



Required Documents & Information for Short Sale Package

*(PLEASE PROVIDE **ONLY** THE ITEMS THAT APPLY TO YOU!)*

- ❖ CLEAR COPY OF LAST TWO YEARS W-2'S
- ❖ COPY OF LAST TWO YEARS FEDERAL TAX RETURNS (With ALL Schedules if Self-Employed)
- ❖ COPY OF ONE FULL MONTH OF PAYSTUBS (WITHIN 30 DAYS)
(OR - Letter from CPA if Self-Employed)
- ❖ COPY OF TWO MONTHS MOST RECENT BANK STATEMENTS (For ALL Accounts, Including ALL Pages)
- ❖ COPY OF RETIREMENT, PENSION AND INVESTMENT ACCOUNT STATEMENTS – As 401(K), 403(B), and ALL managed Mutual Funds and Stock Accounts Monthly or Quarterly.
- ❖ MOST RECENT COPY OF YOUR MORTGAGE COUPON / MORTGAGE STATEMENT
- ❖ COPY OF DRIVER'S LICENSE AND SOCIAL SECURITY CARD
(For VA Applicants Only – Also include a copy of your DD214)
- ❖ MOST RECENT COPY OF YOUR MORTGAGE COUPON / MORTGAGE STATEMENT
- ❖ SHORT SALE APPLICATION WITH ALL ATTACHED FORMS & DISCLOSURES

IF YOU NEED ANY ASSISTANCE, PLEASE CALL ME

FRANCES BALDWIN

Or

*Tiffany Gutierrez - Renee Gutierrez - Jennifer Hutchins
@ (310) 784-2828 (Ext 225) (office) or (310) 352-2760 (mobile)*



Short Sale Service Agreement

Client agrees to retain Excel Funding Real Estate Services, Inc. for the purpose of a short sale negotiation to sell the property at a reduced priced from current mortgage balance.

We appreciate your confidence in us! While we make no guarantee as to the outcome of your matter, we will devote 100% of our efforts, professional knowledge and years of experience to your short sale. In return, we will need you to cooperate with us fully, so that we can properly handle your transaction to your satisfaction.

The fee for our service to you is 25% of the total from selling and listing commissions plus a \$595 processing fee (i.e. transaction in amount of \$240,000 each realtor fee at 3% = \$7,200 each. Therefore 25% of both commission total= \$3,600). Payment to Excel Funding Real Estate Services, Inc. shall be made through escrow and before the transaction records, as follows: Payable from loan proceeds by Cashier's check – or – Payable by Seller(s) and/or Lender(s), in the event that the file is short on funds to close by the scheduled funding date.

Pertaining to the service that we are providing to you on your behalf, this agreement states the total understanding that exists between you and Excel Funding Real Estate Services, Inc. It authorizes us to act on your behalf and execution of this agreement indicates a commitment by both parties to be bound by its' terms. Thank you for your cooperation! We look forward to working with you and successfully serving your interests. Please note that estimated time for some short sales transactions may take between 6-12 months.

X

Client Signature & Date

X

Agent Signature & Date

Frances Baldwin Senior Loan Consultant (310) 784-2828 ext. 225 frances@excelfundingres.com	Renee Gutierrez Executive Assistant (310) 784-2828 ext. 240 renee@excelfundingres.com	Tiffany Gutierrez Executive Assistant (310) 784-2828 ext. 226 tiffany@excelfundingres.com	Jennifer Hutchins Executive Assistant (310) 784-2828 ext. 227 jennifer@excelfundingres.com
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Your Short Sale Specialist

	Homeowner	Additional Homeowner
Name:	_____	_____
Work Telephone:	_____	_____
Home Telephone	_____	_____
Cell Phone:	_____	_____
Best time to call (Day/Time)	_____	_____
Total number of individuals in your household:		_____

1. Tell us about your situation

What caused your financial hardship, and when did it begin? Has it been resolved? If not, when do you think it will be resolved? (If necessary, please attach an additional sheet.)

Have any actions been taken to resolve this situation? (Examples: taken on another job, cut optional household expenses such as cable, etc.)

