



Navigating the Short Sale

Land Title partners with RealtyTMS™ to offer short sale service to Realtors

Short Sales: A Growing Market

The last time Land Title published a technical bulletin about short sales was in 2006. Back then, short sales were rare and many people were unfamiliar with the term. Now, with over 20% of Colorado mortgages upside down* and short sales accounting for nearly 16% of home purchase transactions nationally in January,** it's a hot topic and one that cannot be ignored. The number of these transactions is increasing, and Realtors are finding short sales are becoming a regular part of the real estate landscape.

What is a Short Sale?

A short sale or short payoff is generally defined as a sale in which a lender allows the property securing a mortgage or deed of trust to be sold for less than the existing loan balance, due to factors such as the borrower's financial circumstances, the property's physical condition, or local real estate market conditions.

A short sale is really a form of pre-foreclosure sale that occurs when the mortgagee agrees to accept less than the loan amount to avoid foreclosure. A negotiated short sale may result in a discounted purchase price for the buyer. The buyer then finances the acquisition much the same as in any conventional real estate acquisition.

Complexity of Short Sales

Short sales are extremely complex transactions, even for the experienced Realtor. Part of the reason is that they are time-consuming. Lenders are inundated with requests for short sales and therefore expect all paperwork to be complete and accurate before even considering a short sale. Lenders may also request that the paperwork be resubmitted multiple times, and just getting the file itself to the lender can sometimes present a challenge.

Additionally, there is no regulation or industry standard for short sales, meaning every lender may have different requirements and expectations. Even a Realtor who is familiar with the requirements of one lender may not know the ins and outs of another lender's requirements. Furthermore, lenders' policies and processes can change often and even vary by investor.

Managing a Short Sale

If you've successfully completed short sales in the past, you are aware of the incredible complexity of these transactions and the time-consuming nature of the work involved.

That's why Land Title has teamed up with RealtyTMS, Colorado's leading short sale specialists, to assist our clients with their short sale transactions. With Land Title and RealtyTMS on your side, we'll take hours of administrative time off your plate so you can focus on the dollar-producing activities you do best: lead generation, marketing, networking, and sales.

This means you can handle more volume and keep your pipeline full, which is especially important in today's real estate market.

Your Team of Specialists

If you choose to work with Land Title and RealtyTMS, you'll find that it's not just one person who manages your file — RealtyTMS will put their entire team to work for you, diligently contacting the banks for status updates and making sure the file is moving through the system. RealtyTMS regularly communicates with the listing agent, plus their online transaction management platform allows Realtors to log on and view status updates 24/7.

A Lengthy Process

Some Realtors have taken to referring to short sales as "long sales" because of the length of time it can take to complete these transactions. RealtyTMS also understands the value of keeping the buyer engaged during this time-consuming process, where it can take months to get lender approval. They work closely with the listing agent and keep all parties informed on the progress of the file at every stage as it moves through the system.

New to Short Sales?

For Realtors who are well-versed in short sales, Land Title and RealtyTMS want to be a trusted part of your short sale team, so you can hand off administrative tasks and focus on your clients.

If you are new to short sales, RealtyTMS and Land Title will also provide education and help

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set expectations for you and your clients about what to expect from listing to closing.

Factors the Lender May Consider

What makes a lender decide whether to take a discount on a mortgage? What formula do they use to decide how much to take? These are tricky questions. Each of these transactions must be evaluated on a case-by-case basis, and there are a number of variables involved in each one.

A borrower is often in default or will be soon when the lender decides to take a discount. There may be instances where there is no default; this usually means that the borrower is upside down on the mortgage and what is owed exceeds the value of the house.

There are a number of factors that a lender may consider when deciding whether to discount a loan and by how much, including the borrower's overall financial condition and circumstances, the property's "as is" value, and the cost to market and re-sell the property. Also, two short sales at the same bank may actually be held by different investors, so the percentages and "formulas" for approval may vary even with the same bank.

A short sale is usually the lender's last resort before foreclosure. Overall, the goal is to show the lender that a short sale is the quickest and best way to mitigate their loss. Some lenders will only approve a short sale when foreclosure is not economically feasible because the borrower is insolvent and one or more of the following may have occurred:

- The property was purchased or refinanced at the top of a seller's market at an over-inflated price, and a substantial drop in value has occurred.
- The property was financed as an interest-only adjustable rate loan and the borrower has no capacity to refinance at a lower interest rate.
- The property was refinanced at more than 100% of its value.
- The property is located in an area where property values have dropped due to local economic conditions, or the home's value has decreased to an amount below the loan balance due.
- The property's "as is" condition has deteriorated to a point where it is not feasible for the lender to put it in a marketable resale condition.
- The proposed purchase price is more than the lender would be able to sell property for after foreclosure.
- Any sales commission proposed in a contract is less than what the lender may typically have to allocate after the foreclosure process is complete to market and sell the property.

The lender will also do a market analysis of the property. The Broker's Price Opinion (BPO) may be the single most influential component the lender considers when deciding how much they are willing to accept as a reasonable short sale offer. The lender hires a real estate agent, broker, or appraiser to assess the property and give their professional opinion of its value to the lender.

Documentation

Most lenders ask the borrower to document their hardship prior to approval of the sale. The lender will request at least the following information for consideration of a short sale:

- a personal hardship letter that defines what the hardship is and proof of the hardship claim, if available;
- a Third Party Disclosure for authorization to speak to the Realtor or other representative about the loan status;
- a completed financial worksheet of net income and monthly expenses;
- copies of the last two years' Federal Income Tax returns with all schedules;
- copies of last two months' payroll stubs, or profit-and-loss statement if self employed;
- copies of last two months' bank statements for all accounts;
- a copy of the sales contract signed by **both the seller and the buyer**; and
- estimated closing costs showing a detailed breakdown of all projected costs including Realtor commissions for listing and selling agents.

Once the lender has the above information, it could take three to twelve months to negotiate and close a short sale, depending on the lender. It really is a "numbers game," with the lender in control.

Not every homeowner facing foreclosure is a good short sale candidate. A giant step to getting a lender to consider your short sale proposal is to have as much information ready as possible to expedite the process, and to work with short sale specialists — like Land Title and RealtyTMS — who understand the different lender requirements and systems at the banks.

* *Denver Business Journal*, "20% of Colorado Mortgage's Upside-Down," February 24, 2010.

** *DSNews*, "Short sales See Big Jump in Activity," February 22, 2010.

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