CALIFORNIA ASSOCIATION OF REALTORS®

# ALTERNATIVES TO FORECLOSURE


***FROM YOUR REALTOR® . . .***

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Facing the prospect of foreclosure can be overwhelming, but less so if you know your other options. Homeowners with distressed loans often ignore their alternatives to foreclosure until it's too late. Don't make that mistake. Consider your other options right away. The more time you have before you ultimately lose your home through foreclosure, the more viable your other options may be. Things may seem bleak, but now is not the time to falter. Knowledge and determination will give you the resolve you need to overcome the financial challenges you face.

***WHAT IS FORECLOSURE?*** Foreclosure is the legal process for a mortgage lender to sell property to satisfy a defaulting borrower's debt secured by that property. Foreclosure can take quite a toll on homeowners, both emotionally and financially. Depending on your circumstances, foreclosure may force you and your family out of your home, damage your credit, increase your tax liability, and expose you to other personal liability.

## *Consider These Alternatives to Foreclosure:*

**1. Loan Workout:** If you experience difficulty paying your mortgage, you should immediately contact your lender or a housing counselor to try to work something out. If you just need a little time to get back on your feet, your lender may agree to a loan workout plan to temporarily reduce or suspend your payments, allow you to repay what's past due in monthly installments, or provide some other type of relief.

**2. Loan Modification:** Even if your financial difficulties are severe and long term, you should contact your lender or a housing counselor to try to work something out. Your lender may agree to a loan modification to permanently change one or more of your loan terms. A loan modification may involve a reduction of your interest rate, an extension of your loan term to 40 years, a reduction in your loan balance, or other changes to the terms of your loan to make your mortgage payments more affordable. Your lender may participate in the government-subsidized Home Affordable Modification program which gives monetary incentives to both lenders and borrowers for modifying certain distressed loans. For more information about the Making Home Affordable program, go to http://makinghomeaffordable.gov/.

***CONTACT A HOUSING COUNSELOR:*** For assistance with foreclosure avoidance, you may contact a qualified housing counselor. A housing counselor may discuss your situation with you as well as interface with your lender on your behalf. A list of housing counseling agencies approved by the U.S. Department of Housing and Urban Development (HUD) is available at http://www.hud.gov/offices/hsg/sfh/hcc/fc/.

**3. Short Sale:** Another way to handle a distressed loan is to sell your property. Selling, however, may be challenging if you're "upside down", which means your unpaid balance is more than your sales price. Even so, your lender may voluntarily agree to a short sale by accepting a loan payoff of less than what's owed. As with foreclosure, a short sale may affect your credit, tax liability, personal liability, and pose other consequences. With a short sale, however, you can avoid what some people perceive as a stigma of foreclosure. Doing a short sale also allows you to take a proactive approach to dealing with your distressed loan, rather than go through what can be an agonizing wait for the foreclosure process to run its course. For more information, contact your REALTOR® to get a better idea of your property's current market value and to find out about listing and selling your property.

*(Please see page two)*

## *Alternatives to Foreclosure (Cont'd):*

**4. Refinance:** If you cannot do a loan workout or loan modification with your existing lender, you may still be able to refinance your loan with your lender or another lender. Although low FICO scores, low appraisals, and the lack of income are common obstacles to refinancing distressed loans, whether you qualify for a refinance depends on your individual circumstances. You may also be eligible for federal assistance through the Home Affordable Refinance program for up to 125% of the property's value if you currently have a Fannie Mae or Freddie Mac loan, or the Hope for Homeowner program for a FHA-insured fixed-rate refinance up to 96.5% of the property's value, but other terms apply.

**5. Deed-in-Lieu of Foreclosure:** A deed-in-lieu of foreclosure is a voluntary agreement between a borrower and lender for the borrower to give title to a property to the lender in full satisfaction of the loan secured by that property. Your lender may look favorably at a deed-in-lieu of foreclosure because it will not have to spend time and money pursuing foreclosure.

**6. Bankruptcy:** Bankruptcy is a federal court proceeding for settling your debts with your creditors under a judge's supervision. If you face foreclosure, the filing of a bankruptcy case may provide an "automatic stay" to temporarily stop the foreclosure proceedings. If, however, you file for liquidation under Chapter 7 of the Bankruptcy Code, the court may, in time, lift the automatic stay to allow the mortgage lender to resume its foreclosure proceedings. Alternatively, if you file under Chapter 13, you may be able to keep your property, but you must generally repay the overdue amount in a three-to-five year plan along with your regular mortgage payments. For more information on bankruptcy, you may go to http://www.uscourts.gov/bankruptcycourts/bankruptcybasics.html.

