

# Houston PreForeclosure

WHEN BANKS NEGOTIATE YOU WIN!

**WHAT IS A SHORT SALE?** A “short sale” or “negotiated settlement” or “short pay” occurs when a lender agrees to accept less than the amount owed as a payoff on a loan. If the property is worth less than the amount owed on the loan, then even if the bank forecloses and takes back the property, they know they are going to take a loss. We can often convince them that the bank will “do better” if they take less than what is owed now rather than taking the property back by foreclosure and trying to sell it later.

**HOW LONG WILL IT TAKE?** The short sale negotiation process is a lengthy one. It may take several weeks or **more likely several months** to get an approval. Many lenders have several layers of bureaucracy, insurers, and investors that we will have to maneuver through in order to get a short sale approved. So it is important to be patient during this long process.

**BUT MY HOUSE IS GOING TO FORECLOSURE, WILL I HAVE ENOUGH TIME?** Maybe, maybe not. Just starting a short sale will not automatically stop a foreclosure. However, many times we can convince a bank to stop the foreclosure to let us attempt to negotiate the process. So, while there are no guarantees, it does not hurt to try.

**CAN I STAY IN THE HOUSE?** The key word in “short sale” is sale. The purpose of a short sale is to get the property sold. So you will be moving. This is not a program that can stop a foreclosure and allow you to keep the house indefinitely. It will be easier to sell the house if it is vacant, so you should make plans to move as soon as possible.

**HOW DO I KNOW THIS WILL WORK?** You don't. We cannot, have not, and will not make any promises to you that this work. Once you missed a payment, the bank is in charge and can proceed to foreclosure if they want to. But we know they do not want to and we are very good and presenting alternatives to the bank that they often want to accept rather than foreclose. We are very good at what we do, but **NO PROMISES** are being made as to whether or not the bank will accept a short sale – they may or may not.

**WILL I GET ANY MONEY FROM THE SALE?** **NO.** A universal requirement of lenders in granting a short sale is that the borrower will not get any proceeds from the sale of the property. The bank is going to take a loss on your loan – they are not going to let you get any money.

**WHAT HAPPENS IF THIS DOESN'T WORK?** Your house will likely go to foreclosure. A short sale is something we try after you have exhausted your other options. However, if the debt exceeds the value on the Property, the lender will want to work something out, and while we cannot make any guarantees, there is a very good chance it will work.

**WHAT IS A “RELEASE”:** A lender may offer to “release” its security interest against the property in exchange for less than the total amount of the note. A release will allow the property to be sold without paying off the obligations of the note. However, the note is not satisfied. Advantages: This successful short sale will allow the property to be sold and thus avoid a foreclosure. Disadvantages: The remaining debt on the property (also called a deficiency) still exists. You are still liable for the note – in other words -- you still owe the money. Reality. It is not likely that the bank will pursue the deficiency unless you have other significant assets.

**WHAT IS A “SATISFACTION”:** A lender may agree to accept less than it is owed as complete and total satisfaction of the note and release its lien against the property. Advantages: Your note and obligation to the lender are satisfied for less than you owe. When the property is sold, the debt is paid off completely. Disadvantages: You may have some tax consequences that you should discuss with your tax advisor due to the fact that the bank is making money you owe disappear.

Sometimes our negotiations are successful in obtaining a satisfaction. Sometimes all we can get is a release.

**Please select one of the following and initial.** Re Property: \_\_\_\_\_

\_\_\_\_\_ If you can't get a total satisfaction then, I do not want to sell the house. A release alone is not enough for me, **OR**

\_\_\_\_\_ I know you'll try for a satisfaction, but if you get a release and get the house sold, then that's better than where I am now and I will accept a release to get the house sold so I can avoid foreclosure.

Acknowledged this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

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Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_