

# “Short Sales”... Seller’s Guide

Compliments of **Barry Lotz**, J.D., Ph.D.



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# What Is A Short Sale?

Are you facing the threat of possible foreclosure? Has the value of your mortgaged property fallen below the price you originally paid? Can you no longer afford your monthly mortgage payments?

There is a glimmer of light in this difficult and stressful time. If you meet certain conditions of “hardship”, your Bank will be in a position to consider a “Short Sale.” This is a sale of a property in which the proceeds of the sale are less than what is still owing on your mortgage with the Bank.



The entire proceeds from the sale of the home are turned over to the Bank. In fact, it will be the Bank that makes the final decision on whether to accept or decline any offers received on your home. In return, the Bank will usually (but not always) close the book on your outstanding debt.

For Home Owners In The USA

This is the official site

<http://www.makinghomeaffordable.gov/>

7-9 million homeowners are eligible for this plan

# Who Qualifies For A Short Sale?

Not all Sellers qualify for entering into a Short Sale negotiation. There are four distinct requirements. You **Must** be able to answer yes to **Each** of them.

## ➡ **The Market Value Of Your Home Has Dropped**

This must be backed up with hard facts. A study of comparable home sales in your area needs to show that similar properties are now worth less than the balance owing on your mortgage.

## ➡ **The Mortgage Is In Default - Or Potential Default**

There are some Banks that will not consider a Short Sale unless the Owner has missed multiple payments. Other Banks would rather head off a possible problem, providing all other criteria are met.

## ➡ **You, The Seller, Are In Financial Hardship**

This involves submitting a “Letter of Hardship” to the Bank, laying out the circumstances which have occurred that have caused you to:

- Stop ~ or soon stop ~ making your monthly mortgage payments
- Not be able to pay the Bank the difference between the current value of your home (if sold), and the outstanding amount owed on your mortgage

### **Examples of Hardship are:**

- You have lost your job and are currently unemployed
- You are undergoing a medical emergency or coping with a sudden illness
- You have been recently divorced
- There has been a death of your spouse

## ➡ **You, The Seller, Have No Other Assets**

Obviously, if the Bank discovers assets which would cover the “shorted” difference, they are less likely to grant the Short Sale. In some cases, however, the Short Sale may still proceed and the Bank could stipulate that the shortfall be paid back over time, at a possible discounted rate.

### **NOTE:**

It is important to remember that an actual Short Sale is totally dependent upon a Buyer making an offer to purchase your home. Without an offer, even if you meet all the other qualifications, there will be no negotiations with the Bank. If you do receive an offer, and the Bank chooses to reject it, then a Short Sale will also not take place.

## **Who Profits From A Short Sale?**

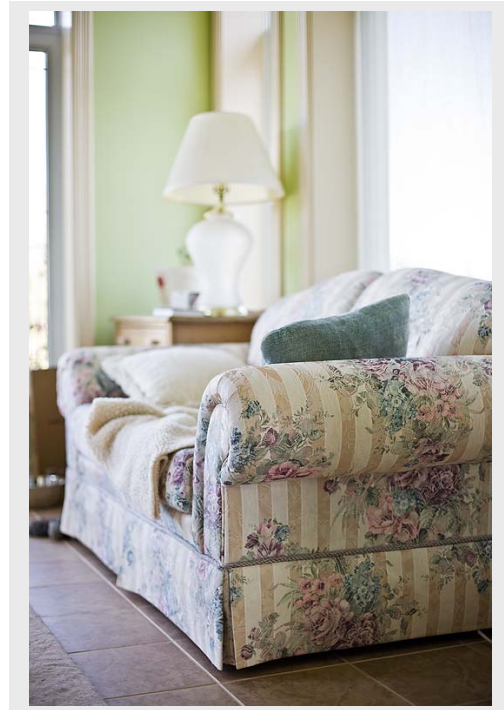
Since the Bank is taking a huge financial hit on your unpaid mortgage, they are going to make sure that you DO NOT profit in any way from the sale of the property. As a matter of fact, if you are compensated, you run the risk of Mortgage Fraud, which is a felony conviction. It is not unusual that part of the Short Sale Agreement will state that “the seller is not to receive any proceeds or compensation from this transaction.”

# The Short Sale Process

There is a very specific way in which the Short Sale process will unfold. To deviate from this can only cause unnecessary delays. Delays which you cannot afford at this time.

It is crucial that you be aware of how Short Sales work. The better informed you are, the smoother things will go.

Although you have an experienced Realtor, he/she can be handling several Short Sales at once. It is wise to stay on top of your own situation.



- It's important to know who owns your mortgage (the Bank is only a Loan Server). For example: Fannie Mae ~ Freddie Mac
- You sign a listing agreement with your Realtor subject to selling as a Short Sale with third-party approval
- Your Realtor finds a Buyer who makes an offer **for less than** the amount of your mortgage
- You accept the Buyer's purchase offer

- You, together with your Realtor, must prepare a “Short Sale Package” which your Realtor will then fax through to your Bank
- You sign a Borrower’s Authorization Form (or something similar), which allows the Bank to release information to your Realtor.
- The “Short Sale Package” is then assigned to a Loss Mitigator (LM)

### **Who Is A “Loss Mitigator”**

All negotiation on your “Short Sale” will be done via communication between your Realtor and your Bank’s Loss Mitigator. This is a term used to describe a third party in charge of handling the conciliation process between you and your Bank. Their purpose is to create the best financial deal possible for the Bank in an effort to keep losses to a minimum.

- The Loss Mitigator will determine whether you, the Seller, qualify for a Short Sale.
- Upon qualifying, your Bank will request a third-party Interior BPO (Broker Price Opinion), or even a full appraisal of the property. The seller does not pay out of pocket.

