

Dear Homeowner,

In order for the short sale negotiation with your lenders to progress in a timely manner they will require the following information:

1. Mortgage Statements 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, credit lines, etc.
2. Any other documents to support your financial hardship.
3. If you have a self- employed business please include 6 months of profit and loss statements.
4. Two most recent pay stubs (1 full month)
5. Two most recent bank statements (all checking and saving)
6. Income Tax Returns (1040 and all schedules) for the last 2 years
7. W-2's or 1099 for the last 2 years

After the bank has received the above information a final decision, on the short sale will be made in approximately 8 to 12 weeks.

Thank you in advance for your prompt response to providing the above information. If you have any questions please contact me at 612-242-9073

Time is of the essence.

Sincerely,

Lenny Frolov

## HARDSHIP LETTER SAMPLES

Current Date

To Whom It May Concern:

Name and (Spouse) are currently unemployed, divorce, separation, layoff, transfer of job, demoted.

We have been unemployed, divorce, layoff, transfer of job, demoted since (month, year).

We have moved to city, state and are staying with my Mother, Father, brother, sister, cousin, uncle, aunt, etc.

We are presently preparing to file chapter 7 Bankruptcy, but my real estate agent suggested listing the property to see if he/she can sell our house.

The property address has been vacant, rented, abandoned since (month, year). It has been listed for sale for \$(dollar amount) since (month, year).

I had been trying to keep up with my payment until (month, year) and we are now exhausted with financial hardships.

We are now living under my Mother, Father, brother, sister, cousin, uncle, aunt etc. and are currently receiving government assistance.

We are truly apologizing for any inconvenience that we may have caused to your company.

Please contact my real estate agent or buyer for the sale process if (short sale). I will try my best to make any arrangements with you to have all of my debt to be paid to you.

Thank you for your help.

Sincerely,

Sign and date

**NOTE: This is a SAMPLE ONLY and should not be copied.**

**Your hardship letter should reflect your current situation**

## **HARDSHIP LETTER SAMPLES**

Current Date

To Whom It May Concern:

This letter is to give some explanation into our finances.

From the beginning the cost of the house has gone up. The city approved a four-foot sidewalk, but when we were ready to put it in they said we had to put in a six-foot sidewalk. Things escalated from there and we had used all the money from the loan and costs were still increasing. When we started our home the loan payments were going to be about \$1,200.00 a month and by the time we signed, it was just over \$1,400.00 a month.

During the phase of the construction loan the payment was going to be interest only, but it was as much or more that the payment. Then after we filed the bankruptcy the court had our payments right to the penny of our money. Suddenly our house payments went up to \$1,720.00. Now we have more money going out than we have actually coming in. In addition, we didn't consider the expenses for school for our 14 year old, including doctor and dentist charges.

In the past 2 years we have had unexpected repair expenses on our truck. About every 4 months the heating elements have gone out in the water heater since we've been in the house. Then last year we had to buy a new one because the heater went out completely. Then the furnace went out and we had to have a repairman come in and replace a part, which was expensive.

In (month, year) my Mother passed away and my Father only had a small insurance policy. I admire my parents planning ahead, however the policy only covered a small portion of the funeral expenses and I picked up the difference. My job was just reclassified and I do not qualify and now they are putting me in a different position and cutting me back 2 hours a day. This reduction of hours and additional hardship figures out to be about \$400.00 less a month.

This is just the explanation of the recent things that have been added to the necessary sale of our house and property, which we have lived in for over 17 years and truly do not want to leave.

Please consider our hardship.

Sincerely,

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**Your hardship letter should reflect your current situation**



## Borrower's Financial Statement

Office Use Only	
Loan Number 1:	Loan Number 2:
Monthly NET Income: \$	Loan Number 3:
Monthly Debt: \$	Monthly Expenses: \$
Income – Debt – Expense = :\$	Years in the Property:

Client Fill Out		
	Borrower Information	Borrower Information
Name:		
Social Security Number:		
Resident/Mailing Address, City, State, Zip		
Home Phone Number:		
Work Phone Number:	Call Authorized Agent	Call Authorized Agent
No. of Dependents:		
No. of Occupants:		
Employer: City, State, Zip Phone:		
Occupation:		
	Years:                  Months:	Years:                  Months:

Property Address: _____	Is this property a rental?    Yes    No If no, date you last occupied: _____
Do you currently reside in the property?    Yes    No	Is the property currently listed for sale?    Yes    No
Brokerage:	Realtor's Name:

Income			
	Borrower	Borrower	Total
Monthly NET	\$	\$	\$
Overtime	\$	\$	\$
Commission	\$	\$	\$
Bonus	\$	\$	\$
Rental Income	\$	\$	\$
Social Security	\$	\$	\$
Child Support	\$	\$	\$
Alimony	\$	\$	\$
Disability	\$	\$	\$
Unemployment	\$	\$	\$
Other Income	\$	\$	\$

Assets			
	Borrower	Borrower	Total
Checking	\$	\$	\$
Savings	\$	\$	\$
Co. Retirement	\$	\$	\$
401K	\$	\$	\$
IRA	\$	\$	\$
Stocks	\$	\$	\$
Bonds	\$	\$	\$
CD's/Money Market	\$	\$	\$
Other Security	\$	\$	\$
Other Property	\$	\$	\$
Notes Paid to You	\$	\$	\$
Personal Property	\$	\$	\$

<b>Assets (Continued)</b>			
Vehicle #1:	Est. Value: \$	Balance: \$	Payment: \$
Vehicle #2:	Est. Value: \$	Balance: \$	Payment: \$
Life Insurance – Cash Value	\$	\$	\$
Other	\$	\$	\$

<b>Debt</b>			
Type	Creditor	Payment	Balance
Mortgage			
Mortgage			
New Mortgage			
Lien			
Judgment			
Auto Loan			
Auto Loan			
Auto Loan			
Personal Loan			
Student Loan			
Credit Card			
Credit Card			
Credit Card			
Credit Card			
Credit Card			
Credit Card			
Credit Card			
Credit Card			
Credit Card			
Credit Card			
Credit Card			
Credit Card			
Credit Card			
Credit Card			
Other			
Other			
Other			

<b>Monthly Expenses</b>			
Food	\$	Home Phone	\$
Gas (utility)	\$	Cell Phone	\$
Electric (utility)	\$	Transportation (taxi, bus)	\$
Water	\$	Parking	\$
Sanitation	\$	Auto Insurance	\$
Alimony / Child Support	\$	Gasoline (vehicles)	\$
Child Day Care	\$	Cable TV/Satellite	\$
Dependent Care	\$	Internet	\$
Tuition	\$	Uniforms	\$
Medical Expenses	\$	Entertainment	\$
Prescription Drugs	\$	Charity	\$
Property Taxes	\$	Other	\$
Homeowner's Ins.	\$	Other	\$

I (we) agree that the financial information provided is an accurate statement of my (our) financial status. I (we) understand and acknowledge that any action taken by the lender of my (our) mortgage loan on my (our) behalf will be made strict reliance financial information provided. My (our) signature (s) below grant the holder of my (our) mortgage the authority to confirm the information I (we) have disclosed in this financial statement. to verify it is accurate by ordering a credit report, and contact my real estate agent.

Borrower Signature \_\_\_\_\_ Date \_\_\_\_\_

Borrower Signature \_\_\_\_\_ Date \_\_\_\_\_

## Foreclosure Overview

Foreclosure is the legal action that your financial institution can use to take over your home when you miss your monthly mortgage payments. When this happens, you lose your house, which is sold at a public auction. Foreclosure will seriously affect your ability to qualify for credit in the future, so you should avoid it if at all possible.

There are several ways of avoiding foreclosure and dealing with the situation when you already received the foreclosure notice. First of all, you should never ignore letters from your lender. When you have problems with making payments you should contact your lender right away, explain your situation and provide them with your financial information. If you qualify, your bank can offer one of the solutions explained below.

If you had temporary financial problems, and you have recovered, but your net income is now less than it was before the default, you may qualify for refinancing or mortgage modification. You may be able to refinance the debt and/or extend the term of your mortgage loan. This may help you catch up by reducing the monthly payments to a more affordable level.

Another alternative in case of temporary problems may be a special forbearance. Your lender may be able to arrange a repayment plan based on your financial situation. He may even provide for a temporary reduction or suspension of your payments. In short - your missed payments may be put at the end of the mortgage loan term. You may qualify for this if you have recently lost your job or your source of income or if you had an unexpected increase in living expenses. You will have to provide your lender with proof that you would be able to meet the requirements of the new payment plan.

Partial claim is another option. Your lender may be able to work with you to obtain an interest-free loan from HUD to bring your mortgage current. When your bank files a partial claim, HUD will pay your lender the amount necessary to bring your mortgage up to date. You must execute a promissory note, and a lien will be placed on your property until the promissory note is paid in full. The promissory note is interest-free and will be due if you sell or leave your property, or when your mortgage matures. To qualify for this method your loan must be at least 4 months delinquent, your mortgage may not be in foreclosure, and you must prove that you'll be able to begin making full mortgage payments.