2. Tell us about your property

Please check all that apply:

- | | |
|---|---|
| <input type="checkbox"/> I live in this house | <input type="checkbox"/> This is a second home |
| <input type="checkbox"/> This house is vacant | <input type="checkbox"/> This is a rental property
(Monthly Rent: \$_____) |

Please visit our website: www.SouthBayHomeLoans.com

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<p>3. Tell us about your monthly household expenses</p> <p>Home \$ _____ (e.g. mortgage payment, property taxes)</p> <p>Second Mortgage/Other Property \$ _____</p> <p>Utilities \$ _____ (e.g. electricity, gas, water, sewer, garbage, cell and home phones, internet/cable)</p> <p>Necessities \$ _____ (e.g. groceries, household supplies)</p> <p>Insurance \$ _____ (e.g. medical/dental, life/disability, homeowners)</p> <p>Monthly Debts \$ _____ (e.g. credit cards, student loans, personal loans, other)</p> <p>Childcare/Education \$ _____ (e.g. schools lunch, tuition, child support, day care, books)</p> <p>Medical Expenses \$ _____ (e.g. hospital, clinic, pharmacy)</p> <p>Entertainment \$ _____ (e.g. dining out, hobbies, movies, shows)</p> <p>Gifts \$ _____ (e.g. children's allowance, religious donations, holidays/birthdays)</p> <p>Miscellaneous \$ _____ (please describe _____)</p> <p>Total Monthly Net Expenses \$ _____</p> <p><i>(If you have more than one mortgage, please complete the following items)</i></p> <p>Lender Name _____</p> <p>Principle Balance \$ _____</p> <p>Monthly Payment Amount \$ _____</p> <p>Number of Delinquent Payments _____</p>	<p>4. Tell us about your monthly household income</p> <p>Homeowner</p> <p>Net Income \$ _____ (monthly income after taxes and benefits are deducted)</p> <p>Disability \$ _____ <i>Income from disability payments is only for purposes of determining your ability to repay the obligation.</i></p> <p>Rental Income \$ _____</p> <p>Unemployment \$ _____</p> <p>Child Support/Alimony \$ _____ <i>Income from alimony, child support, or separate maintenance payments need not be revealed unless you want it to be considered as a basis for repaying the obligation.</i></p> <p>Total Monthly Net Income \$ _____</p> <p>Current Employment Status (please circle) Employed Full-Time Employed Part-Time Unemployed/Not Working Self-Employed Retired</p> <p>Additional Homeowner</p> <p>Net Income \$ _____ (monthly income after taxes and benefits are deducted)</p> <p>Disability \$ _____ <i>Income from disability payments is only for purposes of determining your ability to repay the obligation.</i></p> <p>Rental Income \$ _____</p> <p>Unemployment \$ _____</p> <p>Child Support/Alimony \$ _____ <i>Income from alimony, child support, or separate maintenance payments need not be revealed unless you want it to be considered as a basis for repaying the obligation.</i></p> <p>Total Monthly Net Income \$ _____</p> <p>Current Employment Status (please circle) Employed Full-Time Employed Part-Time Unemployed/Not Working Self-Employed Retired</p>
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5. Your account is not already escrowed for taxes and insurance, or not required to be, do you wish to have an escrow account set up? _____
If yes, please enclose a copy of the Homeowner’s Declaration from your insurance policy.

6. Tell us about your net worth

Assets		Liabilities	
Cash	\$ _____	Loans Secured by Other Real Estate	\$ _____
401(k) Account Balance	\$ _____	Loans Secured by Automobiles	\$ _____
Value of Stocks, Bonds, etc.	\$ _____	Credit Card / Charge Account Balances	\$ _____
Other Real Estate Value	\$ _____	Balance of Personal Debts	\$ _____
Value of Automobiles	\$ _____	Loan Secured by another lien on this property	\$ _____
Checking Account Balances	\$ _____		
Savings Account Balance	\$ _____		
Insurance Cash Value	\$ _____		
Other	\$ _____		
Total Assets	\$ _____	Total Liabilities	\$ _____
		Net Worth	\$ _____
		(assets minus liabilities)	

I agree that Excel Funding may discuss, obtain, and share information about my mortgage and financial situation, including but not limited to FICO credit scores, with third parties regarding possible foreclosure alternatives. I understand Excel Funding may require additional information to consider certain alternatives and I am willing to disclose requested information as necessary. Excel Funding may contact other parties with a financial interest in the property, including but not limited to, requesting and obtaining payoff and account information from other third parties. This information I provided above is an accurate statement of my financial status.

