

Slide 1

SHORT SALES

The Best Kept Secrets

Brenda Noffert



Gillian Marie

- Broker Associate
- ABR, GRI, CREEC, BGI, ITTI
- 12 years full time Real Estate Professional
- Trainer/mentor 6 years
- Began Real Estate Career in Michigan
- Married 18 years
- 1 beautiful daughter

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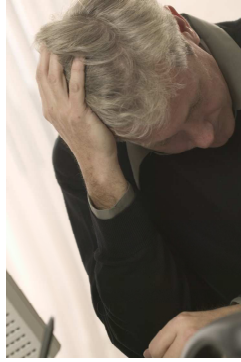
WHAT IS A SHORT SALE?

When a home owner owes more on a home than it is currently worth, one possible option is to work with the bank to accept less than the amount owed as full payment.



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How Does a Short Sale Help?



- Loan is closed PAID IN FULL (usually with no further obligation)
- Seller's credit is not effected
- The short sale is not publicly posted

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SHORT SALE MYTHS,

- Owner must be Late on payments
- Owner can only have a 1st mortgage
- Banks don't want to help
- A short sale takes 120 days or more
- Bank won't discount much more than closing costs
- Agents never get a fair commission for all the work
- Short sale won't work if home is near or in foreclosure.

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When Will A Bank Help?



The Owner Proves Hardship

- Loss of job
- Illness
- Divorce
- Financial distress
- Job Transfer
- Death

Can you think of any others?

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Why Would A Bank Do It?

To Avoid Foreclosure



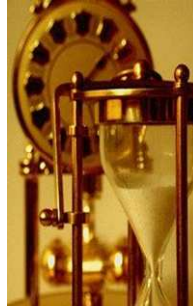
- Banks make money by barrowing from the Federal Reserve to lend to consumers
- Every non-performing loan (foreclosure) reduces the amount that a bank can lend to the public

Foreclosures affect the future profits of the lender!

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To Avoid the Cost of Foreclosure

- Attorney fees
- Filing Fees
- Bailiff Fees
- Eviction Proceedings
- BPO Expenses
- Trash out Costs
- Maintenance Costs
- Securing costs
- Winterization Expense



Foreclosures Cost The Bank Unrecoverable Money!

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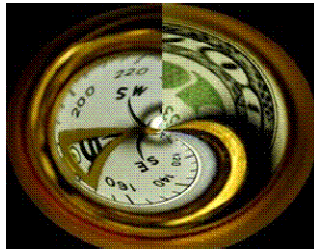
There is a Difference



- HUD: Repossessed by the Feds
- REO: Bank Owned
- RELO: Relocation Company owned
- Corporate: Corporation owned

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The Big Picture –Foreclosure



Judicial and non-Judicial Foreclosure

Judicial Foreclosure: The bank files a lawsuit to obtain a court order to foreclose.

Non-Judicial Foreclosure: The mortgage contains a clause giving the lender the right to sell if the borrower defaults.

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The Process in Missouri NON-JUDICIAL (unless no clause is provided in the mortgage)

PRE-FORECLOSURE

- The borrower defaults
- The lender notifies the borrower
 - Provides unambiguous warning that the foreclosure process is about to begin
- Lender begins scheduling of public auction
- The borrower has the right to pay off the debt at anytime before the sale and stop the foreclosure process

NOTICE OF SALE/AUCTION

- Notice must be Published
- Newspaper in County where the property is located
- County with City over 50,000 people: published daily starting 20 days before the sale to the day of the sale.
- Other counties, published once a week for four weeks with the last publication no more than one week prior to the sale.

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The Process in Kansas - JUDICIAL

PRE-FORECLOSURE

- The barrower defaults
- The lender conducts a title search
- Lender files a petition with the court for foreclosure naming all other lien holders as defendants
- Petition is served to the barrower and all other defendants
- The barrow has 20 days to file an answer with the court. If none, a Journal entry of Judgment is filed
- Once filed, the barrower has 10 days to pay amount due before the sale can be scheduled

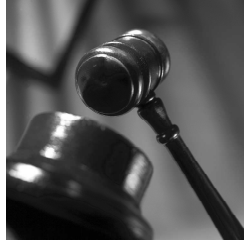
NOTICE OF SALE/AUCTION

- Notice must be Published in County where home is located
- Advertised once a week for 3 consecutive weeks
- The last publication being not more than 14 days but not less than 7 days before the sale
- Notice must be sent to the barrower within 5 days of the first advertisement.

