TroopSOLUTIONS INC.

Strategies to help preserve equity & creditworthiness.

A Subsidiary Corporation of Troop Real Estate, Inc.

Back to List of Articles and MP3s

When Your Debt Exceeds Your Home Value - Is a Short Pay an Option?

What is a short pay off?

Imagine your home is worth $200,000, but you owe $220,000 on it. If you were to sell it in the open market at $200,000, you might net $184,000, or $36,000 less than what you need to pay off the loan. A short pay off is where your lender will forgive a portion or all of the short amount.

What lender would just write off that type of money?

Just about all of them will, with justification. Justification might mean a substantial loss of income that would prevent you from paying on the mortgage, therefore being forced in a position to sell the home. Attempting to sell short so you can upgrade to a larger property is not justification. In addition, lack of cash reserves will also serve as justification. Don't expect to place your home on the market at 75% of market value and expect your lender to jump on any offers.

How will this affect my credit?

Depending on how you negotiate the transaction, it could go on your credit report as, "settled," or, "paid," or "short payoff." It depends on the lender and how well you can negotiate.

Are some lenders harder to deal with than others?

Yes. If you have a Freddie Mac loan, Freddie Mac will probably want you to contribute to the short sale, negotiate tough with the buyer to take the property truly in 'as-is' condition. Be prepared for some lenders to just ignore you.

What will my lender require from me in order to consider participating in a short sale?

Packaging is very important. When you place the property on the market with Troop, the Troop Solution professionals will send the lender the following:

- Seller financials such as ...
  - Past 2 years tax returns
  - Letter of hardship
  - Loan application
- Listing contract along with ...
  - Copy of MLS
  - Preliminary title report or property profile
  - A marketing plan
  - Broker valuation such as CMA
- Ideally, a signed OFFER ...
  - with supporting buyer & disclosure documentation
  - HUD-1 estimate setting forth disbursements

Why should I list with a Troop agent?

If your loan is delinquent, or in default, you don't have time to play around getting your home sold. You need as much exposure as possible. Troop professionals will draw qualified buyers to your property.

What happens if my lender say's "No," and I'm in foreclosure?

This is one situation where "No," means, "Maybe, you just haven't convinced me that participating in a short sale is to my benefit." Keep hammering your lender, and do not take your home off the market until your lender agrees to a sales price and the prospective buyer has formal loan approval.

Should I try to hide any assets in order for the lender to consider participating?

Most assets are traceable, except for personal collections (guns, coins, etc.). If you own another property, it will show up on your credit report. Your lender may back track to your original loan application to see if there are any other assets. No, don't hide assets. If your lender discovers you're not dealing honestly, they'll never co-operate.

Question: My loan is secured by the property, so the bank cannot go after my assets to make me pay the remaining balance of the loan.
While there are no deficiency rights in California for 'Purchase Money' loans - the loan you obtained in order to purchase the property - once you refinance the property, take out an equity line of credit, obtain a consumer loan that is secured by the property, this rule no longer applies. The lender has the right to go after you in a deficiency judgment, even if a senior lien holder takes the property back and a junior loses his security instrument.

How can I assure a non-purchase money lender won't go after me after the short sale?
When any lender agrees to a short pay, they are relinquishing their right to pursue the borrower in the future. Get any negotiated resolution in writing!!

Are there any tax ramifications?
Yes - AND CONTACT YOUR CPA. According to IRS Section 108 a-e, there are debt/income interpretations that may come into play. The IRS may view the deficiency on a non-purchase money loan as income and demand you to pay taxes on that amount. If the short pay transaction resulted in a net loss of $20,000 to the lender, your tax liability could be around $6,350.

So why would I want to do a short sale only to owe the IRS money?
To limit your tax liability.
In some cases (not Citicorp, Fannie Mae, or Freddie Mac) the senior lien holder will allow for some funds to be allocated to the juniors. If you allow the property to go into foreclosure, and the juniors lose 100% of their money, you can get taxed on the full amount. You must contact a CPA concerning this aspect.

Disclaimer

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