You also may want to try a pre-foreclosure sale. This will allow you to sell your property and pay off your mortgage loan to avoid foreclosure and damage to your credit rating. Another option is to look for help from a private real estate investor. It's a person who can make a cash offer on your property and provide a fast closing date - before the house is sold at a Public Auction. You qualify for this solution if the amount of mortgage you owe is significantly lower than the Fair Market Value of your house. Due to the nature of this transaction, you may not be able to get a full price for your property. In most cases, you can expect less than the market value of the house. It is not a "dream deal," but considering the circumstances it may be your best option.

Money received from such sale will allow you to pay off the mortgage and often will cover your moving expenses AND provide you with cash for a fresh new start. You may also ask the buyer to cover the expenses related to closing document filing and preparation.

If you decide that a pre-foreclosure sale is your best solution, I will contact you immediately regarding listing your home for sale. Time is crucial, and we must get started right away. I understand the urgency of your special circumstances and will work diligently to get your home sold within your appropriate time frame.

## Frequently Asked Questions

### **Q. What is a foreclosure?**

**A.** In simple terms: You have not been making the payments, and it is the action the financial institution can use to take the house back. You borrowed money using your house as collateral with the agreement that if you could not pay it back, then the lender could take the house.

### **Q. Can the bank just come and kick me out of my house?**

**A.** No. Sometimes people are told by collectors, "Just leave the keys in the mailbox". You still have time until the sale has occurred, and the house is no longer yours.

### **Q. How long does the foreclosure process usually take?**

**A.** From the time you miss your first payment to the final foreclosure sale it's not uncommon for 5 months or more to pass. In some states this could be more and in others considerably less. It will also depend upon your mortgage holder and how aggressively they pursue your case.

### **Q. Can you explain some of the steps of the foreclosure process?**

**A.** Each state is slightly different, but a basic overview is as follows:

#### **Pre-Foreclosure:**

1. Customer misses mortgage payment.
2. Late notice sent to homeowner by bank.
3. Customer misses additional payments.
4. Bank attempts in writing and by phone to contact homeowner and resolve situation.
5. No arrangements are agreed upon and homeowner continues to miss payments.
6. Bank issues demand for payment under the note in full, based on the acceleration clause. Most mortgage notes contain language which basically says if you fail to pay the bank under the terms of the note with monthly payments as promised they can accelerate the note, meaning that the full amount is due on demand. For example, if your mortgage is \$100,000 with payments of \$1000.00 per month you are only required to pay \$1000.00 per month unless, you miss these payments and the bank subsequently demands the balance based on this acceleration. Once this happens you legally owe the full balance of \$100,000.00 plus back interest, plus late charges, plus legal fees all at once. You will find from this stage on the bank will not accept monthly payments. They will instead demand much more to reinstate the loan. Although I consider this step in the pre-foreclosure category, once demand has been made and the note has been accelerated, you should already have contacted a foreclosure specialist, whom is an expert in dealing with these matters.
7. No payments or settlement arrangements are made and accepted by the bank.

#### **Formal Legal Foreclosure Process:**

1. Bank sends Notice of Intent to Foreclose.
2. Immediately following the notice, bank files action in the court system to foreclose.
3. Legal notices (see soldiers and sailors notice below) as required by law are published in local papers.
4. No payment or settlement arrangements are made with the lender.
5. Notice and waiting periods expire.
6. Court issues order allowing the bank to foreclose on property. (Beware, as several of these steps happen so quickly that the process can be very short)
7. Legal notice of actual foreclosure sale published in local papers.
8. House sold at auction to highest bidder.

### **Q. When should I be alarmed?**

**A.** Most people aren't alarmed until they receive a notice of default (in some states a Lis Pendens or a Notice of Intent). At this point you should be very alarmed. You should already have a foreclosure specialist helping you to protect your position at this point.

### **Q. When in the foreclosure process should I move out of my house?**

**A.** YOU DON'T MOVE OUT!!!! Doing this gives up the majority of your rights. STAY in your house. What you need is advice and counsel – Knowing ALL of your options will give you power, and having a plan which you can see is effective and works, will give you peace of mind.

**Q. Once the foreclosure process starts is there anything I can do to avoid it?**

**A.** Yes. If working from your first late payment, there are at least 10 or 20 different ways to resolve the situation. The longer you wait, however, the more some of these options will become unavailable.