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Foreclosure in Missouri & Kansas

(continued)



- The deed of Trust
 - who conducts the sale
 - When the sale occurs

Usually the sale is at the
County Courthouse
between 9am and 5pm

If the sale is postponed
more than 7 days, the
trustee must republish
and resend the notice

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Foreclosure (continued)

Missouri

At sale a Trust Deed is issued to the winning bidder

- Issued by a trustee to the highest bidder.
- Discloses on its face the opening or minimum bid and the final winning bid

A Trust Deed transfers title free and clear of any liens or encumbrances (possibly subject to redemption rights)

Kansas

At sale a Certificate of Purchase is issued to the winning bidder

- Issued by the trustee to the highest bidder.
- States the name, the length of the redemption period, if any and the winning bid amount

After Redemption rights have expired, the winning bidder receives a sheriff's deed, which will vest good and perfect title to the property.

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Foreclosure in Missouri (continued)

Right Of Redemption

Only available if buyer at sale was the lender.

Borrower Must

- give advance notice of intent to redeem at the sale or 10 days prior
- Post bond within 20 days after sale
 - Bond is amount equal to
 - Mortgage interest
 - 2nd loan interest
 - One year taxes
 - Foreclosure expenses
 - Legal fees
 - Damages
 - 6% interest

If able to meet these requirements, an owner can redeem within one year by paying off amount owed plus any fees

Deficiency Judgments are rarely, if ever, allowed

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Foreclosure in Kansas (continued)

Right Of Redemption

Available regardless of who won the sale.

- Redemption period for the barrow begins on the date of the sale
- To redeem, barrower must pay the amount of the highest bid in addition to applicable interest and other fees.
- If 1/3 of the principle loan balance has been paid, barrower has 12 months to redeem
- If the barrower has paid less than 1/3 of principle loan balance, the redemption period is 3 months.

Lenders may obtain (and usually do) a deficiency judgment against the barrower

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Postpone or Prevent Foreclosure



- Contact the Lender
 - Listed with a Realtor
 - Posted on the MLS
 - Progress reports of marketing efforts (if requested)
 - Fairly priced
 - On time payments

The bank can begin or
reinstate the
foreclosure at any time

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Restructure

- Seller can't afford current house payment
- Seller is willing to make manageable payments
- No penalties
- No Extra interest
- Not permanent solution
- Monthly income vs. expenses must not be negative



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How Do you know if a short Sale is a good Option for a Seller?



- Know the Story
- Qualify the Seller
- Be Honest about value
- Inspect the Property
- **Know your market TODAY**

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Qualify the Seller



Ask The Difficult Questions

- What Happened?
- How long has it been?
- Is your situation permanent?
- Are you behind on payments?
- Can you make your current payments?
- Are you willing to help me get you out of this property without having to bring a check to closing?

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Your Responsibility

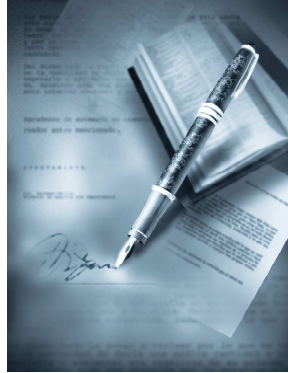


- **Know your market
TODAY**
- Inspect the Property
- Be Honest about value in
TODAY'S MARKET

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At the Listing

- Fill out all the “regular” listing paperwork
- Get authorization letter signed
- Provide seller with a list of the items they need to gather
- Educate the seller on what comes next



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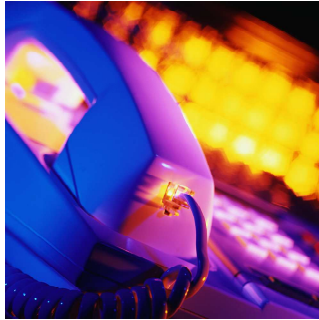
Gather The Paperwork



- w-2's for the past 2 years
- 2 years tax returns (if self employed)
- 3 months recent bank statements
- 3 most recent pay stubs and/or income statements
- List of outstanding debt (total debt and monthly payments)
- Hardship letter
- 401k, investments, stocks, additional real estate
- Any papers that further prove the situation (divorce papers, judgments, liens, notices, copies of bills)
- Listing agreement (with acceptable dates)
- MLS listing ticket
- Offer to purchase signed by all the parties

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THE PROCESS



- Obtain Loss Mitigation
Direct phone number &
Direct fax number
- Have signed letter of
Permission
- Fax letter to Loss
Mitigation Department

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Call The Lender

- 2-4 days later
- Have the loan number and last 4 digits of sellers social security number
- Confirm receipt of Authorization Letter
- Get a payoff quote or current balance (if there is no charge)
- Request a Short Sale Package (if available)



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Things to Know



- **BAD THINGS HAPPEN TO GOOD PEOPLE**
- Business owners and tax returns
- Outstanding debt worksheet is a starting point

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The Hardship Letter

- Must convey the seller's story
- Pointed
- A rough timeline
- Easily followed
- Well written



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MARKET LIKE CRAZY
until you get an offer

then the fun begins!