Signature of Homeowner

Date

Signature of Homeowner

Date

Please visit our website: www.SouthBayHomeLoans.com

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Third-Party Authorization Letter

Date: _____

From: _____

Re: SHORT SALE

Loan #: _____

Social Security #: _____

To Whom It May Concern:

I hereby authorize my Real Estate Agent to discuss my loan and file with you in order to proceed forward with a "Short Sale". _____ (Initial)

I owe more on the home than the current value of the property. _____ (Initial)

I am attempting to complete a "Short Sale" on the property. _____ (Initial)

Below I have listed the contact information for my agent. Please have all further communication go directly through my agent and contact me if you have any questions.

Sincerely,

X _____

My agent's contact information:

Frances Baldwin

Excel Funding Real Estate Services, Inc.

28924 S. Western Ave, Suite 100

Rancho Palos Verdes, CA 90275

310-784-2828 Ext. 225

310-784-2829 Fax

frances@excelfundingres.com

Assistants: Renee (Ext 240) – Tiffany (Ext 226) – Jennifer (Ext 227)



Hardship Letter Example

Pursuant to your request, the documents for our short sale package accompany this letter. Thank you again for your time when evaluating this information. Should you have any questions, you may contact our realtor, Frances Baldwin, directly. Her telephone number is (310) 784-2828, ext.225.

As I have informed many (Enter Lender Name) representatives over the course of the last several months, this year has been beyond the most difficult one we have ever had to endure. We are grateful for our health and that we are together as a family, however this has been a year filled with enormous loss. The situation and circumstances bringing us to this point is so much more convoluted and detailed, it is difficult to summarize in just a few short paragraphs. However, I will give you the abbreviated version.

In July of this year, my husband suddenly and unexpectedly lost his job. Since that time, trying to secure another job with comparable pay has proved to be next to impossible. Out of work for almost 3 months and with our savings depleted and no prospects in sight, my husband took a position earning a substantially lesser salary. While initially we may have relied on equity from the investment of our home to pull us through this financial crisis, the housing market today speaks for itself. Sadly, our home today is worth less than what we paid for it. With our expenses exceeding our newly reduced income and the company that my husband used to work for refusing to reimburse us for thousands of dollars in outstanding business expenses incurred by us personally, or honor the stock we hold, we essentially have been forced into bankruptcy. We have had to voluntarily surrender our cars, liquidate and sell off many of our assets and struggle to meet our financial obligations. Regrettably we have been unable to do so and are dealing with the ramifications accordingly.

Of all the losses we have incurred to date, the greatest one looming is that of our home, my dream home. Our hearts and souls were poured into this home with long term plans of a place where we had envisioned living and raising our children for years to come. Financially, mentally and emotionally our lives have been ripped apart and shattered. While there is a certain measure of shame and embarrassment associated with the current state of our financial affairs, we will not let our own pride hinder our sense of integrity. We are attempting to do all that is possible to mitigate our loss as well as the exposure of our lender.

That being said, we are proceeding with the short sale and hope this matter will be resolved to the satisfaction of all parties. If short sale ends up not being possible under the time constraints given, we would like (Lender Name) to consider a deed in lieu of foreclosure. Please keep us apprised as to what our options are. Thank you again for your time and attention to the above.

Sincerely,

Your Name(s)

FRANCES BALDWIN
Excel Funding Real Estate Services, Inc.
28924 S. Western Ave. Suite #100
Rancho Palos Verdes, CA 90275
PHONE: 310-784-2828 EXT. 225 ~ FAX: 310-784-2829
EMAIL: frances@excelfundingres.com
www.southbayhomeloans.com

Request for Transcript of Tax Return

OMB No. 1545-1872

► Request may be rejected if the form is incomplete or illegible.

