



The Definitive Guide To Short Sales (FAQ)

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Will I have to pay capital gains taxes if I sell a property as a short sale?

No. If your bank suggested that, they are ridiculous. Capital gains would indicate that you are in some way "better off" financially because of money you have made. In a short sale, you lose and owe money. The only thing the bank could possibly mean is that the deficiency will be reported as 1099 income and you WILL have to pay taxes on that, but not as capital gains.

We are about to buy a short sale from the bank and are wondering if the bank is responsible for ridding the house of mold or are we?

First of all, if you are buying a house from the bank, it's not a short sale. Second of all, in almost every case where there is a bank-owned property, it will be sold AS-IS. Check the verbiage of your purchase agreement with the bank (or seller). Any purchase agreement should contain a clause referencing who is liable for what. If you signed a purchase agreement that didn't reference the mold or "items required by the home inspection to be completed," then you will be liable.

If I pay mortgage insurance and default on my loan, why wouldn't that cover the deficiency amount?

In some cases it will and in some cases it won't. It depends on the amount of the deficiency. Usually the mortgage insurance only covers a certain amount. Moreover, the lender will try to collect from you before they file a claim with the mortgage insurance company. The mortgage insurance is not there for your protection, just the lender's.

We had a first and second loan and went through foreclosure. The first was paid off and we were told the second would be forgiven. Now a collection company is coming after us for the second, what do we do?

First of all, read this article. The bank will never forgive one dime of debt unless it is explicitly stated in writing and you have it reviewed and confirmed by an attorney. The fact is they probably lied to you verbally. You're only recourse now is to engage in a legal dispute against them or file bankruptcy.

What are the implications of unpaid judgments?

Worst case scenario, your wages can be garnished.

How long does the foreclosure process take?

Complicated question depending on what you consider the start of the "process" to be. Generally, the Bank will send and NOD (notice of default) to the title company and trustee. From that time it takes between 3-9 months for the house to go up for auction, during which, you can pay the delinquent amount to "cure" the foreclosure proceedings.

Will I still have to pay taxes if I do a short sale?

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This is a broad question depending on whether we're talking about property taxes or federal income taxes. You'll always have to pay extra income tax if the bank sends you a 1099 for the deficiency. SOMEONE will always have to pay property taxes. Whether its you or the lender depends on their policies and the specific agreement you reach while negotiating the short sale.

I owe more than my home is worth. Am I eligible for short sale or is my only option foreclosure or bankruptcy?

Always consult your lender as to what your options are. They are usually short sale, deed-in-lieu of foreclosure (basically an accelerated voluntary surrender), and foreclosure. The banks like to prevent foreclosure when at all possible. They've even been known to lower people's rates and payments because of all the new defaults in '06 and '07. Either way, your first stop should be to get information from you lender on what options they provide.

Does a good credit score help the seller trying to do the short sale?

Only inasmuch as their credit score will stay high as long as they don't make any late payments leading up to the short sale. Some lenders may call the deficiency a judgment though, which will hurt the score a bit.

Where can I get information on investing in short sales and foreclosures?

First of all, there is no magic listing place for short sales. If a seller has gone to the trouble of asking their lender if they can do a short sale and the lender has given them a verbal approval, then the short sale will show up much the same as any other property for sale, only it will take you five times as long to close it.

Is a short sale still an option if a foreclosure has taken place?

By definition, no. However, it depends what you mean by "taken place" and whether you are the owner or the buyer. If you are the owner and you haven't been evicted yet, there is always a dollar amount called "cost-to-cure" that, if received by your lender, will cure you default. If you're a buyer, it's all the same to you. All you do is make an offer.

How can I get referrals from lenders that have clients wanting to do short sales?

As an investor, it doesn't make sense to browse short sales. If the owner has had to ask the lender for approval on a short sale, it's usually not going to give you a very big equity position if you come in to buy it. Again short sales are usually situations where the owner owes more than the market value. A short sale is not a distressed enough situation to get a good enough deal for an investor. You're looking for foreclosures, distressed homes, bank-owned properties, etc.

How does a realtor profit from a short sale?

When formally requesting a short sale commitment from the bank, realtor commissions are usually included if a realtor was involved in the deal. The bank may counteroffer to lower the commissions. Realtors can also "hunt" for short sales by talking to clients that have had their homes listed for a long time with no success. The realtor can explain the short sale process and help the owner negotiate with their lender to get it sold and the realtor gets their commission.

Will I have a higher interest rate on future mortgages or will they be harder to obtain?

It all depends on the arrangement between you and the lender. If you pay them a promissory note for the deficiency, then the damage to your credit will be minimal and you shouldn't have a problem obtaining loans in the future. If the lender shows "settled for less than the amount due" on your mortgage tradeline, some future lenders will look at that as a foreclosure. Some lenders

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even report short sales as foreclosures. Here's what to do: Obtain, in writing, your lenders policies on short sale credit bureau reporting. Then ask your mortgage broker how that affects your ability to qualify in the future. Generally, when you get a new mortgage, as long as you don't have a foreclosure, bankruptcy, or unsatisfied judgment, your ability to qualify will be the same as it is now (and your credit score needs to stay the same).

I want to do a short sale and have a 2nd mortgage, does this make me ineligible?

No. Both of your lenders will need to be satisfied in some way to complete the short sale. If your first lender will be paid off by the sale, then you just negotiate the terms with the second lender.

I have put an offer in on a home that is a short sale. It took months to get a preliminary acceptance from Wells Fargo, but they said it doesn't have final approval yet. We are 2 weeks from closing and no one from Wells Fargo will call me or my agent back. Any suggestions to get an answer, so I know if my family has a home?

Great question, and a common problem. It takes a long time for these things to go through usually. You are only two weeks away from closing if Wells Fargo has all their stuff taken care of by then. The only way to get more information is to call the department of Wells that handles short sales and request the information. They probably won't talk to you unless the seller authorizes you to talk to Wells. When my wife went through a short sale, we called up our lender and authorized the buyers to talk to them. Then our lender gave them all the info they wanted and they buyers were actually able accelerate the process. So ask the appropriate party if the sellers will add you as authorized to discuss the progress of the short sale with Wells Fargo.

Does the mortgage company HAVE to 1099 us on our short sale? Is it a law? What is the difference in a 1099 and a 1099A?

The answer is no, the mortgage company does not HAVE to do anything when you have a short sale. It is very likely however, that they will not simply "charge off" or write off the loss of deficiency money.

They can account for this in several different ways, one of the most popular of which being a 1099a. 1099 is a blanket term used to refer to non-tax-withheld income. A 1099A is likely what the lender will file as it pertains specifically to the acquisition or abandonment of secured property.

* Author Unknown 2009

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