



2 Hour Ins & Outs of Short Sales
VREB Approval #: 58076

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Instructions for the 2 Hour Ins & Outs of Short Sales Correspondence Course

You have chosen to take the 2 Hour Ins & Outs of Short Sales course by correspondence. You may either read it online or print it. After you complete the course, take the quiz. A blank answer sheet is provided for you to record your answers. The Virginia Real Estate Board requires a passing grade of 75% or higher.

Complete the Certification Sheet. **Have the Student Declaration notarized.** The Virginia Real Estate Board has given you the option of either sending the notarized affidavit to us or keeping it with your records.

Mail, fax, or scan and email the completed answer sheet, certification sheet and Student Declaration to us. Our mailing address is Box 494, Oakton, Virginia 22124. Our fax number is 703-758-0044. Our email address is info@PotomacRESchool.com.

Your information will be held in the strictest of confidence.

You will not be charged unless you pass the exam. If you do not pass, you will be notified immediately.

Once we have received the required paperwork from you and you have been charged, we will report your hours to DPOR and email your certificate to you. The Real Estate Board requires that we report your hours to DPOR within 5 days of receipt of your paperwork. If you need reporting in less than 5 days, please let us know.

If you have any questions, please call or email us. Our phone number is 703-758-0034. For questions of a general nature, you can call or email us at info@PotomacRESchool.com. If you have questions about the content of the course, you can call or email me at patti@PotomacRESchool.com.

Thank you.

Patti Chapell

Patti Chapell
Director

Linking Learning To Success®

The Ins and Outs of Short Sales

Part 1 – Reasons for a Short Sale

- What is a Short Sale?
 - A short sale is a process where the lender will look at the loan which the owner has with them and determine whether or not the house owes more than its fair market value or has such a small amount of equity that if sold, could not cover the agent and closing costs. When the lender determines that to be true, they will consider discounting the loan to reflect a price which will facilitate the sale of the property. The lender then decides to receive payment on the note for less than the face amount.
 - A seller who would benefit from a short sale is a seller who, if he were to sell the home in the customary way, would have to bring money to settlement because he is "upside down."
 - A short sale is a potentially high risk transaction for real estate agents and their clients.
- Other names for Short Sale
 - Short Payoff
 - Pre-foreclosure Sale
- In what type of real estate climate do we see short sales?
 - When there are a record number of listings in the market
 - When there are fewer buyers than in recent years
 - When credit standards are tighter than usual
 - When borrowers have more consumer debt than usual
 - When a large number of mortgages have been financed with 100% loans
 - When a large number of consumers have consolidated debt or pulled equity out of their homes by refinancing
 - When home prices have declined
 - When there are a record number of foreclosures
 - When there are a record number of adjustable rate mortgages refinancing due to spiking interest rates
- What is the result of the above described real estate climate?
 - Home owners can no longer make their mortgage payments.
 - Home owners can no longer sell their homes, pay fees and closing costs and have enough to pay off the balance of their mortgages.
 - There are a large number of listings with the key words:
 - "third party approval required"
 - "bank approval required"
- Homeowners can go into foreclosure in these cases; however there are alternatives to foreclosure.
 - Homeowners who do not want to sell may have the following options:
 - Move into a more affordable home and rent out their existing home
 - Take a roommate.
 - Seek out a HUD-approved housing counseling agency that offers default counseling (<http://www.hud.gov/offices/hsg/sfh/hcc/hccprof14.cfm>)
 - The lender may agree to a short-term payment reduction plan.
 - The lender may agree to a repayment plan for the delinquency.
 - The lender may modify the loan and extend the amortization.
 - The lender might reduce the interest rate.

- The lender might allow the homeowner to forgo a couple of monthly payments to help him get back on his feet.
- The lender might agree to a forbearance plan.
- The lender may agree to a deed in lieu of foreclosure
- Short Sale
- Owners need to beware widespread predatory schemes.
 - In some, an investor offers to take over the loan payments and allows the owner to pay rent, then asks the owner to sign a quitclaim deed, transferring title to the investor.
 - A quitclaim deed transfers interest but not liability.
 - If the owner transfers himself out of title, the lender might decide to call the note due and payable.
 - The owner should never transfer his title.