**7. Other Alternatives:** There are many other alternative to foreclosure. You may be able to borrow money from family or friends. You may be able to supplement your income by renting out a bedroom or getting a second job. You may have a struggling small business that qualifies for an interest-free, deferred-payment America's Recovery Capital (ARC) loan up to $35,000 from the U.S. Small Business Administration. If your lender fails to follow proper foreclosure procedures, you may be able to file an injunction to stop the process. If you have legitimate discrepancies in your loan documents, you may be able to sue your lender. You may also be able to come up with some other alternatives to foreclosure not mentioned here. For any of these alternatives to foreclosure, carefully consider their pros and cons, including possible credit, tax, legal, and other consequences.



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CALIFORNIA ASSOCIATION OF REALTORS®

# AVOIDING FORECLOSURE SCAMS


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The best approach for avoiding foreclosure-related scams can be described in two words: Get tough. Being easy-going may work in social settings, but it's all wrong when you're facing foreclosure. Scam artists will intentionally seek you out. They hope to take advantage of you when you are distressed about possibly losing your home or unable to deal with the complicated issues surrounding foreclosures. As one homeowner who fell victim to a foreclosure-rescue scam said, "When you're down and out you'll believe anything." As difficult as it is to face foreclosure, it will be a lot worse if you get mixed up with unscrupulous people. So get tough by vigilantly watching out for scams. Here are some things to watch out for:

- **Appearing to be legitimate:** Outwardly, scam artists do not appear or act dastardly. On the contrary, scam artists may look nice and clean-cut, and they may seem to be kind, helpful, and trustworthy men and women. Scam artists often engage in "affinity marketing" which means they attempt to lure people by belonging to, or pretending to belong to, the same racial, religious, social or other group as their victims.

- **Asking for money upfront before providing any service:** One of the tell-tale signs of a possible scam is when someone makes a promise or representation, but asks you for money upfront before delivering on that promise. If you pay a scam artist, you're unlikely to see either your money or that scam artist again.

- **Making unqualified promises:** To lure you out of your money and home, a scam artist will often say whatever it is you want to hear in a very convincing manner. If you're facing foreclosure, the scam artist is likely to assure you that he or she can stop it, fix it, or make the problem go away. If it sounds too good to be true, it usually is.

- **Lacking credentials:** With certain exceptions, someone who charges you a fee to negotiate with your lender on your behalf must be licensed with the California Department of Real Estate. You can do a quick "License Status Check" at www.dre.ca.gov. You should also conduct further investigations before doing business with someone, such as checking public records, the Better Business Bureau, and the Internet, asking for and verifying references, and going to the business address to see if it actually exists.

- **Asking for you to do something immediately without delay:** Scam artists will push you to make quick decisions, often by making up fake deadlines. They don't want you to have a chance to mull things over, go over the paperwork, or discuss their scheme with your family, friends, lender, real estate agent, or anyone else.

- **Asking for your signature:** Whenever you sign a document, make sure you know what you are signing. Do not sign unless you have a chance to read and review the document. Do not sign if a document has lines left blank. Do not let someone con you by saying something in the document doesn't matter or doesn't mean what it says.

- **Asking you to do something improper or illegal:** Scam artists may ask you to participate in something improper or illegal. Proposing something a little improper may make their promises of stopping foreclosure more believable to you. Once you agree, you will be less likely to blow the whistle on the scam artist if you too are involved in the fraudulent scheme. Do not compromise your position by getting involved in anything underhanded.

- **Brushing aside your questions:** To help smoke out scam artists, ask a lot of questions, even if you know the answers. Be leery of doing business with someone who brushes aside your questions or gives the wrong answers. Indeed, an excellent way to protect yourself against scams is to learn as much as you can about foreclosure-related matters. Because scam artists prey upon ignorance, the more you know about foreclosures, the less likely you'll be duped.

