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## Do I Qualify for a Short Sale?

Before you eagerly climb aboard the short sale bandwagon, consider the following to determine whether you may qualify for a short sale. If you cannot answer yes to all four requirements, you may not qualify for a short sale.

### 1. The Home's Market Value Has Dropped.

Hard comparable sales must substantiate that the home is worth less than the unpaid balance due the lender. This unpaid balance may include a prepayment penalty.

### 2. The Mortgage is in or Near Default Status.

It used to be that lenders would not consider a short sale if the payments were current, but that is no longer the case. Realizing that other factors contribute to a potential default, many lenders are eager to head off future problems at the pass.

### 3. The Seller Has Fallen on Hard Times.

The seller must submit a letter of hardship that explains why the seller can not pay the difference due upon sale, including why the seller has or will stop making the monthly payments.

A few examples that do NOT constitute a hardship are:

- Bad purchase decisions. Blowing your paycheck on a home theater system with surround sound does not qualify as a hardship.
- Unhappy with the neighbors. Even if every home on your block has turned into pot growing houses, that will not qualify as a hardship.
- Buying another home. The lender will not care if you have decided the home is no longer suitable for you or your family.
- Pregnancy. Increasing the size of your family or starting a family is not considered a hardship.
- Moving into an apartment. If you decide to move out of your home, that is a lifestyle decision and not a very good reason to abandon your home.

Examples of hardship are:

- Unemployment
- Divorce
- Sudden Medical illness/Accidents
- Bankruptcy

#### **4. The Seller Has No Assets**

The lender will probably want to see a copy of the seller's tax returns and / or a financial statement. If the lender discovers assets, the lender may not grant the short sale because the lender will feel that the seller has the ability to pay the shorted difference. Sellers with assets may still be granted a short sale but could be required to pay back the shortfall.

For example, if the seller has cash in a savings account, owns other real estate, stocks, bonds or even IRA accounts, the lender will most likely determine that the seller has assets. However, the lender might discount the amount the seller is required to pay back.

Many entities profit from short sales, but there is no seller short sale profit.

#### **Short Sale Consequences**

A short sale is dependent on a buyer making an offer to purchase. If you do not receive an offer, you will not qualify for a short sale. So even if you meet all the other criteria, it is possible that no one will buy the short sale. It is also dependent on the lender accepting the buyer's offer. If the lender rejects the offer, a short sale will not take place.

#### **Tax Consequences**

If the lender agrees to the short sale, the lender may possess the right to issue you a 1099 for the shorted difference, due to a provision in the IRS code about debt forgiveness. Many situations are exempt from debt forgiveness, according to the Mortgage Forgiveness Debt Relief Act of 2007.

You should speak to a real estate lawyer and a tax accountant to determine the amount of short sale tax consequences, and whether you can afford to pay those taxes, if any.

#### **Blemished Credit Report**

A short sale will show up on your credit report. It's a pre-foreclosure that has been redeemed. Short sales affect credit ratings. While the damage to your credit report may not seem as significantly bad as a foreclosure to you, creditors may not make the distinction.

*Always seek legal counsel before attempting to pursue a short sale. A real estate agent cannot give you legal advice.*