

The following tips were compiled by a NEAR Workgroup as suggestions for members who are working with short sales and although they are intended as helpful, they should NOT be considered mandatory.

Important Tips to Remember When Handling Short Sales

1. If you're not comfortable handling a short sale, find someone who is and who knows how to do them and refer it. Talk to your broker/office principal about who is a short sales specialist in your area. (This is the first and the final tip!)
2. When you meet with a Seller for the first time to discuss listing their home as a Short Sale, always advise them to have a tax attorney or CPA identify the tax ramifications, and have an attorney identify the legal implications before moving forward. The consumer could be harmed if this information is not communicated correctly. Always, state, "I am not an accountant. Consult with an accountant or tax attorney regarding taxable situations." Be sure to have the consumer sign something confirming their understanding to reduce your liability.
3. At your initial meeting with the seller, be sure to have the seller provide you with signed authorization to communicate with the lender. Lenders are prohibited from releasing financial information to third parties without written & signed authorization. Also at this first meeting, advise the seller that a short sale or other financial hardship can affect employment status, taxes, credit score, etc., and they should obtain additional professional advice as needed, and have them acknowledge this advice in writing.
4. When you list a property, attach a "Short Sale Addendum" to your listing contract; the Massachusetts Association of REALTORS® has a Short Sale Addendum as part of their MassForms™ Library.
5. When listing the property be sure to include the language to read "subject to lender approval for full debt forgiveness." If you simply state the transaction is subject to 3rd party approval, and the lender agrees to sign off on a deed release, but not a debt release, the seller may still have to sell to the buyer regardless of the outcome of the short sale terms! The lender may require the balance or more to be paid back in monthly installments. You should always include "subject to lender approval for full debt forgiveness," in your disclosures, and the consumer should consult with an attorney.
6. Because of the need to keep hardships confidential, get permission from the seller in writing to advertise their listing as a short sale on MLS.
7. Make sure the property is listed at fair market value, not below. Failure to obtain offers at or near market value may jeopardize the lender's approval of the short sale.
8. Have your clients prepare in advance all the necessary paperwork that will be required for the lender, such as bank statements; tax returns (2 years); pay stubs (2 months); hardship letter, and financial statement. Identify red flags early. It's important to obtain the full picture, including other assets, other debts, whether or not the seller is considering filing for bankruptcy, other co-signers, etc. If the seller is reluctant to cooperate with this step, you may want to reconsider the wisdom of taking this listing.
9. Be aware that there are not only First liens, but Seconds and Thirds as well, including home equity lines of credit. Therefore, you may be negotiating with multiple lenders. Make copies of all workout papers in triplicate so as not to have to rewrite three times for each lender.
10. Contact the lender in advance to identify their preferred means of communication (i.e., fax, email, or mail) and contact information.
11. If you have an offer that is acceptable to the seller, don't wait for bank approval. Have the seller sign it as accepted, subject to 3rd party approval for full debt forgiveness. Have the seller use the "Short Sale Addendum" to an Offer to Purchase the Massachusetts Association of REALTORS® has a Short Sale Addendum as part of their MassForms™ Library. If the selling agent doesn't provide one with the offer, you should add one, then have the seller sign it and note on the offer to "see short sale addendum attached". Make sure all parties initial the change.
12. Print on EVERY piece of paper sent to the lender the following: loan #; property address; borrower's (seller) full name. Be sure to keep this information in a secure area due to data security requirements.
13. The listing agent should prepare a "Short Sale" cover letter to the lender, that should include, but not be limited to: a list of where it was advertised; any factors that will affect the value; and market data reflecting current inventory, market conditions, etc. A "Table of Contents" should be the next page after the 'cover letter', listing every document in the order it was provided.
14. Once you have an acceptable offer, send the complete — not piecemeal! — package to the lender, including cover letter, table of contents, executed contract, disclosure forms signed by all parties, preliminary closing statement, listing agreement, MLS listing sheet and MLS history, buyer approval letter, authorization to release information, seller's financial information/worksheet, hardship letter, two months bank statements for all accounts, two months pay stubs, two years tax returns, property photos illustrating actual condition, market data, etc.. Forty-eight to 72 hours after submission, follow up with a call to confirm receipt of package. Ask how long the process will take. Each lender is different. A weekly call may be in order until short sale approval is received **in writing**.
15. If you're not comfortable handling a short sale, find someone who is and who knows how to do them and refer it. Talk to your broker/office principal about who is a short sales specialist in your area.