# FORECLOSURE PREVENTION RESOURCES


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Facing foreclosure can be overwhelming, but help may be just a phone call or a few computer clicks away. If you cannot make your mortgage payments, speaking with a housing counselor or other professional may help you determine what the consequences are and what your options may be. Other resources include local community programs, information online, or your neighborhood REALTOR®. Some of the available Foreclosure Prevention Resources are as follows:

- **HUD-Approved Housing Counselors:** The U.S. Department of Housing and Urban Development (HUD) sponsors housing counselors who can talk to you about your situation and help you decide what to do. HUD-approved housing counselors are prohibited from charging you a fee for foreclosure prevention counseling services. For the list, call HUD's interactive voice system at (800) 569-4287 or go to http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm.
- **HOPE NOW:** HOPE NOW Alliance is a cooperative effort by mortgage counselors, lenders, and others to help homeowners avoid foreclosure. HOPE NOW has a Homeowner's HOPE Hotline that provides foreclosure prevention counseling free of charge at (888) 995-HOPE or go to http://www.hopenow.com.
- **NeighborWorks America:** This is a nonprofit organization that administers housing counseling agencies funded through the National Foreclosure Mitigation Counsel Program. For its list of foreclosure counseling agencies, call (202) 220-2300 or go to www.nw.org.
- **Making Home Affordable:** The Making Home Affordable Program provides government-subsidized refinances and loan modifications for homeowners in distress. Under the Home Affordable Refinance, eligible borrowers of loans backed by Fannie Mae or Freddie Mac can take advantage of historically low interest rates by refinancing up to 125 percent of current market value. Under the Home Affordable Modification, eligible borrowers can obtain more affordable mortgage payments by modifying their existing loans. For more information, go to www.makinghomeaffordable.gov.
- **Office of the Comptroller of the Currency (OCC):** The OCC is the federal governmental agency that regulates all national banks. The Office of the Comptroller of the Currency has a number of resources for consumers, community groups, and bankers to help them preserve their home ownership, avoid foreclosure, and protect themselves against foreclosure and debt elimination scams. You may contact someone at the OCC Customer Assistance Group at (800) 613-6743 or go to the OCC's consumer website at www.helpwithmybank.gov.
- **Foreclosure Prevention Workshops:** You may attend a Foreclosure Prevention Workshop or other seminars or events to learn more about avoiding foreclosure. For a schedule of upcoming Foreclosure Prevention Workshops sponsored by community organizations, go to http://www.freddiemac.com/avoidforeclosure/workshops.html.
- **Other Resources:** There are many resources on foreclosure prevention. You may go to HUD's website at www.hud.gov/foreclosure or Fannie Mae's website at www.fanniemae.com. For tax information, go to www.irs.gov and www.ftb.ca.gov. For credit information, go to www.fico.com.

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# FORECLOSURE TIMELINE


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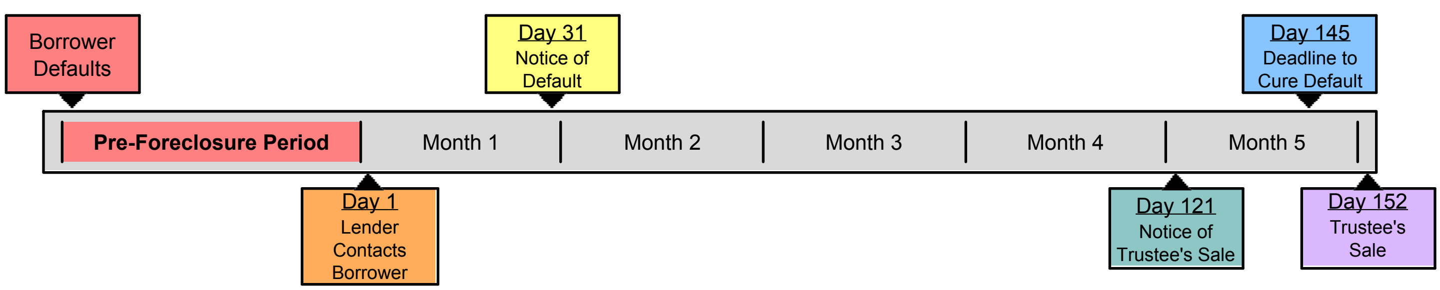
If you're facing foreclosure, you may find it challenging just understanding the foreclosure procedures your lender will use to sell your property to satisfy your debt. Yet, you may want to beat the clock by selling your home yourself or pursuing another alternative to avoid foreclosure. So to help you prepare yourself for what's to come, here's a quick summary of the approximate minimum timeframe for the typical non-judicial foreclosure in California.

