


# SHORT SALE & DEED IN LIEU OF FORCLOSURE



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Prepared Exclusively for:  
Terry Story  
by Terry Story, CRS

*Solving the foreclosure crisis  
one homeowner at a time.™*

# Short Sale & Deed-in-Lieu of Foreclosure: Dignified Solutions



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## Possible Crisis? There are *Dignified* Solutions.

The state of the U.S. economy and housing market has brought many homeowners from security to uncertainty. But within this uncertainty, solutions have been created to assist those who need help. If you or someone you know is struggling to pay the mortgage, it is vital to understand ALL the options available.

The pressures of an upside-down mortgage are not just felt by the homeowner. Lenders are looking to avoid foreclosure and work with homeowners to find solutions to their financial situations. Lenders are not in the real estate business, do not wish to take ownership of a home, and do not want a house to sit idle on the market.

### **So what options are available to YOU?**

If you or someone you know is facing foreclosure and the damages it will cause to credit scores, employment or security clearance, you should consider a **short sale** or a **deed-in-lieu of foreclosure** (or "deed-in-lieu"). These options *could* allow you to sell or walk away from your home without incurring liability for deficiency.

## What Are Your Options ...

### Foreclosure

By definition, **foreclosure** is the termination of all rights held by the homeowner covered in a mortgage. The process, in which the lender claims ownership of the property, begins when the homeowner fails to make mortgage payments at the appointed time- this is called delinquency. Typically, a formal demand for payment is issued from the lender through a *Notice of Default*. Although this varies by state, the lender will often issue this notice when the homeowner has been three months delinquent on the mortgage payments.

#### **Foreclosure can:**

- ◆ Remain permanently as public record on a person's credit history for 10 years or more
- ◆ Lower credit scores anywhere from 250 to more than 300 points
- ◆ Deem you ineligible for a Fannie Mae-backed loan for up to seven years
- ◆ Challenge current and future employment
- ◆ Put homeowners at risk of high deficiency judgments
- ◆ Become an issue against security clearance if applicable

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Information is deemed accurate but not guaranteed.

Consult your attorney and accountant before any decisions are made.

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## Short Sale

In a **short sale**, a seller works with their mortgage lender to accept a price that's less than the amount owed on the home. This results in the seller avoiding foreclosure, and allows the lender to avoid taking ownership and selling the property.

## Deed-In-Lieu Of Foreclosure

A **deed-in-lieu** is a process in which a property is given fully to the lender because the homeowner can no longer make payments. The lender then sells the property in order to retrieve a part, or whole of the loan balance owed. In most cases, the homeowner must attempt to sell the home at fair market value for at least 90 days before a mortgage company will consider a deed-in-lieu. This may not be an option if there are other liens on the property, such as second mortgages, judgments from creditors, or tax liens.

In both a short sale and deed-in-lieu, your lender can claim you owe a deficiency judgment on your remaining balance. This means the lender may have the right to pursue the difference of what you owed and the eventual sale price of the home.

In a foreclosure, all rights to your property are lost, while the lender retains the right to pursue a deficiency judgment. It will also remain on your credit history for ten years or more.

During negotiations for both short sales and deed-in-lieu transactions, it is imperative to understand whether your lender reserves the right to pursue a deficiency.

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## What Are The Possible Tax Consequences?

When it comes to the tax implications of a short sale or deed-in-lieu transaction, you will need to consult a tax professional. As a general rule, any debt forgiven by the lending institution will be considered income. Lenders are required to file a 1099-A with the IRS showing the deficiency, which could have tax implications for you. Once you have received Form 1099-A, you will need to complete IRS Form 982 to report how much of the debt was forgiven by the lender.

Again, consulting a tax professional is a vital part of this process, and can save you from future financial difficulties.

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Following is a chart showing the consequences of a short sale, deed-in-lieu, and foreclosure, reflecting the amount of time that homeowner must wait until being eligible to secure another loan:

Agency/Fixed Rate — Conventional Loans		FHA	
Short Sale:	2 Years	Short Sale:	3 Years
Deed-in-Lieu of Foreclosure:	4 Years	Deed-in-Lieu of Foreclosure:	3 Years
Foreclosure:	5 Years	Foreclosure:	3 Years

## What's Your Fastest Way Out?

A deed-in-lieu is the fastest solution out of a foreclosure, compared to the timeline of a short sale. However, very few lenders will negotiate a deed-in-lieu if a lien, or second mortgage has already been taken out on the home. Also, a deed-in-lieu will be a typical question asked on any future credit applications. Your history of short sales will not be a concern. In addition, a short sale provides the feeling of accomplishment for selling your home.

## What Should I Look Out For?

If you are considering either a deed-in-lieu or a short sale, it would be wise to review the terms and conditions of your transaction carefully. Make certain your agent can explain whether or not a deficiency balance is forgiven, or how long the lender can pursue this judgment.

Both options can save you from the distress that foreclosure will cause on your credit, finances, future employment and, most importantly, your stability.

## I Heard About "Deed-For-Lease" ... What's That?

You might have read about a new program called **Deed-for-Lease™**. Fannie Mae created this program as an option for homeowners who are in distress but not eligible for a mortgage modification. Through this program, qualifying homeowners have the option to remain in their homes as renters after voluntarily transferring the property deed back to the lender. The homeowners must prove they are able to afford market rent, and then sign a lease with the lender.

Deed-for-Lease provides an additional option for borrowers who do not qualify for, or have not been able to sustain other loan workouts

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solutions. While this program is unique to Fannie Mae loans, be sure to discover what options your lender offers to homeowners who do not qualify for loan modifications but wish to stay in their homes.

Following are a few of the homeowner qualifications for this program:

- ◆ The property is to be used as the occupant's primary residence
- ◆ The occupant's income is sufficient to cover rental payments
- ◆ Inspection shows that the property has been kept in good condition
- ◆ The occupant agrees to be responsible for regular maintenance
- ◆ The number of occupants is appropriate for the home
- ◆ The occupants signing the lease must agree to a credit review

To learn more, please contact me or visit [www.efanniemae.com](http://www.efanniemae.com).

## First Step

Talk with an educated real estate professional to evaluate your particular situation and assess your options. As a CDPE®-designated agent, I have received extensive training in foreclosure-avoidance options. Before applying for a deed-in-lieu, you should have a plan of action should you not qualify, or if the transaction does not go through.

I am here to help, call today.

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With more than 1 in 7 U.S. homeowners not paying the mortgage, it's clear that no one is immune to the current economic situation.

I believe every homeowner deserves the best information and education to protect themselves from losing their home to foreclosure and ruining their credit. For those already struggling to pay their mortgages and unsure of what to do next, understanding short sales and deeds-in-lieu can ease their stress and potentially save them from an impending foreclosure. Deciding on which route will be best for you and your family's future is the most important decision you can make. Please use this information to better understand the options available.

As a CDPE, I have been trained to assist homeowners in these difficult situations. If I can provide you with more information or assistance, please don't hesitate to contact me.

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