### **What Is A BPO?**

The Bank needs to determine the amount of equity (or lack of it) in your home. They will arrange to have a Real Estate Broker submit a BPO report which will include real estate market information, an analysis of your neighborhood, and comparable prices of similar homes to yours (comps). This is a critical part of the

process. In order for the Bank to accept the offer on your home, it needs to come near to the amount recommended in the BPO report ~ or full appraisal. Again, it is not in the Bank's best interest to lose any more money than is absolutely necessary.

- When the Bank has an idea of the Current Market Value of your home, they will then decide whether to proceed with the Short Sale offer your Realtor has presented them.

**Note:**

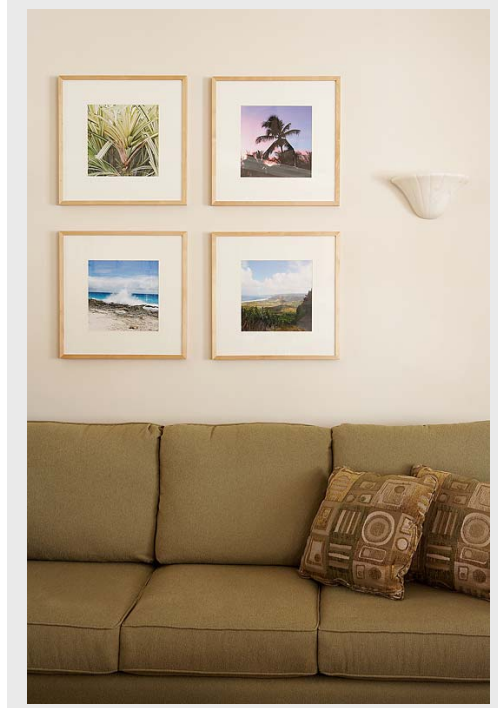
While waiting for the Bank's decision on whether or not to proceed, your Realtor will keep your house listed on MLS. In some States, until the Bank actually signs off on an offer, and executes the contract, the Buyers are NOT locked into purchasing your home. A lengthy delay might cause them to look elsewhere. A prudent Realtor will generate multiple offers. This will give your Bank a much wider selection to choose from, and create a bigger chance that one of the offers will be approved.

- Once your Bank signs off on the Short Sale, the process reverts back into a typical house sale.
- The transaction will close when the Buyer delivers the appropriate funds, the Bank releases the lien on the property, and you, the Seller, deliver the deed to the property.
- At this point, your Bank will usually close the book on your outstanding mortgage loan payment.

# The Short Sale “Package”

You will be required to submit a Short Sale “Package” to your Bank. The Bank needs to be convinced that you are, indeed, in “hardship” and that it is financially impossible for you to be able to continue paying your mortgage ~ or cover the outstanding difference on what is owing on your home after a sale.

The Short Sale “Package” varies according to lender. However, in general you **must** include all of the following components.



## *A Covering Letter:*

Your letter to the Bank needs to include the following information:

- Your loan (mortgage) number
- Your social security number
- If there is a foreclosure date, put it in bold print that is easy to see
- Your name and contact information
- The property address
- The name and contact information of your Realtor
- A list of the contents of the Package which you are submitting

## *A Letter Of Authorization:*

A Bank will not disclose information to a third party (your Realtor) without authorization to do so.

## *Purchase & Sales Agreement:*

You must have an agreement in place before approaching the Bank. This agreement will set forth the terms of the sale. (The Final Sales Agreement will be drawn up once the negotiations have concluded).

## *A “HUD-1” Settlement Statement:*

This is an **estimate** only. The Bank is interested in knowing how much money they stand to lose ~ and that you, the Seller, will not profit from the sale of the property.

## *A Financial Statement:*

The Bank will need to see that you, the Seller, are truly financially unable to make further payments on your mortgage loan. (**This item MUST be updated every 30 DAYS**).

## *A Hardship Letter:*

This is a letter from You to the Bank, personally explaining what has transpired in your life to create the financial situation you find

yourself in. It's not meant to be a multi-page diary!! A couple of paragraphs will suffice. You will hear people tell you – “the sadder, the better” – however, it's wise to just stay with the facts and state the honest truth. Banks are overwhelmed with these letters. At this point in time, they have probably read every hardship possible. It's not about trying to impress them with your specific case. Your role is to layout why working with you on this Short Sale would benefit BOTH parties.

## *Your Last Two Year's Tax Returns*

(The following two items **MUST** be updated every **30 DAYS**)

## *Your Last Two Pay Stubs*

## *Your Last Two Bank Statements*

## *(Other) Repair Estimates*

You may consider carrying out a Home Inspection. This relieves the Buyer of the concern you may be “hiding things”. Submit a list of known repairs to the Bank, along with estimates on the cost of getting the work completed.

# Behind The Scenes

It is important that your Realtor obtain the name of your Loss Mitigator, and the preferred method of contacting him or her. Simply faxing your “Short Sale Package” to the Bank ~ without proper follow-up ~ will spell disaster.

A Loss Mitigator is working on hundreds of files at once. It is not unusual for “Short Sale Packages” to continually disappear as easily as ballpoint pens. You **DO NOT** want this to happen to you!!



It's imperative that your Realtor be in communication with your Loss Mitigator at least once a week. You also need to be kept in the loop. A quick weekly email update, from your Realtor, should be provided. In the end, patience is necessary. This is NOT a quick process. To get upset and walk away will simply keep you locked into your current situation, which will only deteriorate further.

Keep in mind, the most common reasons a Short Sale will stall:

- The Short Sale Offer Price Is Too Low
- The Short Sale Package Is Incomplete
- The Seller Does Not Qualify
- The Buyer Does Not Qualify
- Not enough communication between Seller / Realtor / Bank

# Personal Notes