| DAY | EXPLANATION |
|---|---|
| **Pre-Foreclosure Period** | If you stop making your mortgage payment, your lender may take about two, three, four, or more months before it commences foreclosure. |
| **Day 1: Lender Contacts Borrower** | A lender must contact the borrower by phone or in person to assess the borrower's financial situation and explore options to avoid foreclosure. During the conversation, the lender must inform the borrower of the right to meet with the lender within 14 days and give the borrower a toll-free number for HUD-certified housing counselors. This requirement to contact borrowers only applies to certain owner-occupied residential loans made between 2003 and 2007. |
| **Day 31: Notice of Default** | For most owner-occupied loans made from 2003 to 2007, a lender may file a notice of default 30 days after contacting the borrower to explore options to avoid foreclosure. The notice of default informs the borrower of the default. It must be filed in the county where the property is located and then mailed within 10 business days to the borrower and others who have requested notice. |
| **Day 121: Notice of Trustee's Sale** | Three months after the notice of default, the lender may record a notice of trustee's sale setting forth the date, time, and place of an upcoming trustee's sale. The notice of trustee's sale must be recorded, posted, mailed to the borrower and others, as well as published once a week for three consecutive weeks in a newspaper of general circulation. |
| **Day 145: Deadline to Cure Default** | Up to five business days before the trustee's sale, the borrower may reinstate the loan by paying the missed payments plus allowable costs. After the reinstatement period expires, the borrower still has the right to redeem the property by paying the entire debt, plus interest and costs (not just the arrearage) at any time before the bidding begins at the trustee's sale. |
| **Day 152: Trustee's Sale** | Although California law allows a trustee's sale to take place 20 days after the posting of the notice of sale, lenders customarily wait 11 more days to help protect against federal tax liens. At the trustee's sale, the property is sold at a public auction to the highest bidder. Title is transferred to the successful bidder by a trustee's deed. |



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# FORECLOSURE OR SHORT SALE


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**H**omeowners facing foreclosure often wonder whether a "short sale" is a better alternative. The answer depends on who's asking. Foreclosures and short sales affect different people differently, depending on their financial situations, priorities, goals, adversity towards risks, property conditions, market conditions, and many other considerations. To help you answer that question for yourself, here are some of the major factors to consider when choosing between foreclosure and short sale.

| FACTORS | FORECLOSURE | SHORT SALE |
|---|---|---|
| **DEFINITION** | If you default on your loan, foreclosure is the legal process that your lender may use to sell your property to satisfy the debt you owe. | A short sale is a sales transaction where the seller's lender voluntarily agrees to receive a loan payoff for less than what's owed. |
| **CREDIT** | Foreclosure and short sale have the same negative impact on your FICO score, according to www.myfico.com. The derogatory item stays on your credit for 7 years, but your FICO score may begin to improve after 2 years if you keep your other credit obligations in good standing. Aside from your FICO score, whether foreclosure or short sale is better for your overall credit-worthiness depends on the purpose for which you're using your credit, such as mortgage loan, auto loan, credit card, apartment rental, or job application (see right column). | A short sale may be reflected in your credit as an account that is "not paid as agreed" or settled for less, and has the same negative impact as a foreclosure on your FICO score according to www.myfico.com. However, a short sale may be better than foreclosure for obtaining a new mortgage loan under current Fannie Mae guidelines. According to Fannie Mae, only 2 years must lapse after a short sale for a borrower to show reestablished credit, whereas 5 years must lapse after foreclosure (or 3 years after foreclosure if the borrower has a hardship or other extenuating circumstance). |
| **TAX** | 1. Cancellation of Debt: Foreclosure may give rise to taxable income to you for cancellation of debt, which is roughly calculated as your loan balance minus your property's fair market value at foreclosure. Certain exceptions apply, such as bankruptcy, insolvency, forgiveness of a non-recourse loan (IRS), and a loan for purchasing or substantially improving your qualified principal residence.<br>2. Capital Gains: Foreclosure may also give rise to taxable income for capital gains, which is roughly calculated as your loan balance (or the property's fair market value) minus your original purchase price and major improvement costs. However, you generally do not have to pay taxes on capital gains up to $250,000 (or $500,000 for married couples filing joint returns) if you owned and used the property as your principal residence for at least 2 of the last 5 years. | 1. Cancellation of Debt: As with foreclosure, a short sale may give rise to taxable income for cancellation of debt, but the calculation is different. For a short sale, the cancellation of debt income is roughly your loan balance minus the sales price. Certain exceptions apply, such as bankruptcy, insolvency, and a loan for purchasing or substantially improving your qualified principal residence.<br>2. Capital Gains: As with foreclosure, a short sale may give rise to taxable income for capital gains, but the calculation is different. For a short sale, the capital gains calculation is roughly your selling price minus your original purchase price and major improvement costs. As with a foreclosure, you generally do not have to pay taxes on capital gains up to $250,000 (or $500,000 for married couples filing joint returns) if you owned and used the property as your principal residence for at least 2 of the last 5 years. |

