



The sale of any property that has a mortgage secured upon it must be approved by the lender who granted the mortgage. Usually this is a formality, as the mortgage is repaid from the proceeds of the sale.

A short sale is one where the property sells for less than is owed on the mortgage, plus any other loans or judgments secured on the property. This situation would usually involve the seller making up the shortfall from their own pockets in order to be able to sell the house, but today's economic reality is such that most sellers are not in a position to do this.

For a short sale to be successfully negotiated with the mortgage company, the seller has to prove that they are in a hardship situation and no longer able to make their mortgage payments. The lender will expect the homeowner to provide documentary evidence of their financial situation. The lender will also take steps to understand today's market value of the property being sold. Generally they have an obligation to minimize losses and ensure that a property is sold as close to fair market value as possible.

A short sale typically is executed to prevent a home from going into foreclosure, but the decision to proceed with a short sale is predicated on the most economic way for the bank to recover the amount owed on the property. Often a bank will allow a short sale if they believe that it will result in a smaller financial loss than foreclosing as there are carrying costs that are associated with a foreclosure. For the bank involved, a short sale is typically faster and less expensive than a foreclosure. For the seller, the impact of a short sale on their credit history is less than that of a foreclosure, and in some cases, the mortgage company may forgive or reduce the outstanding debt.

Is a short sale a "better deal" for the buyer? It certainly can be, but there is no guarantee. Buyers should thoroughly investigate the market and understand the true market value of the property

they are buying, by directly comparing it to similar homes, in a similar location, that have sold recently. Be sure to always compare SOLD prices – not what homes are currently listed at in the same neighborhood.

A "great deal" is one where the buyer can purchase good, clean title to a piece of property, at less than the true fair market value of the property on the day of purchase. This might be a short sale, a bank owned foreclosure, an estate sale (where the heirs want to dispose of the property quickly) or simply a property sold by a highly motivated seller who has enough equity to withstand achieving a lower price

Are there any down sides to a short sale? Potentially. Negotiations with the mortgage company can be lengthy and drawn out. Buyers should be prepared to wait a minimum of 3 months before they know if their bid to purchase the property has been successful. A reasonable waiting/negotiation period should be detailed in the contract, after which the buyer should have an option to be released from the contract. It is also very important to understand the exact nature of the deposit that accompanies the buyer's offer to purchase. Is this refundable if the lender does not approve the sale? It is also very important that "the rules of the game" are clearly understood at the outset. Will the seller continue to market the property and seek higher offers that might trump the original buyer's bid? Generally speaking the home will be purchased in its current condition, as seen. At what point can the buyer make inspections to determine whether there are any hidden maintenance issues that might affect the value of the property, and if something like this exists, can the buyer be released from the transaction without penalty?

Yes, a short sale can be a great deal, but like any other real estate transaction it should not be entered into without expert advice from a licensed real estate agent and a real estate attorney.

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