Tip. Use Form 4506-T to order a transcript or other return information free of charge. See the product list below. You can quickly request transcripts by using our automated self-help service tools. Please visit us at IRS.gov and click on "Order a Transcript" or call 1-800-908-9946. If you need a copy of your return, use **Form 4506, Request for Copy of Tax Return**. There is a fee to get a copy of your return.

1a Name shown on tax return. If a joint return, enter the name shown first.	1b First social security number on tax return, individual taxpayer identification number, or employer identification number (see instructions)
2a If a joint return, enter spouse's name shown on tax return.	2b Second social security number or individual taxpayer identification number if joint tax return
3 Current name, address (including apt., room, or suite no.), city, state, and ZIP code (see instructions)	
4 Previous address shown on the last return filed if different from line 3 (see instructions)	
5 If the transcript or tax information is to be mailed to a third party (such as a mortgage company), enter the third party's name, address, and telephone number.	

Caution. If the tax transcript is being mailed to a third party, ensure that you have filled in lines 6 through 9 before signing. Sign and date the form once you have filled in these lines. Completing these steps helps to protect your privacy. Once the IRS discloses your IRS transcript to the third party listed on line 5, the IRS has no control over what the third party does with the information. If you would like to limit the third party's authority to disclose your transcript information, you can specify this limitation in your written agreement with the third party.

6 Transcript requested. Enter the tax form number here (1040, 1065, 1120, etc.) and check the appropriate box below. Enter only one tax form number per request. ►

a Return Transcript, which includes most of the line items of a tax return as filed with the IRS. A tax return transcript does not reflect changes made to the account after the return is processed. Transcripts are only available for the following returns: Form 1040 series, Form 1065, Form 1120, Form 1120A, Form 1120H, Form 1120L, and Form 1120S. Return transcripts are available for the current year and returns processed during the prior 3 processing years. Most requests will be processed within 10 business days ☐

b Account Transcript, which contains information on the financial status of the account, such as payments made on the account, penalty assessments, and adjustments made by you or the IRS after the return was filed. Return information is limited to items such as tax liability and estimated tax payments. Account transcripts are available for most returns. Most requests will be processed within 30 calendar days ☐

c Record of Account, which provides the most detailed information as it is a combination of the Return Transcript and the Account Transcript. Available for current year and 3 prior tax years. Most requests will be processed within 30 calendar days ☐

7 Verification of Nonfiling, which is proof from the IRS that you **did not** file a return for the year. Current year requests are only available after June 15th. There are no availability restrictions on prior year requests. Most requests will be processed within 10 business days ☐

8 Form W-2, Form 1099 series, Form 1098 series, or Form 5498 series transcript. The IRS can provide a transcript that includes data from these information returns. State or local information is not included with the Form W-2 information. The IRS may be able to provide this transcript information for up to 10 years. Information for the current year is generally not available until the year after it is filed with the IRS. For example, W-2 information for 2010, filed in 2011, will not be available from the IRS until 2012. If you need W-2 information for retirement purposes, you should contact the Social Security Administration at 1-800-772-1213. Most requests will be processed within 45 days ☐

Caution. If you need a copy of Form W-2 or Form 1099, you should first contact the payer. To get a copy of the Form W-2 or Form 1099 filed with your return, you must use Form 4506 and request a copy of your return, which includes all attachments.

9 Year or period requested. Enter the ending date of the year or period, using the mm/dd/yyyy format. If you are requesting more than four years or periods, you must attach another Form 4506-T. For requests relating to quarterly tax returns, such as Form 941, you must enter each quarter or tax period separately. _____

Check this box if you have notified the IRS or the IRS has notified you that one of the years for which you are requesting a transcript involved **identity theft** on your federal tax return ☐

Caution. Do not sign this form unless all applicable lines have been completed.

