

Should You Choose a Short Sale Over a Foreclosure?

By [Elizabeth Weintraub](#), About.com Guide

Question: Should You Choose a Short Sale Over a Foreclosure?

A reader asks: *My husband and I have been making our mortgage payments every month even though our home is underwater. We owe a lot more than our home is worth. Now, my husband has lost his job. We're thinking about walking away from our home and letting it go to foreclosure, but my parents are telling us that we may qualify for a short sale. Which is better for us? A short sale or a foreclosure?"*

Answer: Whether you should do a short sale or let the home go to foreclosure depends on several factors. While for some homeowners, it is easier to throw up your hands and let the bank take your home that might not be the wisest thing to do.

Short Sale Benefits

Here are a few benefits for doing a short sale that may not have occurred to you:

- You are in control of the sale, not the bank.
- You may sleep better at night knowing who is buying your home.
- You will spare yourself the social stigma of the "F" word, foreclosure.
- Contrary to popular belief, you can be current on your payments and still affect a short sale.
- Your home sale will be handled like any other home sale.

Buying Again After a Short Sale

If your payments have never fallen behind 30 days late and the lender does not require that you pay back the loan, Fannie Mae guidelines may allow you to buy another home immediately. Finding a lender who will fund that kind of loan is very difficult. If you are current on your mortgage, you can qualify for an FHA Loan immediately as well, but lender requirements can be weird such as you have to move more than 600 miles away.

If your payments are in arrears yet a short sale is granted by your lender, you may qualify to buy another home with a Fannie-Mae backed mortgage within two years, regardless of whether the home is your primary residence. The wait for FHA is 3 years.

Buying Again After a Foreclosure

With certain restrictions, you may be eligible to buy another home in 5 years if the home was your primary residence. Without restrictions, the wait is 7 years.

If you are an investor and do not occupy the home, the wait to buy with a Fannie Mae insured loan is 7 years.

Affects on Credit after a Short Sale

A short sale may be considered to be a derogatory mark on your credit even though credit bureaus do not show the word "short sale" on your credit report. It may say "paid in full for less than agreed" or "settled for less," among other categories. Some clients have reported negative FICO score drops from 50 points to 130 points.

Major point drops are typically due to being in default, meaning you have fallen behind on your payments.

Affects on Credit after a Foreclosure

Depending on your credit history and other guidelines, [Myfico.com](#) shows 2 examples in which a credit score could fall 105 points to 160 points after a foreclosure. Generally, a foreclosure will remain on your credit report in the trade lines section for 7 years.

Credit Reports after a Short Sale

All lenders report short sales differently, with many reporting "paid in full for less than agreed," and some report the short sale as a charge off. Negative credit, however, stays on your report for 7 years.

Credit Reports after a Foreclosure

If a prospective employer runs a credit check on you, your job application may be denied if you have a foreclosure on your record.

Deficiency Judgments after a Short Sale

Judgments are often negotiated between the seller and the short sale bank. In some cases, such as California, if the home is your personal residence and was financed through purchase money, there are **no deficiency judgments**.

Deficiency Judgments after a Foreclosure

Banks are generally unwilling to negotiate deficiency judgments with the homeowner after a foreclosure. In California, for example, according to the California Association of REALTORS, a deficiency judgment may be filed regarding a hard-money loan if the lender forecloses under a judicial foreclosure versus a trustee sale or if the second loan is a hard money loan and the sale takes place as a trustee's sale.

Loan Application Questions after a Short Sale

Loan applications do not ask questions about a short sale. You may report that you sold your home.

Loan Application Questions after a Foreclosure

You are required to answer the question: "Have you ever had a property foreclosed upon or given a deed-in-lieu thereof in the past 7 years." If the bank sees you have had a foreclosure, your loan most likely will be denied. If you lie, you may be subject to investigation by the FBI for **mortgage fraud**.

Length of Time to Move after a Short Sale

If you've had a foreclosure notice filed, you may be able to postpone that action while the bank considers your short sale. The wait for short sale approval can be from 2 to 3 months, or longer.

Length of Time to Move after a Foreclosure

Unless prior arrangements have been made, the bank may want you to immediately vacate the property and can commence eviction proceedings.

Taxation after a Short Sale

A personal residence is exempt from mortgage debt relief until the end of 2012 on a federal level. Some states will still tax you unless you qualify for an exemption. An investor is not exempt from **mortgage debt relief**, subject to certain conditions.

Taxation after a Foreclosure

Same as with a short sale. Except some lenders immediately send out 1099s, even if the owner is exempt.

In closing, always obtain legal and tax advice before making a decision between a short sale and a foreclosure.