Accepting the Offer

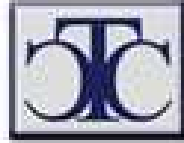
- Have the seller accept the offer
- Get a HUD Statement
 - Do not include payoff
 - Configure taxes as of a 60 day closing date
 - If you must estimate, estimate high



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HUD 1 Statement

- Continental will happily provide you with a preliminary HUD
 - They are not responsible for the figures: YOU ARE
 - Letter of release of responsibility



Continental
TITLE COMPANY

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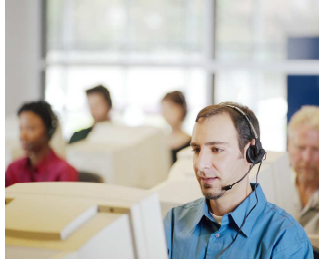
Get Confirmation from the Bank



- Do they have all that they need?
- How will they contact the parties if something is needed for the file?
- How long will they leave the file open?

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Case Manager or Department Assignment



- Case Manager
One person who handles the entire file
- Department Assignment
Case is assigned to an entire department.

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Keep Marketing



- Per your MLS rules, continue marketing if allowable
- Encourage other offers (if possible)
- Submit new offers to the bank
- Notify old offers of new offers
 - Changes to old offers need to be rewritten as new offers with new net out sheets

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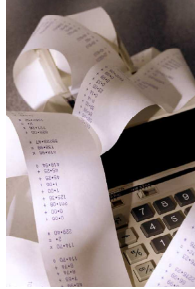
Getting the Appraisal

- The Bank sends one of their appraisers/BPO agents
- You will be contacted to gain access to the property
- Be very nice
- Offer help
- Ask when it will be returned to the bank



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The Bank Has A Goal



- To Make the investor “whole”
 - Compare Appraised value to offer price
 - Calculate what the bank has made on the loan
 - Original Loan Costs
 - Mortgage Insurance
 - Late fees
 - Interest

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Let's Look at an Example

Loan Info

- \$100,000 Original sales price
 - 100% financing
 - 30 Years
 - 7.5% interest Rate (fixed) \$68 x 24 months = \$1632.00
 - Loan Origination date: exactly two years ago (\$35 x 3) + \$105.00
 - PMI: \$68.00 Monthly + 2320.00
 - 3 late payments: \$35.00 each + 7378.43
 - 24 payments made
 - \$7,378.43 paid in interest
 - Origination Fees: \$2320.00
- Total Amount from Seller: **\$11,435.43**

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How it Breaks Down



Seller's balance: \$97,824.59
Costs for closing: +7590.00
New Sales Price: -\$97,500
-\$7914.59

Bank Profit to date:
\$11,435.43
-\$7914.59

Bank Profit : \$3520.84
With the Short Sale

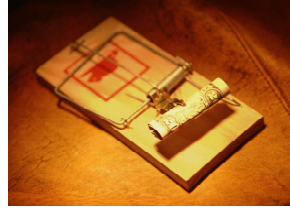
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When It Doesn't Go That Smooth

The appraisal comes back favorable, but lender is still taking a loss

The Bank will Consider:

- Foreclosure timeline
- Foreclosure Costs
- Maintenance
- Resale costs
- Eviction costs
- Liability of Non-performing loan
- What they can sell the house for once they get it back



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The Possibilities



- The Bank may send the file to Committee
- The Bank may counter offer
- They ask/you offer to cut the commission

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More Than One Loan



Title Liens

- Tax Liens always jump to the front
- Primary Mortgage holds 1st lien position
- Time/date stamp when received at the County Clerks Office



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Negotiate From the Bottom Up



- Provide Letters of Permission
- Contact Mechanics Lien holder
 - attached personally and removed as a lien on the property
- Contact 2nd Mortgage
 - Provide short sale package
 - Provide 1st mortgage information

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Tax Ramifications

Used to be that the seller may have to declare the amount that the bank has forgiven as ordinary income.

A new law was passed that elevates ALL of those issues!!!!



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Short Sales and Credit Scores



- Conflicting Reports
- Other factors
- Bottom Line

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Miscellaneous Helpful Info

- Family members and short sales
- Mortgage clearing houses
- New policies
- VA loans and the 88.2% rule
- Redemption period and subordinate liens



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Any questions?