*(Please see page two)*

# FORECLOSURE OR SHORT SALE (Cont'd)

| FACTORS | FORECLOSURE | SHORT SALE |
|---|---|---|
| **PERSONAL LIABILITY** | If your loan balance is more than the foreclosure sales price, you generally will not be personally liable for the difference under certain circumstances, such as if the lender forecloses non-judicially through a trustee's sale or if you have a purchase-money, owner-occupied loan for one-to-four residential units. Certain exceptions apply, such as loan fraud, intentional property damage, certain wiped-out junior liens, and FHA and VA loans. | If your loan balance is more than the sales price of your property, whether you'll be personally liable for the difference may depend on what you negotiate with your mortgage lender. Your lender may agree to forgive you for the shortfall, refuse to forgive you for the shortfall, require you to repay the shortfall, or say nothing about the shortfall. If the lender agrees to forgive you for the shortfall, make sure to get that agreement in writing and signed by the lender. |
| **POSSESSION** | You generally have the right to stay in your home during the foreclosure process which takes a minimum of about 4 or 5 months. If you do not leave after a trustee's sale of the property, the new owner may negotiate a cash-for-keys agreement with you, commence the eviction proceedings by serving you a 3-day notice to vacate, or take some other action. | You generally have the right to stay in your home until you close escrow on a short sale transaction. You may, however, be able to negotiate with your buyer for a longer or shorter stay. |
| **PERSONAL CONCERNS** | The foreclosure process does not take much effort on your part, but the wait can be agonizing and stressful for certain people. Although non-judicial foreclosure takes a minimum of about 4 or 5 months, you generally cannot dictate how quickly the lender proceeds with each step of the foreclosure process. You may also feel uncomfortable with what you may perceive as the shame or stigma associated with foreclosure, such as when a notice of trustee's sale is posted on your property or the sheriff comes to escort you and your family out of the property. | Doing a short sale may involve a lot of time, effort, and paperwork on your part to list and market your home, to get your lender's approval, and to consummate the sale with your buyer. Yet, during this process, you generally do not know whether you will succeed in closing your short sale transaction. Despite the hard work and uncertainty, you may prefer a short sale because it allows you to take a proactive approach to finalizing this chapter of your life so you can move on to the next one as quickly as possible. |
| **ASSISTANCE** | To assist you, a foreclosure consultant as defined under Cal. Civ. Code § 2945.45 must be registered with the California Department of Justice and bonded for $100,000. Real estate licensees are generally exempt from this requirement. To check whether someone is properly registered as a foreclosure consultant, call the California Attorney General's Office. | One big advantage of a short sale is you can hire a professional real estate agent to help you through what can otherwise be a complicated and difficult process. You may check whether someone is a real estate licensee at http://www2.dre.ca.gov/PublicASP/pplinfo.asp. |

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*Contact a Professional for Your Real Estate Needs.*

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# HOMEOWNER LIABILITY AFTER FORECLOSURE


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Foreclosure has many harsh realities. Even if you lose your home through foreclosure, you may still be personally responsible for the difference between your mortgage loan balance and what your property is worth. This difference owed to your lender is also called a deficiency judgment. California's anti-deficiency rules may protect you from personal liability, but it depends on your particular circumstances.

Determining whether California's anti-deficiency protections apply to your situation can get complicated. But it's a big deal. If your lender obtains a deficiency judgment against you, you will be legally obligated to pay that amount of money. If you don't pay, your lender may enforce the judgment by, among other things, garnishing your wages, levying your bank accounts, and attaching judgment liens against any real property you may own. Considering your personal liability after foreclosure is also critical when you're weighing the pros and cons of foreclosure as against your other options, such as selling your property, getting a loan modification, or filing bankruptcy.