**Q. At what point will I have absolutely no options left?**

**A.** Never. You have not lost until the fight is over. Even after a foreclosure, even after an eviction you still have as much right to buy your house back in the open market as anyone else. Realistically if you have not been able to save the house before a sheriff evicts you, chances are strong you will never be able to structure a sale to buy the house back. This is largely based on the assumption that you hired a capable attorney and had the ability to make a sale. In such case, you would have done so long before a sheriff removed you from the house. Although possible, I have not yet seen anyone repurchase a home after a physical eviction.

**Q. I am receiving a lot of mail from people that claim they can help me where are they getting my address?**

**A.** Due to the legal nature of the foreclosure process, your name and address may be part of public information offered through the court system and ultimately published in certain journals and publications.

**Q. What kind of people sends these letters and can they really help me?**

**A.** Many groups of people try to contact homeowners in foreclosures:

1. **Real Estate Brokers/Agents:** Some agents just want to list your house on the local MLS, with the hope to find a buyer and to get a short sale approved. The real estate companies, brokers and agents that we work with are properly trained in the specialty area of short sales and assisting home owners avoid foreclosure.
2. **Mortgage Brokers:** If there is enough equity in your home, they can help you to refinance and stop the foreclosure by paying off your current mortgage in full. This solution often works well, but you must be careful because the interest rate and closing costs on these types of loans can be high. On account of your credit situation you will pay much more than at a bank. Brokers providing professional services and standards will assist homeowners to reach a favorable outcome, but some brokers may try to charge more points or interest and additional fees, if they can get it.
3. **Investors:** Some are ethical and some are un-ethical.
4. **Chapter 13 Attorneys:** If you have the financial ability to complete the chapter 13 plan and this also a viable way to save the house. Be aware that many of these attorneys will be more than happy to file a chapter 13 for you whether it is the best option or not. It is my personal feeling that this should be an option of last resort unless your personal circumstances indicate this as the best solution for you. Keep away from lawyers running "bankruptcy mills" as I call them. These firms may let a paralegal handle your entire case, never really getting to know your situation or giving you the personal attention you need.
5. **Crooks and Con Artists:** I include in this group those whom will take your money with promises to keep the house and provide no services. In the worst cases, I have heard of groups that will take the title to your home, force you to pay them rent with the promise that they can save your home. The result is they either save your home keeping any equity for themselves or in the alternative, collect rent from you until the home is sold. Furthermore, since you would no longer own your home Chapter 13 would be lost as an option.

**Q. How will I know which is the best option for me?**

**A.** This is based on individual circumstances. The response to this question will depend upon your assets, liabilities, income, expenses and the underlying reason why the house is in foreclosure. The best solution will also depend upon the type of mortgage you have and where in the foreclosure process you are when you make the decision to save the house.

**Q. What happens to the money paid by the new purchaser?**

**A.** Monies will be distributed in order of priority. First priority will be real estate taxes. If monies are available after taxes monies will go to the first mortgage then the second mortgage, third mortgage etc., etc. The next money will go to any lien holders or attaching creditors. This process will continue until all liens and encumbrances on the property are paid. If by some chance there is still money left over it goes to the former home owner.

**Q. May I bid at my own auction?**

**A.** Yes, if you have the required deposit. Remember this is a non-refundable deposit and if you are the successful bidder you must be able to refinance the home within the specified period of time required under the terms of the auction. Also, be aware that some of the old debts may merge and become reinstated.

**Q. What happens at the actual foreclosure sale?**

**A.** Any given sale may be a bit different and it will like this:

1. The Auctioneer will read various legal notices and legal descriptions of the property.
2. He or she begins taking bids on the property.
3. If the Auctioneer has not already pre-qualified bidders by asking for their deposit checks, when a bid is made by a party the Auctioneer will ask for their deposit check. For most residential auctions this will be \$5,000.00
4. The Auctioneer will solicit bids for higher amounts. Depending on the auction increments will be set by the Auctioneer. Examples of increments maybe \$100.00, \$500.00 or \$1,000.00. This process will continue until it has become clear to the Auctioneer that the high price has been reached.
5. The Auctioneer will announce the standard "going once, going twice, going 3 times, sold!" and the auction is concluded.
6. Foreclosure deeds and purchase papers will be drawn up by the new purchaser and sheriff.
7. Purchaser must bring a cashiers check for the amount bid at sale less deposit check already given to sheriff within 24 hours..

