

Short Sale - Buyer & Broker Beware!

by [Walt Harvey](#)

Recently, more short sale properties have come on the market. A short sale is a situation where a property seller needs to sell and the sale proceeds are not sufficient to pay off the existing mortgage. It is an alternative to foreclosure. The term short sale or short pay refers to a process whereby the mortgage company must agree to a reduced payoff in order for the sale to take place. All sale costs must be included and the seller receives nothing, except debt relief and not having a foreclosure on their credit record.

If you're a prospective buyer on such a property, beware! The seller may accept your offer; you may invest \$1000 in an appraisal and a property inspection, but you may not get the property because the mortgage company may not agree to reduce their payoff. The mortgage company is a third entity that is not a party to your contract, yet their decision will affect the outcome of the transaction. The mortgage company will review the short sale proposal and closing the sale will depend on their response.

Many short sales fail because the mortgage company representative is unfamiliar with the local market and responds with an unrealistic proposal. When buying a short sale property, don't expect a quick answer and don't expect the mortgage company to respond logically. They will seek any additional assets the homeowner may have and they will demand the brokers reduce their commissions. They may demand the seller to sign a personal note to pay back the shortfall. Remember, the mortgage company wants to recover as much of the loan as possible and if the property goes to foreclosure, well that's another department's problem.

Additionally, many loans have PMI (Private Mortgage Insurance) that will cover a portion of their loss so the mortgager's motivation to reach an agreement may be less because they're covered regardless. You may have to start negotiating with the PMI company, adding additional time to the sale process. Unless you have considerable experience with short sales, foreclosures and working with lenders' loss mitigation departments, be very cautious in submitting an offer on a property in a short sale situation.

Buyers, ensure that you have an escape provision if the process takes longer than you want or if a more suitable property becomes available.

Sellers, be realistic. Consult with your accountant and your attorney on the tax and legal ramifications of a short sale. You may have to be willing to undergo an asset evaluation and even be willing to walk away and let the lender have the property.

Brokers, you will have to work two to three times as hard and may never help your client achieve their goals and/or receive appropriate compensation.

Lenders, wake up! Work with the buyers and brokers who can ultimately save you money. History shows that a property that goes through the foreclosure process nets less money to the lender than most short sale offers.

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