

Details of a Short Sale

If you want to pursue a short sale, there are procedures you must follow and there are guidelines your bank will use to determine if you are eligible. Short sales are different from regular sales and require more work and perseverance from you and your agent. They must be handled by competent professionals that have experience with short sales and systems in place. Persistence and preparation are the keys to getting a short sale through.

** I can take the guesswork out of finding an agent. Although I am experienced and capable of handling short sales, I don't accept short sale listings. I have taken the time to interview some excellent short sale agents and will refer you to them so that you have the best and most capable representation available.

Many agents that take short sale listings are not equipped to handle them properly. Often details fall through the cracks costing you time, stress and possibly foreclosure.

You Will Need to Commit to the Process

Once you have decided to go the short sale route, you will need to commit to the process.. The following points outline how you can handle your short sale effectively.

- Contact your lender and locate the **loss mitigation** department. Make sure you are diligent in finding a manager or someone who is capable of making a decision.
- Submit a letter of authorization to the bank to give your agent or real estate attorney permission to deal on your behalf. It should include:

Your name
The property address
Your loan account number
Your representative's contact information

- **Provide a CMA and a net sheet** to the bank to illustrate what the current value of your property is and what you can expect the net loss to be after subtracting all of the expenses to sell. This should include any back payments, unpaid taxes, liens, brokerage fees, etc. Your agent will help you prepare this.

- **Prepare a letter of hardship** to explain to the bank why you need to sell short. This should include all of the reasons why you are in this financial situation. In the past, legitimate reasons have included: death, divorce, loss of job, illness or other catastrophic events. Other reasons are also legitimate. Don't leave anything out. Buying expensive personal items, toys and cars are not legitimate reasons so beware.
- **Submit financial information including: recent paystubs, bank statements, and employment information.**
- **Act quickly to provide the bank with what they need.** It often takes weeks for them to submit and process your short sale package once they've received it. At that point, the bank's loss mitigation departments will assign a negotiator to deal with your representatives
- **Submit purchase offers to your bank promptly.** You may negotiate low offers before sending them to the bank in order to avoid the bank rejecting them. The offers can be accepted upon third party approval of the bank. The bank will need to see that your buyer is qualified to purchase by reviewing all of their financial information. In addition, banks rarely pay other sundry items and practically always negotiate broker's fees. **It is a good idea to have your agent post in the listing that brokerage is subject to bank approval.**

Things to Remember

- You can request that the bank not submit adverse credit information to the credit bureaus as part of the negotiations , but they are under no obligation. Remember, in the end, a short sale is much better than a foreclosure.
- **You should approach your lender and submit your short sale package before offering your home for sale on the MRIS.** Some agents will only show your short sale if they know that it has been approved and that your lenders are ready to negotiate.
- You will need to disclose to potential buyers that all offers will require third party approval from your bank.
- You should also do your best to make sure your home shows as well as it can. Keep it clean, tidy and as well maintained as possible under the circumstances. Also, make sure your home is accessible to buyers and agents. The quickest way to lose buyers is to make it hard for them to see your home. A lockbox is the best way to insure that your home gets shown.

Pricing Your Short Sale Property

Putting an artificially low price on your home to get rid of it quickly is not in anybody's best interest and banks do not look favorably upon this practice. Many agents without experience, looking to make a quick buck are guilty of this. If an agent wants to price your home too low, call another one. The price should be justified. Make sure your agent provides a comprehensive market analysis using recent comparable data for the last 90 days. Once again, the bank will ask to see this information and they will make sure that the home is being sold at or close to fair market value. The bank will hire their own appraiser and agent to provide a value range on the property. Banks care about the bottom line and will only accept a short sale if the numbers work better than a foreclosure.

Many loans are insured with private mortgage insurance, so banks don't lose as much as you would expect. When they are forced to foreclose the insurance covers the loss on the mortgage. However, much of the recent financing was structured without mortgage insurance. In that case, they are more likely to consider reasonable offers. If you took out two loans on your home at settlement your lender is probably not covered by mortgage insurance. Make sure you apply for a short sale with both of your lenders (first and second trust holders).

Consider Alternatives

There are other potential solutions besides losing your home that you might want to consider. Private loans from family to bring your loan current, getting a tenant or roommate, deed in lieu of foreclosure, credit counseling, loan modifications and bankruptcy. In any case you should speak to a real estate attorney to determine if bankruptcy is an option and which type is best for you.



Operation Hope

<http://www.operationhope.org>

Operation Hope was formed to help homeowners in mortgage crises. They offer all types of counseling and advise for homeowners in financial crisis. Check the web address above or call the number below to get help and advice regarding your particular situation.



Many homeowners are facing challenges as their interest rate and monthly payments have increased.

Operation HOPE, Inc. (HOPE) has established the Mortgage HOPE Crisis Hotline to provide free services to assist individuals that need answers and guidance on how to resolve mortgage loan payment issues.

If you have mortgage challenges, call the Mortgage HOPE Hotline – 888-388-HOPE (4673) – for our FREE services:

- How to negotiate with your lender
- How to apply for loan modifications
- How to avoid foreclosure
- How to sell a house and purchase an affordable home
- How to restructure your existing debt and obligations

This information was found on the Operation Hope website.

IRS Requirements

In the past, the IRS required short sale individuals to claim debt forgiveness as income. Many people were not advised of this before making the decision to sell short and ended up in tax trouble with the IRS. In 2007 the Mortgage Forgiveness Debt Relief Act of 2007 was passed.

