

A way out with the short sale

More local homeowners who face foreclosure are turning to a rare option to avoid that fate

By Andrew Moore / *The Bulletin*

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The short sale.



In real estate, it's the sale of a home or property for less than the amount owed the lender. The owner nets nothing on the sale and until recently, it also meant a tax liability, as the IRS considered the difference between the sale price and outstanding loan amount as income.

It's not a favorable option, but a short sale can be the best way for a homeowner to get out from under a loan and avoid foreclosure, according to local real estate representatives.

Trouble is, a successful short sale is entirely dependent on the lender's authorization. A seller may find a willing buyer, but unless the lender agrees to take a loss on the property, the sale won't happen.

And as more homeowners near foreclosure — in Deschutes County, there were 528 notices of default, a precursor to foreclosure proceedings, filed between Jan. 1 and Thursday, a 303.5 percent increase over the same period last year — more homeowners are pursuing short sales.

Tom Greene, the president of the Central Oregon Association of Realtors, said roughly 7 percent of the homes currently listed in Deschutes County are short sales. That represents a huge jump, he said, as short sales used to be exceedingly rare.

"This is a new phenomena," Greene said. "You used to run into them once every six months."

Short Sale 101

The reason most homeowners ask a lender for a short sale — be it hardship, a job transfer or a bad investment — is to avoid foreclosure, said Cat Zwicker-Grant, principal broker with Desert Sky Real Estate in Redmond.

The upside of a short sale is it doesn't negatively affect a homeowner's credit score, the way a foreclosure would. The downside is the homeowner surrenders their investment in the home and has to certify he or she has not profited from the sale in any way. In addition, most lenders want proof a homeowner doesn't have other financial means to pay for the loan, Zwicker-Grant said.

"You are asking the bank to accept a loss on your behalf, so if they do that, they want to know you are worthy," she said.

In other words, if it's a second home a homeowner is trying to short-sell, the chances a bank would accept one are slim, Zwicker-Grant said.

Filing for bankruptcy won't help, either. If you can't make mortgage payments, you can't keep your home, said Deidra Cherzan, a Bend attorney who specializes in bankruptcy filings.

Bankruptcy law does provide exemptions for primary residences but only if the mortgage is in good standing and the filer can continue to make payments, she said.

The key to a successful short sale is to start the process early, Zwicker-Grant said. Contact the lender, and begin the application process. The next step is to list the house and find a buyer. If one is found, the buyer submits the offer to the lender, which approves or rejects the sale.

The trick is timing, Zwicker-Grant said. Most homeowners don't begin the short-sale process until they are behind on payments. This often puts homeowners up against the clock.

A notice of default is generally sent out after 90 days of nonpayment, and a house can be put up for auction by a lender 90 days later. If no one bids on the home, it is foreclosed on by the lender and the lender assumes ownership.

Banks or lenders typically don't want to own real estate, so even though they may take a loss on a short sale, it's often less costly in the long run, considering the amount a bank would pay for title fees, to maintain a home, cover its taxes and pay real estate commissions when it sells, Zwicker-Grant said.

Zwicker-Grant said banks can be choosy when it comes to approving short sales and accepting bids. Like other sellers, they often hold out for the best possible deal.

"Just because the first offer came in, (the lender) looks at what's going to close the quickest and get them the most money," Zwicker-Grant said. "The bank is really in the driver's seat."

As of Wednesday, there were 131 short-sale homes listed in Bend and 68 in Redmond, representing roughly 9 percent and 7 percent of the listings in those markets, respectively, Greene said. Since Jan. 1, 17 short sales have closed in Bend and 34 in Redmond, according to Greene.

Valerie Hunter, principal broker at H & H Preferred Real Estate in Redmond, said she has helped close nearly 40 short sales in Central Oregon in recent months, the most she's seen in the eight years she's specialized in them. But as banks back up with short-sale applications, Hunter said the process is getting harder.

"Seventy-five percent don't get successfully negotiated," Hunter said. "It's a lot of work to do a short sale, and I try not to do them anymore because they are becoming more of a headache."

If a short sale is approved, and a buyer purchases the seller's home, the seller is not completely out of the woods. In past years, the amount of the loan forgiven by the lender — the difference between the outstanding loan amount and the sale price — was considered taxable income by the IRS.

That changed in December when President Bush signed the Mortgage Forgiveness Debt Relief Act of 2007. The act excludes income derived from debt forgiveness on a principal residence from taxation, but only for debt forgiven in 2007, 2008 or 2009.

For that reason and because of market conditions, Zwicker-Grant is seeing more homeowners take advantage of the process.

"Short sales have always been around, but we've never seen it so prevalent," Zwicker-Grant said.

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