



Title and Escrow Tips and Bits in Short Sale Transactions

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>>SHORT SALE

A short sale is a sale in which the outstanding obligations (loans/mortgages) against the real estate are greater than the amount for which the property can be sold.

To close a short sale escrow successfully:

- **Communicate.** Always communicate with your client and your Escrow Officer.
- **Credits!** Any and all credits must be approved by the short sale lender.
- **Commissions** - The short sale lender will indicate the approved amount of commission to be paid to both buying and selling agents. The Escrow Officer does not make this decision.
- **Forward** – all necessary documents to your seller and buyer received by the Escrow Officer in advance, including request for Statement of Information. Also make sure to forward any changes in the contract / purchase agreement to the short sale lender.
- **Know** who your loss mitigation contact is and provide your Escrow Officer with that information. Your Escrow Officer will need this information to verify the approval letter as it was received along with any changes that may occur before closing.
- **Parties Must Remain Unchanged!** – Never vary the buyer on a short sale from the buyer listed on the contract (unless you receive written approval from the short sale lender.) The buyer cannot even close in their own trust without approval from the short sale lender and in certain cases they cannot transfer into their trust for 30 days post closing.
- **Payoff** - If there is more than one loan on the property, keep in mind the amounts to be paid to each lien holder must match up to the short sale approval letters.
- **Prepare** your client both buyer and seller to come to the signing table with funds to close. There are fees associated with a short sale transaction that are not approved by the short sale lender. Unless otherwise agreed upon, your client will be held responsible.
- **Read:** The Preliminary Title Report!
- **Requirements** - Each lender will have different requirements that must be met prior to, at and post closing. Your Escrow Officer will pay careful attention to all of the requests and instructions, which often include written verification of the lender's approval of the terms of the sale, approved minimum net proceeds (if any) and an expiration date to the agreed upon "Short Pay", in addition to Lender's approval of the estimated/final closing statement / HUD before closing/recording. We encourage you to do the same.
- **Understand** - the Escrow Officer's fiduciary duty is to the buyer, seller, short sale lender and new lender.
- **Time is of the Essence** – The short sale approval letter will provide a closing date. If the closing date is nearing and closing may not occur on the given date, it is imperative that the listing agent request an extension and provide the Escrow Officer with written notification of the approved extension date.
- **Don't Assume anything!**