The following information was copied directly from the IRS Web Site, but you should still confirm the information with your accountant if you have questions:

What is the Mortgage Forgiveness Debt Relief Act of 2007?

The Mortgage Forgiveness Debt Relief Act of 2007 was enacted on December 20, 2007 ([see News Release IR-2008-17](#)). Generally, the Act allows exclusion of income realized as a result of modification of the terms of the mortgage, or foreclosure on your principal residence.

What does that mean?

Usually, debt that is forgiven or cancelled by a lender must be included as income on your tax return and is taxable. The Mortgage Forgiveness Debt Relief Act of 2007 allows you to exclude certain cancelled debt on your principal residence from income.

Does the Mortgage Forgiveness Debt Relief Act of 2007 apply to all forgiven or cancelled debts?

No, the Act applies only to forgiven or cancelled debt used to buy, build or substantially improve your principal residence, or to refinance debt incurred for those purposes.

What about refinanced homes?

Debt used to refinance your home qualifies for this exclusion, but only up to the extent that the principal balance of the old mortgage, immediately before the refinancing, would have qualified.

Does this provision apply for the 2007 tax year only?

It applies to qualified debt forgiven in 2007, 2008 or 2009.

If the forgiven debt is excluded from income, do I have to report it on my tax return?

Yes. The amount of debt forgiven must be reported on Form 982 and the Form 982 must be attached to your tax return.

Do I have to complete the entire Form 982?

[Form 982, Reduction of Tax Attributes Due to Discharge of Indebtedness \(and Section 1082 Adjustment\)](#), is used for other purposes in addition to reporting the exclusion of forgiveness of qualified principal residence indebtedness. If you are using the form only to report the exclusion of forgiveness of qualified principal residence indebtedness as the result of foreclosure on your

principal residence, you only need to complete lines 1e and 2. If you kept ownership of your home and modification of the terms of your mortgage resulted in the forgiveness of qualified principal residence indebtedness, complete lines 1e, 2, and 10b. Attach the Form 982 to your tax return.

Where can I get this form?

You can download the form at IRS.gov, or call 1-800-829-3676. If you call to order, please allow 7-10 days for delivery.

How do I know or find out how much was forgiven?

Your lender should send a Form 1099-C, Cancellation of Debt, by January 31, 2008. The amount of debt forgiven or cancelled will be shown in box 2. If this debt is all qualified principal residence indebtedness, the amount shown in box 2 will generally be the amount that you enter on lines 2 and 10b, if applicable, on Form 982.

Can I exclude debt forgiven on my second home, credit card or car loans?

Not under this provision. Only cancelled debt used to buy, build or improve your principal residence or refinance debt incurred for those purposes qualifies for this exclusion.

If part of the forgiven debt doesn't qualify for exclusion from income under this provision, is it possible that it may qualify for exclusion under a different provision?

Yes. The forgiven debt may qualify under the "insolvency" exclusion. Normally, a taxpayer is not required to include forgiven debts in income to the extent that the taxpayer is insolvent. A taxpayer is insolvent when his or her total liabilities exceed his or her total assets. The forgiven debt may also qualify for exclusion if the debt was discharged in a Title 11 bankruptcy proceeding or if the debt is qualified farm indebtedness or qualified real property business indebtedness. If you believe you qualify for any of these exceptions, see the instructions for Form 982.

Is there a limit on the amount of forgiven qualified principal residence indebtedness that can be excluded from income?

There is no dollar limit if the principal balance of the loan was less than \$2 million (\$1 million if married filing separately for the tax year) at the time the loan was forgiven. If the balance was greater, see the instructions to Form 982, page 4.

Is there anything else I need to know before filing?

Yes. Because the Mortgage Forgiveness Debt Relief Act of 2007 was passed so late in the year, the software systems used by tax preparers and at the Internal Revenue Service need to be updated to accept the revised Form 982. The IRS expects to be able to process the new Form 982 electronically on March 3, 2008.

****This ruling is in effect for three years from the date of inception.**

Deficiency Judgment

Under Maryland law, your mortgagor has the legal right to pursue a deficiency judgment for the balance of the mortgage you were unable to pay. A judgment is a legal ruling that says you owe money. Sometimes payments for judgments are automatically removed from your paycheck by the courts. If at all possible you should get something in writing that states they agree not to pursue a deficit judgment.

Foreclosure

Because I am not a real estate attorney, I can't give you legal advice regarding foreclosure specifically on your home. I can however make you aware that the laws regarding foreclosure in Maryland have changed and that you do have rights when it comes to foreclosure.

Last year Governor O'Malley signed into effect the:

Real Property–Recordation of Instruments Securing Mortgage Loans and Foreclosure of Mortgages and Deeds of Trust on Residential Property Bill.

It's amazing, but that is it's actual name. The purpose of the bill was to extend the period of time that it takes a lender to foreclose on a home from the first non-payment. Based on an article I read online at www.calculatedriskblog.com . It seems the quickest amount of time a foreclosure could take place in Maryland is 150 days, but more likely it will be much longer. The average in Maryland was 274 days. That means if you have just recently missed a payment, you should have time to figure out a solution.

For details go to:

<http://www.calculatedriskblog.com/2008/04/maryland-foreclosure-law-changes.html>

or call a real estate attorney. Don't waste time, because every minute still counts.