**Q. What does this mean when debts merge?**

**A.** Let's say for example that the first mortgage is foreclosing and forecloses out the second and third mortgage. The second and third mortgage holder no longer has any right or title to your home. You may still owe this money but they have no right to foreclose on the home nor do they have any security interest in the home in any way. If you had filed a chapter 7 bankruptcy prior to the sale and received a discharge after the sale you would not owe them any money and they would no longer have a security interest either. Your debt for all intents and purposes will be extinguished completely. If someone else buys your home at the auction the bank, the second and third mortgage holders have lost all their right to the property but on the other hand if you buy the property back the debt may "merge" back to the property with you and reattach, as if the auction never foreclosed them out.

**Q. What happens when a property is auctioned subject to a first mortgage?**

**A.** This happens when the mortgage is being foreclosed by the second mortgage holder. They can only foreclose from their position. Let us say for example there are outstanding taxes of \$10,000.00 and a first mortgage of \$90,000.00 on the property with the second mortgage foreclosing. At the auction the second mortgage would foreclose from their position subject to the first mortgage and the taxes. You find at this type of auction at a bid of \$1.00 is the same as bidding \$100,000.00. To own the house outright one would have to satisfy the first mortgage and the taxes.

**Q. What happens if no one at the auction bids an amount high enough to cover my debt?**

**A.** If the mortgage was \$150,000.00 and the high bid at the auction was \$100,000.00 the \$50,000.00 balance would be called a deficiency. Under most loans in most states you would still be responsible for the \$50,000.00 as an unsecured debt and the bank would have legal rights roughly the same as what would exist on a credit card debt to pursue you. Most banks will make a bid on the property for the amount outstanding on the mortgage including interest and court costs. If there are no bids higher than that made by the bank, the property goes to the bank and the bank takes it in as Real Estate Owned (REO). The banks will do this to protect their interest and this allows them keep the property, which will hold its value, in lieu of their mortgage payments.

**Q. What is the difference between a foreclosure and a sheriff's sale?**

**A.** Foreclosure is the entire process by which a mortgage holder takes back the property pledged as collateral on the loan. The sheriff's sale is held to sell the foreclosed property for the highest price possible in order to satisfy the amount owed on the mortgage. The foreclosure process is not complete until the sheriff's sale and the sheriff's deed conveys the property to the winning bidder.

**Q. Is the seller going to get hit with a tax bill or a 1099 if you do a short sale?**

**A.** The Mortgage Forgiveness Act of 2007 was signed into law on 12-20-07 and is now official effectively getting rid of the question, "Will I be taxed on the short sale." Prior to this action, forgiven mortgage debt due to foreclosure, short sale, or deed in lieu of foreclosure, was potentially taxable income to the borrower. This was the subject of much media attention and led to many questions and concerns from Sellers wondering whether or not they were going to get "hit with taxes" on the short sale. The new law, however, temporarily waives these taxes for debts forgiven (as high as 35 percent) from the beginning of 2007 to the end of 2009.

Mortgage Forgiveness Debt Relief Act of 2007, go to <http://www.govtrack.us/congress/bill.xpd?bill=h110-3648>

**Q. What if my seller is in bankruptcy?**

**A.** Since a bankruptcy prevents debt collection activity, and foreclosure is a collection activity, and a Short Sale is an alternative to foreclosure, most lenders will not discuss a short sale if the property is in bankruptcy. We will not even get past the gatekeepers. If your seller is in bankruptcy, explain what you can try to do for them when they are out of bankruptcy and then wait until the bankruptcy is lifted (either by petition from the lender or when your seller voluntarily dismisses). You can start getting your paperwork together and submit your loss mitigation order to ShortSalesExpress.com, but we probably will not get anywhere until the bankruptcy is released.

**Q. What if there is a Renter, can I still list the property as a Short Sale?**

**A.** As long as the renter is aware of the situation and is willing to cooperate with you as the listing agent and the current owner then, yes. Remember you don't want to take on a listing that will waste your time dealing with occupants that will not cooperate.

**Q. Does the short sale service negotiate IRS liens?**

**A.** We will attempt to have an IRS lien(s) removed or released from the Property. It is important to disclose upfront all liens. However, we will not negotiate the liability nor will we dispute the validity of an IRS lien. These are negotiations that should be handled by your Seller's tax attorney, not us. Also, if nobody disputes the validity or amount of the lien, we will attempt to get it removed.

**Q. Will the seller receive any proceeds from the sale?**

**A.** No. In order for the lenders to agree to a short sale, the seller must not receive any proceeds.

***Please Note:*** *We are not attorneys nor are we credit counselors. The information that we are presenting here is general information and should not be confused with legal advice. If you require legal advice, please consult with your attorney. All information provided is deemed reliable, but not guaranteed. You MUST seek advice from an Attorney or CPA regarding your legal rights and tax implications for a Short Sale.*