To help you determine whether you are protected against personal liability, here are basic explanations for some of the major anti-deficiency protections, as well as situations where the protections do not apply:

| I. Protections Against Personal Liability | II. Situations Where Protections Do Not Apply |
|---|---|
| You may be protected against a deficiency judgment if you fall within any of the circumstances below. However, you may not be protected if you also fall within any of the situations in Section II on the right: | You may not be protected against personal liability under any of the following circumstances: |
| Trustee's Sale: You are generally protected against a deficiency judgment from your lender if that lender elects to foreclose by a trustee's sale. California has two types of foreclosures -- judicial foreclosure through a civil lawsuit and non-judicial foreclosure using a trustee's sale. Most lenders in California opt to foreclose by trustee's sales.<br><br>Purchase-Money Loan: You are generally protected against a deficiency judgment if your lender forecloses on a mortgage loan that you originally obtained to purchase an owner-occupied dwelling of not more than four units. You may not be protected, however, if you refinanced the purchase-money loan.<br><br>Seller Financing: You are generally protected against a deficiency judgment for seller financing.<br><br>Short Sale: If you sell your property in a short sale transaction, you can protect yourself from personal liability (even for a wiped out junior lender) by successfully negotiating for your lender to accept a loan payoff for less than what's owed and to give you a written release from any personal liability for the shortfall. | Wiped Out Junior: If you have two mortgage loans and the senior lender forecloses by a trustee's sale, you may not be protected against a deficiency judgment brought by an unpaid junior lender whose security interest was wiped out by that foreclosure.<br><br>Loan Fraud: If you made any misrepresentations to your lender (e.g., overstated your income on your original loan application), you may be personally liable for loan fraud regardless of the anti-deficiency protections.<br><br>Bad Faith Waste: If you intentionally damage or destroy the property by action or inaction, you may be personally liable for committing bad faith waste, regardless of the anti-deficiency protections.<br><br>FHA and VA Loans: If you have a loan insured or guaranteed by Federal Housing Administration (FHA) or the Veteran's Administration (VA), you may be personally liable regardless of the anti-deficiency protections. Federal law governing FHA and VA loans may override California's anti-deficiency rules. |

CALIFORNIA ASSOCIATION OF REALTORS®

# Proposition 8 - Property Tax Relief

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**What Is Proposition 8?** Owners of properties that have suffered a severe decline in market value may be eligible for property tax relief. In 1978, California voters passed Proposition 8, a constitutional amendment that allows a *temporary* reduction in taxable (assessed) value when real property suffers a decline in current market value. When the market value of a property on the January 1 lien date falls below the assessed value, the assessor is obligated to review the property and enroll the lesser of the two values. If it is determined that the market value of your home is less than its assessed value, your property's assessed value will be adjusted to the level of its current market value, and consequently, your property taxes will be reduced.

**How Can I Apply?** Each county assessor office has implemented its own procedures for Proposition 8 applications. Some county assessors require the filing of a formal application with the inclusion of two comparable sales. Others require the filing of a simple informal form or a written notification. Some only require homeowners to call their office.

Due to the nature and severity of the market, many county assessors are proactively reviewing assessed values. For example, some are reviewing certain property types purchased between specific time periods (i.e. all single family homes and condominiums purchased during 2004 to 2008), which may have been especially hard hit by precipitous market declines. For more information about your county assessor's procedures and guidelines for Proposition 8, please consult the website:
http://www.boe.ca.gov/proptaxes/assessors.htm .

**SCAM ALERT - NO FEE NECESSARY FOR VALUE REDUCTION**
**There is no reason to pay for a review that is required by law and will be performed for FREE.**

Various private companies send mailings to property owners offering their services to pursue a reduction in the owner's property taxes. These companies may charge hundreds of dollars to file for a reduction in value on behalf of the property owner. Some companies even impose late fees if the application is received after an arbitrary deadline.

Homeowners **do not need the services of a private firm to seek a property tax reduction.** State law requires county assessors to review all requests for property value reduction, for **FREE**.

**Is this a Permanent Reduction?** A property that has been reassessed under Proposition 8 is subsequently reviewed every year to determine its lien date value. The assessed value of a property with a Proposition 8 value in place may increase each lien date (January 1) by more than the standard two percent maximum allowed for properties assessed under Proposition 13; however, unless there is a change in ownership or new construction, a property's assessed value can never increase above its factored Proposition 13 base year value after adjusting for the annual increase. In other words, if the market turns around, your property taxes may increase more rapidly than they would have otherwise, but they will never exceed the level--with a two percent annual inflation adjustment factored in--they were at before you received the Proposition 8 decrease.

