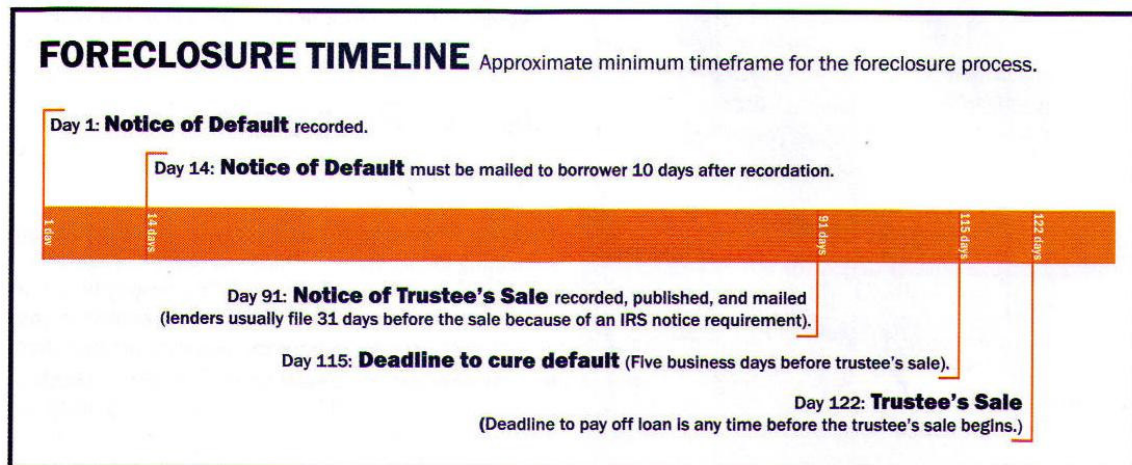
- **Does it make a difference what type of loan I have on the home?**

Yes, it can. If your loan(s) is a Freddie Mac, Fannie Mae or HUD loan, they may have mortgage insurance to help the bank with their losses. In some cases they have been willing to give the seller \$1,000 to help with moving expenses as long as there are no liens. If there are liens, they will allow your \$1,000 seller incentive to go to any of the liens. This is what I negotiate with the banks. If you have a conventional loan, the negotiating process is the same but the outcome could be much different. The banks take each sale on a case-by-case basis.

- **How long do I have to reinstate my loan?**

Generally, the banks will allow you ninety (90) days from the time you are found in default (or from the notice of default) to reinstate your loan. But they will generally not reinstate until your loan is brought current. This can be done in a partial payment and by the bank making payment arrangements on the remaining amount or by paying off your loan. This is called a work out or a reinstatement and must be applied for by you and worked out with an arrangement satisfactory with your lender. They will want to see a financial statement showing you have the ability to pay as agreed.

- **How long does it take the bank to foreclose on a home?**



C.A.R. Legal Services

This foreclosure timeline illustrates the time frames. I think the most important thing to understand about this timeline is that doing nothing should not be an option. That time is of the utmost importance.

- **What will it cost me to do a short sale?**

Most likely, it won't cost you anything. In a short sale situation, the bank will pay the real estate fees and will often take care of some of the outstanding liens on the property (including taxes). So, most of the time, a short sale is completely free to the seller.

- **Who will pay the real estate fees?**

The mortgage company (the bank foreclosing on the property) generally pays the real estate fees in a short sale situation. Agreeing to a short sale will save the lender tens of thousands of dollars over taking the home back as an REO (real estate owned by the bank).

- **How long will the short sale take?**

This is a tough question to answer. The average short sale takes around four months to complete. However, I have seen them take as long as one year. It depends on the situation, on how cooperative the banks are, the liens on the property, mortgage insurance and many other factors.

- **Can I buy my own home back in a short sale?**

This is a very good question. It has been done, but lenders do not like it. This would be an area where the advice of an attorney would be desirable.

- **What are the advantages to doing a short sale?**

A short sale can save you from bankruptcy and foreclosure if caught in time. A lot of times, I find people who have filed for bankruptcy before they find out that they have the option of a short sale. You should explore all of your options, of course, with the advice of a good real estate attorney. Some of these options are:

- Workout a repayment plan, loan modification or extension with your lender.
- A deed in lieu of foreclosure (giving your lender title to your home without the lender having to complete a foreclosure).
- Refinance
- Legal action
- Borrow money from family or friends.