Signature of taxpayer(s). I declare that I am either the taxpayer whose name is shown on line 1a or 2a, or a person authorized to obtain the tax information requested. If the request applies to a joint return, **either** husband or wife must sign. If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, trustee, or party other than the taxpayer, I certify that I have the authority to execute Form 4506-T on behalf of the taxpayer. **Note.** For transcripts being sent to a third party, this form must be received within 120 days of the signature date.

Sign Here		Phone number of taxpayer on line 1a or 2a
	Signature (see instructions)	Date
	Title (if line 1a above is a corporation, partnership, estate, or trust)	
	Spouse's signature	Date

Section references are to the Internal Revenue Code unless otherwise noted.

What's New

The IRS has created a page on IRS.gov for information about Form 4506-T at www.irs.gov/form4506. Information about any recent developments affecting Form 4506-T (such as legislation enacted after we released it) will be posted on that page.

General Instructions

CAUTION. Do not sign this form unless all applicable lines have been completed.

Purpose of form. Use Form 4506-T to request tax return information. You can also designate (on line 5) a third party to receive the information. Taxpayers using a tax year beginning in one calendar year and ending in the following year (fiscal tax year) must file Form 4506-T to request a return transcript.

Note. If you are unsure of which type of transcript you need, request the Record of Account, as it provides the most detailed information.

Tip. Use Form 4506, Request for Copy of Tax Return, to request copies of tax returns.

Where to file. Mail or fax Form 4506-T to the address below for the state you lived in, or the state your business was in, when that return was filed. There are two address charts: one for individual transcripts (Form 1040 series and Form W-2) and one for all other transcripts.

If you are requesting more than one transcript or other product and the chart below shows two different addresses, send your request to the address based on the address of your most recent return.

Automated transcript request. You can quickly request transcripts by using our automated self-help service tools. Please visit us at IRS.gov and click on "Order a Transcript" or call 1-800-908-9946.

Chart for individual transcripts (Form 1040 series and Form W-2 and Form 1099)

If you filed an individual return and lived in:	Mail or fax to the "Internal Revenue Service" at:
Alabama, Kentucky, Louisiana, Mississippi, Tennessee, Texas, a foreign country, American Samoa, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, or A.P.O. or F.P.O. address	RAIVS Team Stop 6716 AUSC Austin, TX 73301
Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, Wisconsin, Wyoming	512-460-2272
Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, Wisconsin, Wyoming	RAIVS Team Stop 37106 Fresno, CA 93888
Connecticut, Delaware, District of Columbia, Florida, Georgia, Maine, Maryland, Massachusetts, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia	559-456-5876
Connecticut, Delaware, District of Columbia, Florida, Georgia, Maine, Maryland, Massachusetts, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia	RAIVS Team Stop 6705 P-6 Kansas City, MO 64108
Connecticut, Delaware, District of Columbia, Florida, Georgia, Maine, Maryland, Massachusetts, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia	816-292-6102

Chart for all other transcripts

If you lived in or your business was in:	Mail or fax to the "Internal Revenue Service" at:
Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming, a foreign country, or A.P.O. or F.P.O. address	RAIVS Team P.O. Box 9941 Mail Stop 6734 Ogden, UT 84409
Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin	801-620-6922
Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin	RAIVS Team P.O. Box 145500 Stop 2800 F Cincinnati, OH 45250
Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin	859-669-3592

Line 1b. Enter your employer identification number (EIN) if your request relates to a business return. Otherwise, enter the first social security number (SSN) or your individual taxpayer identification number (ITIN) shown on the return. For example, if you are requesting Form 1040 that includes Schedule C (Form 1040), enter your SSN.

Line 3. Enter your current address. If you use a P. O. box, include it on this line.

Line 4. Enter the address shown on the last return filed if different from the address entered on line 3.

Note. If the address on lines 3 and 4 are different and you have not changed your address with the IRS, file Form 8822, Change of Address.

Line 6. Enter only one tax form number per request.

