

Short Sales: A Homeowner's Guide

Should I read this?

Yes, if both of these are true:

- You are a homeowner.
- You owe more on your mortgage than your home is worth.

A short sale may be a way to sell your home and/or avoid foreclosure. It is a very complex transaction. It involves many issues and risks. Get advice from a lawyer and tax professional before you go ahead with a short sale.

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- ❖ More info about foreclosure and foreclosure mediation at www.washingtonlawhelp.org.
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What is a Short Sale?

The home sells for less than you owe on the mortgage. You cannot pay the difference.

Does the lender need to agree to a Short Sale?

Yes. The lender must **also** agree to give up their security interest in exchange for less than what you owe.

If you have more than one loan, **all** your lenders must agree to a short sale. **A lender does not have to agree.** They will usually only if in their best interest. You may have to show financial hardship to get a lender's approval for a short sale.

Will a Short Sale get rid of my debt?

Maybe not. You could still owe the lender the unpaid difference, plus interest and penalties (the "deficiency"). The lender can seek a court judgment against you for this difference. That judgment would be good for up to twenty years.

Think about this when deciding if you should do a short sale. If you agree to a deficiency judgment in a short sale agreement, you might be worse off than if you had allowed a foreclosure sale.

Will a Short Sale give me a higher tax debt?

Maybe. A short sale where the lender forgives (cancels) the debt is a relief of debt. The IRS may treat this as income for tax purposes. A limited exemption allows homeowners to pay no taxes on certain types of debt forgiveness. **Talk to a lawyer or tax professional before signing a short sale agreement.** Make sure it will not result in a higher tax debt.

Are there other alternatives to foreclosure?

If your bank has already started the foreclosure process, **and you financed the purchase of your home with a deed of trust**, you have these other options:

- **Mediation:** You have the right to meet and confer with your lender. If that does not work, you can ask for mediation. [Foreclosure Mediation](#) has more info.

- **Loan modification:** Your current bank may change your loan terms to lower your monthly payments. If Fannie Mae, Freddie Mac, or another participating bank holds your loan, you can apply for modification under the Making Home Affordable program (<http://makinghomeaffordable.gov/>). This program can stop the foreclosure while the bank determines if you qualify for a modification. Even if you do not, the bank might offer you a loan modification based on its own terms.
 - **Deed in lieu:** You deed the house back to the bank to satisfy your loan. If you have more than one loan, all your banks must agree to let you do this. **Do not agree to a “deficiency judgment.” You will still owe the rest of your loan to the bank.**
 - **Strategic default:** You stop paying on your house. You let the bank foreclose. This lets you save money until the bank takes the house. After that, you no longer owe the bank for your primary loan. You lose your house and have a harder time getting credit. If you have more than one loan, you still owe for the debts on your second or third loans.
 - **Chapter 13 Bankruptcy:** You temporarily postpone foreclosure on your home while a court lets you restructure your debt. If you make your current home loan payments while also paying off the late amount over three to five years, you may be able to keep your home. If the court determines you cannot afford your loan, you still face foreclosure.
 - **Other options:** You may be eligible for a short sale or deed-in-lieu through the federal government’s Home Affordable Foreclosure Alternatives (HAFA) Program. HAFA assures discharge of what you owe and provides moving assistance. Find out more at <http://www.makinghomeaffordable.gov/>.
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- ❖ This is a short summary. [Foreclosure when You Have a Deed of Trust](#) has more info.
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- Will a Short Sale hurt my credit score?**
- It depends on many things, including late or missed payments. A short sale may appear on your credit report as “pre-foreclosure redemption,” “paid in full for less than full balance” or other term.
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- ❖ Missing mortgage payments will severely affect your credit rating.
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- Where can I get more help or info?**
- Washington State Department of Financial Institutions** - Find more info about short sales at <https://dfi.wa.gov/short-sales>.
- Housing Counselors** - Find a HUD-approved housing counselor at <https://www.consumerfinance.gov/find-a-housing-counselor/> or call 1-877-894-HOME (877-894-4663).
- Foreclosure Prevent Unit** - NJP's Foreclosure Prevention Unit (FPU) helps people threatened with home foreclosure.

Contact them at 1-800-606-4819 to see if you can get free legal help.

Legal Hotline - If you are low-income and live in **King County**, call 211 or toll-free 800-621-4636. Lines open 8:00 AM – 6:00 PM, Monday - Friday. If you are low-income and **do not** live in King County, call CLEAR: toll-free 888-201-1014. Lines open 9:15AM – 12:15 PM, Monday - Friday.

Lawyer Referral: Local bar associations can refer you to local lawyers (**not** always low-cost services). See <https://www.wsba.org/for-the-public/find-legal-help> for a list of local referral numbers.

This publication provides general information concerning your rights and responsibilities. It is not a substitute for specific legal advice. This information is current as of December 2017.

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