- **What happens to my credit after a short sale?**

That is the \$50,000 question. Because a short sale is a relatively new concept, banks have not come together on how they are reporting a short sale to the credit reporting bureaus. Some report as settled, some as paid in full, and some report the loan paid off.

- **Who talks to the bank(s) during the short sale process?**

Your real estate agent should negotiate with the banks and other lien holders. In fact, generally you will need to do very little in the short sale process after the initial paperwork is completed and submitted.

- **Why should I try a short sale rather than letting the bank foreclose?**

Foreclosures are more detrimental to your credit history than a bankruptcy. With a foreclosure on your record, you could have severe difficulty buying another home for several years. A good Rent-to-Own Realtor could help you get into a lease/option on a home until you are ready to purchase that home with your repaired credit.

- **How bad is a foreclosure on my credit rating?**

A foreclosure is VERY bad! See the answer to the question above.

- **What is Notice of Default (NOD)?**

This is the document the lender files, serves and mails to you after your loan is delinquent. It is the official notice that they are beginning the foreclosure process. See the Foreclosure Timeline presented earlier.

- **How long with the bank let me go without paying my mortgage before they start the foreclosure proceedings?**

It depends on the current real estate market atmosphere, but generally 90 days until they file a Notice of Default (I've seen it done sooner in a buyer's market). That starts the foreclosure proceedings. See the Foreclosure Timeline on the first page.

- **When the bank starts foreclosing on my home, what are my options?**

You have a few options. I always advise my clients to speak with a real estate attorney to help them decide the best strategy for their situation.

- First, start making mortgage payments again and reinstate the loan.
- You might be able to get the bank to work things out with you (with their appropriately named Workout Department) and help you get back on your feet again.
- Another option is to find a short-sale-experienced real estate agent who can try to work out the details of a short sale with your mortgage company. If you can't reinstate the loan.
- You can deed your home back to your lender in lieu of a foreclosure proceeding.
- Another option is to do nothing and let the bank foreclose, but this is not recommended as nothing good can come of it.

- **What is reinstatement?**

This is where you catch up on your payments and bring your loan current. You have about 90 days to do this after the lender has filed the Notice of Default (NOD).

- **What are HUD's? (HUD-1, estimated HUD's, settlement statements, net sheets, etc.)**

These are what the bank looks at to see where all the funds are going so they can make sure that the seller is not getting any funds back at closing and that the real-estate fees are not more than 5-6% and that the buyer is not getting more than the bank has agreed to if the bank is paying any closing costs for the buyer. HUD is the acronym for Housing and Urban Development.

- **Why does the bank need a HUD statement?**

The HUD's are what tell the bank what their bottom line will be and what they are going to lose to close the short sale.

- **Where do I get HUD's?**

I will prepare them for you with the help of a title company.

- **What is PTR or title report?**

This is a report a title company prepares that tells who owns the home and if there is any liens or judgments against the sellers or the home.

- **What is a BPO or CMA?**

A BPO is a Broker's Price Opinion—a market evaluation that the bank orders only after an offer has been submitted by a a buyer for your home. This is done during the short sale negotiation process to determine whether the value of the current offer on your house is close to “market” value for your home. A CMA is a Comparative Markey Analysis. It is very similar to a BPO. Some bank's request BPO's and some request CMA's from agents other than the listing agent because they want another opinion.

- **Why will the bank get a BPO, CMA or appraisal?**

Short sales are a numbers game. The bank needs to know what the approximate value of your home is before they can decide if they want to actually approve and complete a short sale.

- **Do I have to include my appliances in the sale of the home?**

They are considered personal property and including them in the sale is your decision.

- **Do I have to deep clean my home when selling it in a short sale?**

The purchase contract states that the home shall be in the same condition as when the purchase contract was signed, and it shall be free of personal effects and debris at close of escrow. The better the condition of your home, the easier it is to sell and the lender will take less of a shortfall.

- **Can I take the lights or other fixtures before the home is sold in a short sale?**

The lights and fixtures once attached are considered part of the home or real property. They should be included with the sale and to remove them would not be in compliance with the contract of sale.

- **What can I take from the home when the bank forecloses?**

All of your personal property--anything that is attached should stay with the home.