**What Information Do I Need?** You should be prepared to provide the assessor with information that supports your opinion that the market value for your property is less than the assessed value. The best supporting documentation are *comps*, or information on sales of comparable properties in your neighborhood. You should select two comparable sales that sold as close to the January 1 lien date as possible, but no later than March 31.

A property sold with features that are similar to your property is a comparable sale. Comparable sales information helps you analyze the value of your home. The assessor's website may offer sales information for properties that have sold within the last two years. The same information is available from any assessor district office. Many websites offer sales information free of charge. Additionally, your local real estate agent or title agent can provide you with this information. Contact your agent for additional information.

**What If I Don't Agree?** If you disagree with the county assessor's findings, you may file a formal appeal with the County Assessment Appeals Board or the County Board of Equalization. These Boards are independent bodies established to resolve differences in property value opinions between the county assessor and property owners. You must file your appeal on an *Application for Changed Assessment* between July 2 and either September 15 or November 30 of the fiscal year that you are disputing. To determine the filing deadline date for your county, go to /http://www.boe.ca.gov/proptaxes/pdf/filingperiods.pdf .

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# SHORT SALE PROCESS


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As if selling a home is not hard enough, many California homeowners face the added challenge of selling short. To do a short sale, you have to find a buyer and convince your mortgage lender to accept a loan payoff of less than what you owe. A short sale can get thorny and complicated, but understanding the process will help you manage your expectations and improve your chances of success. To get you started, here's a brief overview of the typical, traditional short sale process:

| STEPS | DESCRIPTION |
|---|---|
| 1. Hire a REALTOR® | The first step in the short sale process is to hire a REALTOR® to represent you in selling your property and negotiating with your mortgage lender. Your REALTOR® may meet with you to preview your property, discuss your particular circumstances, and offer different strategies as how to best proceed. |
| 2. Contact Your Lender | You may authorize your listing agent to contact your mortgage lender on your behalf to determine the lender's short sale requirements. Many lenders require that you enter into a contract to sell your property before submitting your short sale request, but there may be a growing trend for lenders to pre-approve short sales. |
| 3. List Your Property For Sale | You may maximize your marketing efforts by listing your home for sale with your REALTOR®. Getting a good price and a good buyer for your property helps to ensure your lender will approve your short sale request. Your REALTOR® may help you to, among other things, get your property ready for showings, advertise and market your property for sale, conduct open houses, and interface with prospective buyers and their real estate agents. |
| 4. Enter into Sales Contract | If a buyer is interested in purchasing your home, the buyer will write an offer to purchase which you may accept contingent upon, among other things, your mortgage lender's approval of a short sale. |
| 5. Submit Request to Lender | You may prepare a short sale package for submission to your lender. A short sale package generally includes information about you, your financial situation, your property, and your sales transaction. Your lender may require you to submit a hardship letter explaining the reasons you are unable or unwilling to repay your mortgage loan. You may have to obtain a short sale approval from any creditor with a security interest in the property you are selling (such as first trust deed, second trust deed, judgment lien, or federal tax lien). |
| 6. Obtain Short Sale Approval | After you've submitted your short sale request, the lender's response generally takes many weeks to many months. If your lender approves your short sale request, carefully review the terms and conditions of that approval. The short sale approval may have an expiration date. Also, some lenders may agree to release the real property as security for their loans, but not to release the seller from personal liability for the underlying unpaid debt. |
| 7. Perform on Sales Contract | Depending on your agreement with your buyer, you may arrange to notify the buyer of the short sale lender's approval before the buyer starts to perform on the sales contract by, among other things, submitting the good faith deposit into escrow, getting the property inspected and appraised, obtaining financing, and proceeding to close escrow. |
| 8. Close Escrow | Towards the end of your transaction, you will generally go into the escrow office to transfer title of the property to the buyer. In the meantime, the buyer goes into escrow to deliver the funds for the down payment and closing costs and sign loan documents for the funding of the buyer's loan if any. The sale is consummated and the escrow officer disburses all funds accordingly. |

CALIFORNIA ASSOCIATION OF REALTORS®

# TIPS FOR A SHORT SALE SELLER


***FROM YOUR REALTOR® . . .***

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As a seller attempting a short sale, you want to be at the top of your game. To succeed, you not only have to find a buyer for your home, but also convince your mortgage lender to accept a loan payoff of less than what you owe. A short sale can be a long and arduous process, and yet, you have no guarantee of success. To help ensure success, here are some good tips for selling in a short sale situation:

- **Hire a REALTOR®:** One of the best things you can do in a short sale is to hire a qualified REALTOR® to guide you through the process. A REALTOR® can represent you in finding a buyer and negotiating with your lender. Not all real estate agents are REALTORS®. The word REALTOR® is a trademark designation to distinguish that a real estate agent has, among other things, voluntarily pledged to abide by the strict code of professional ethics of the NATIONAL ASSOCIATION OF REALTORS® to protect and promote their clients' interests.