Signature and date. Form 4506-T must be signed and dated by the taxpayer listed on line 1a or 2a. If you completed line 5 requesting the information be sent to a third party, the IRS must receive Form 4506-T within 120 days of the date signed by the taxpayer or it will be rejected. Ensure that all applicable lines are completed before signing.

Individuals. Transcripts of jointly filed tax returns may be furnished to either spouse. Only one signature is required. Sign Form 4506-T exactly as your name appeared on the original return. If you changed your name, also sign your current name.

Corporations. Generally, Form 4506-T can be signed by: (1) an officer having legal authority to bind the corporation, (2) any person designated by the board of directors or other governing body, or (3) any officer or employee on written request by any principal officer and attested to by the secretary or other officer.

Partnerships. Generally, Form 4506-T can be signed by any person who was a member of the partnership during any part of the tax period requested on line 9.

All others. See section 6103(e) if the taxpayer has died, is insolvent, is a dissolved corporation, or if a trustee, guardian, executor, receiver, or administrator is acting for the taxpayer.

Documentation. For entities other than individuals, you must attach the authorization document. For example, this could be the letter from the principal officer authorizing an employee of the corporation or the letters testamentary authorizing an individual to act for an estate.

Privacy Act and Paperwork Reduction Act

Notice. We ask for the information on this form to establish your right to gain access to the requested tax information under the Internal Revenue Code. We need this information to properly identify the tax information and respond to your request. You are not required to request any transcript; if you do request a transcript, sections 6103 and 6109 and their regulations require you to provide this information, including your SSN or EIN. If you do not provide this information, we may not be able to process your request. Providing false or fraudulent information may subject you to penalties.

Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation, and cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file Form 4506-T will vary depending on individual circumstances. The estimated average time is: **Learning about the law or the form**, 10 min.; **Preparing the form**, 12 min.; and **Copying, assembling, and sending the form to the IRS**, 20 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making Form 4506-T simpler, we would be happy to hear from you. You can write to:

Internal Revenue Service
Tax Products Coordinating Committee
SE:W:CAR:MP:T:T:SP
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

Do not send the form to this address. Instead, see *Where to file* on this page.



Short Sale Law Effective Immediately in California

No Fee to Approve Short Sales and Short Sale Law Now Applies to Junior Loans

Governor Brown has signed Senate Bill 458 (Corbett) expanding anti-deficiency protection to all 1-4 residential mortgages or deeds of trust where the beneficiary consents to a short sale, whether a first deed of trust or a junior deed of trust. As an urgency bill, it became effective on July 15 when it was chaptered into law. The new law also limits the short sale anti-deficiency protections by excluding sales where the trustor is a limited partnership or LLC. Existing short sale law enacted in 2010 already excluded corporations.

The new law also clarifies the application of short sale law to multiple collateral situations by treating the short sale as a foreclosure under a power of sale for purposes of any other properties securing the note. This provision is meant to clarify that the short sale provisions do not impact multiple collateral loans.

Of particular importance to title and escrow companies, the bill prohibits a note holder from requiring the borrower to pay additional compensation, aside from sale "proceeds," in exchange for the note holder agreeing to the short sale.

Two concerns have arisen with respect to the prohibition on additional compensation for consent to the short sale. One issue involves open escrows, and the second the meaning of the term "proceeds." There may be open escrows where a lender consented to a short sale based on an agreement by the borrower to pay a fee or charge. The second issue is whether the new law means "net proceeds" or "gross proceeds." For instance, is the lender entitled to all the sale proceeds with the seller funding closing costs, or is it only the proceeds remaining after closing without the deposit of any seller funds into escrow?

The new law expands on short sale anti-deficiency legislation passed last year. Senate Bill 931 (Ducheny) was enacted last year in response to concerns that borrowers could have greater liability after a short sale than after a foreclosure. SB 931 prohibited a lender from obtaining a deficiency judgment as to a first mortgage or deed of trust following a short sale. Since SB 931 only applied to first mortgages, homeowners with more than one mortgage could still be liable to a junior noteholder after the short sale. The new law addresses that issue.

For further information, please visit: http://www.aroundthecapitol.com/Bills/SB_458/20112012/