

Real Estate Intelligence

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What if the Property Is a Short Sale?

Are you looking to buy a new home? Are you thinking that now's a great time to find bargains? Before you make an offer, it pays to know a little about the seller's situation.

If a home is being sold for below what the current seller owes on the property—and the seller does not have other funds to make up the difference at closing—the sale is considered a short sale. Many more home owners are finding themselves in this situation due to a number of factors, including job losses, aggressive borrowing against their home in the days of easy credit, and declining home values in a slower real estate market.

A short sale is different from a foreclosure, which is when the seller's lender has taken title of the home and is selling it directly. Homeowners often try to accomplish a short sale in order to avoid foreclosure. But a short sale holds many potential pitfalls for buyers. Know the risks before you pursue a short-sale purchase. You're a good candidate for a short-sale purchase if:

- You're very patient. Even after you come to agreement with the seller to buy a short-sale property, the seller's lender (or lenders, if there is more than one mortgage) has to approve the sale before you can close. When there is only one mortgage, short-sale experts say lender approval typically takes about two months. If there is more than one mortgage with different lenders, it can take four months or longer for the lenders to approve the sale.
- Your financing is in order. Lenders like cash offers. But even if you can't pay all cash for a short-sale property, it's important to show you are well qualified and your financing is set. If you're preapproved, have a large down payment, and can close at any time, your offer will be viewed more favorably than that of a buyer whose financing is less secure.
- You don't have any contingencies. If you have a home to sell before you can close on the purchase of the short-sale property—or you need to be in your new home by a certain time—a short sale may not be for you. Lenders like no-contingency offers and flexible closing terms.

If you're serious about purchasing a short-sale property, it's important for you to have expert assistance. Here are some people you want to work with:

- Experienced real estate attorney. Only about two out of five short sales are approved by lenders. But a good real estate attorney who's knowledgeable about the short-sale process will increase your chances getting an approved contract. Also, if you want any provisions or very specialized language written into the purchase contract, a real estate attorney is essential throughout the negotiation.
- A qualified real estate professional.* You may have a close friend or relative in real estate, but if that person doesn't know anything about short sales, working with him or her may hurt your chances of a successful closing. Interview a few practitioners and ask them how many buyers they've represented in a short sale and, of those, how many have successfully closed. A qualified real estate professional will be able to show you short-sale homes, help negotiate the purchase when you find the property you want to buy, and smooth communications with the lender. (All MLSs permit, and some now require, special notations to indicate that a listing is a short sale. There also are certain phrases you can watch for, such as "lender approval required.")
- Title officer. It's a good idea to have a title officer do an initial title search on a short-sale property to see all the liens attached to the property. If there are multiple lien holders (e.g., second or third mortgage or lines of credit, real estate tax lien, mechanic's lien, homeowners association lien, etc.), it's much tougher to get that short sale contract to the closing table. Any of the lien holders could put a kink in the process even after you've waited for months for lender approval. If you don't know a title officer, your real estate attorney or real estate professional should be able to recommend a few.

Some of the other risks faced by buyers of short-sale properties include:

- Potential for rejection. Lenders want to minimize their losses as much as possible. If you make an offer tremendously lower than the fair market value of the home, chances are that your offer will be rejected and you'll have wasted months. Or the lender could make a counteroffer, which will lengthen the process.
- Bad terms. Even when a lender approves a short sale, it could require that the sellers sign a promissory note to repay the deficient amount of the loan, which may not be acceptable to some financially desperate sellers. In that case, the sellers may refuse to go through with the short sale. Lenders also can change any of the terms of the contract that you've already negotiated, which may not be agreeable to you.
- No repairs or repair credits. You will most likely be asked to take the property "as is." Lenders are already taking a loss on the property and may not agree to requests for repair credits.

The risks of a short sale are considerable. But if you have the time, patience, and iron will to see it through, a short sale can be a win-win for you and the sellers.

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