- **Take a proactive approach:** When you're an "upside down" seller owing more on your mortgage than your property is worth, the prospect of selling short is likely to be upsetting. You may have never expected that owning a piece of the American dream could turn into a nightmare. Despite the grim realities, selling in a short sale may get you out of a bad situation. But it may take a commitment of time and effort on your part. Taking a proactive approach to your short sale may help you get out of that nightmare as quickly and painlessly as you can.

- **Knowledge is your friend:** A short sale is a new experience for most homeowners, but knowledge is a key to success. You should know the pros and cons of a short sale, including the credit, tax, liability, and other potential consequences. You should also understand the overall short sale process -- what you need to do, how long the process may take, and what the common pitfalls may be. Your REALTOR® may be a great resource for information. Short sale information is also available online, such as news articles, governmental websites, lenders' websites, and short sale blogs. Be careful, however, as a lot of misinformation on short sales also floats in our midst.

- **Do your homework:** As early in the game as possible, determine your lender's short sale requirements and whether you satisfy those requirements. If you have multiple loans or other interests secured by your property, you may have to get a short sale approval from all of those creditors. Every lender is different. Not only that, but a lender's requirements may change over time. To approve a short sale, your lender may require that you demonstrate and document a true financial hardship, such as job loss, illness, disability, or death of a co-owner. A decline in property value, absent more, may not be enough to demonstrate a financial hardship. Your lender may have other eligibility requirements, such as a current delinquency in mortgage payments, income verification, or property valuation. You should also determine how your lender intends to treat the shortfall (or the difference between your loan balance and the payoff amount). Your lender may forgive the debt, refuse to forgive the debt, require you to repay it, or say nothing at all about it.


*(Please see page two)*

# *TIPS FOR A SHORT SALE SELLER (Cont'd)*

- **Get a good price for your home:** Getting a good sales price not only improves your chances of getting your short sale approved, but may also have other advantages. A better sales price reduces your shortfall which is the difference between your loan balance and payoff amount. Minimizing your shortfall may be advantageous for possible repayment, tax, liability, or other reasons. So do the best you can to improve your home's marketability. Even if you don't want to spend a lot of money for a short sale, you can still make your home ready and available for showings by cleaning the house, getting rid of clutter, putting away personal items, making minor repairs, and doing yard work. Ask your REALTOR® for other suggestions to improve the marketability of your home.

- **Get a good buyer:** Your ideal buyer may be someone who will wait patiently until your lender approves your short sale and, as soon as that occurs, the buyer will quickly perform to close the deal. These qualities are admittedly difficult to prescreen for, but do the best you can. Before entering into a sales contract with a prospective buyer, you may ask to verify his or her ability to buy, such as a loan prequalification or approval letter, credit report, and source of down payment and closing costs. You're better off asking upfront than to be surprised later in the process by your buyer's inability to obtain a loan or otherwise perform. You may also try to negotiate favorable contractual terms for yourself, such as a meaningful good faith deposit from the buyer, a substantial down payment, and reasonable time frames for your buyer to inspect the property, obtain financing, and close the transaction.

- **Submit a complete short sale package:** A short sale request typically involves a lot of paperwork. You may greatly expedite the approval process by providing your lender with a complete short sale package containing all the required information and documentation in an organized manner. Getting paperwork to the lender piecemeal is likely to cause delays.

- **Be patient but persistent:** Once you've submitted your short sale request to your lender, waiting for a response may be one of the most frustrating aspects of a short sale. The short sale process can take a few weeks to a few months. Patience and persistence may help you get through that waiting process.

- **Avoid scam artists:** Be wary of scam artists who prey on distressed homeowners hoping to dupe you out of your money and property. As one homeowner who fell victim to a foreclosure-rescue scam said, "When you're down and out you'll believe anything." Watch out for the common signs of a scam, such as someone who asks for money upfront, asks for you to do something immediately without delay, or gives you an unqualified promise to stop foreclosure or other assurances. Also watch out for new types of scams that crop up every day.

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*Contact a Professional for Your Real Estate Needs.*


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