Part 2 – Advantages and Disadvantages of a Short Sale

- What are the advantages of a short sale to the seller?
 - The seller may be able to avoid foreclosure and/or bankruptcy. With a short sale, the owner is back on his feet much faster than with a foreclosure.
 - In most cases, the seller does not have to bring money to the table.
 - A short sale can minimize the impact to the seller's credit rating.
- What is the down side for the seller?
 - There's no guarantee that the lender and other creditors will accept a short sale even under the most favorable terms.
 - The entire process can be overwhelming and embarrassing.
 - The process can take a very long time and discourage potential buyers.
 - Even where lenders cooperate, there is no guarantee that they will forgive the remaining indebtedness.
 - Due to the length of time a short sale can take, foreclosure may occur before short sale processing can be done.
 - The short sale must be disclosed to potential buyers. The listing agent should check his local MLS policies and procedures about disclosing the "short sale" terms to the other members of his MLS.
- What are the advantages for the buyer?
 - The buyer may be able to get the property at a very good price.
- What is the down side for the buyer?
 - The home may hold hidden risks such as property defects, legal and tax issues and unforeseen expenses.
- What is the downside for everyone?
 - The short sale process is often misunderstood if the parties to the contract have not been fully educated. When this happens, attorneys report a large number of lawsuits.
 - Short sales often cause surrounding property values to drop.
- Advantages of a short sale over foreclosure to the lender
 - Often, a short sale has a far better return on an investment to the lender than a foreclosure. A study by the Tower Group estimates that the average cost of a foreclosure to the lender is \$58,000.
 - The lender is often paid much sooner with a short sale than with a foreclosure.
 - Attorneys' fees are lower with a short sale than a foreclosure.
 - The banks want to minimize the amount of real estate they own in this weak housing market with declining prices.
 - The banks do not want to own these homes because new homes are selling faster than existing ones, and often, the condition of the property is poor.

- Foreclosed homes, which often continue to have heat, lights and water, have become home to many of the nation's homeless people, as reported by the AP on February 18, 2008 because these foreclosed homes often have an advantage over abandoned, boarded up and dilapidated houses.
- Due to the above, many large lenders, such as Bank of America Corporation, Citigroup, Inc. and National City are reaching out to troubled borrowers, trying to help them head off delinquencies.
- What are the advantages to the agent?
 - The agent may be able to get a listing, earn a commission and help save the seller's credit (to a certain extent).
 - If the agent can get someone out of a difficult situation, he will have a client for life. They will refer people to him and will come back to him when they are ready to buy again.
 - The buyer agent may be able to find a good value for their client and expand the selection of available homes.
- Specializing in short sales can be a profitable niche for the real estate agent. Target marketing can include the following:
 - Using word of mouth
 - The agent can market himself and his expertise to other agents.
 - Attending credit counseling classes, which are required prior to filing bankruptcy
 - Targeting people who receive state notices of loan defaults
 - Targeting homeowners named on lists of ARMS that will be adjusted in the coming months
 - Targeting FSBOS, who are frequently "upside down" sellers who think they can't afford to pay a commission and, therefore, try to sell on their own. Many don't know that in a short sale, the lender pays the broker's commission.
 - Purchasing lists from foreclosures.com
 - Purchasing lists from ForeclosuresDaily.com
 - Marketing himself on his website as someone who specializes in short sales and/or foreclosures
 - Going to foreclosure auctions to find prospective buyers
 - Checking the Internal Revenue Service's property site (www.treas.gov/auctions/irs/index.html)
 - Forming bonds with mortgage brokers, bankers, lawyers and other real estate professionals, all of whom will refer business to the agent if they know that he can aid their customers

Part 3 - The Agent's Role

- What does the listing agent need to do?
 - The prudent real estate agent will engage in short sales only after he has educated himself fully regarding his role and responsibilities.
 - The earlier the agent can start the process, the better chance there is of getting the short sale approved.
 - Most of the time, the real estate agent does not know that the owner is in trouble before the listing presentation and the completion of the seller's net sheet.
 - Once it is determined that the cost of selling is more than the loan balance, the listing agent should have an open and frank discussion with the owner.
 - The listing agent and owner need to determine whether or not the owner must sell.
 - Is the owner yet delinquent on his payments?
 - What is the financial situation of the owner?

- Current market value should be discussed with the owner.
- At this point, if it is evident that the owner is in trouble and foreclosure or bankruptcy are likely to occur in the near future, the agent should discuss options with the owner. (Refer back to Section 1.)
- If it is clear that the owner needs to unload the property, the short sale process should be explained in detail.
- The listing agent can make the short sale process smoother if
 - He takes a checklist of documents needed to the listing appointment. This can prevent the listing agent from wasting his time if potential sellers do not want to be bothered with all of the paperwork.
- It should be explained that the seller will have to negotiate with the lender. At this point, the agent should ask for written authorization to be included in the communication with the lender.
- All of the pros cons should be explained.
- The agent should explain that the property will have to be priced aggressively.
- The agent should encourage the seller to contact an attorney, tax advisor or financial planner for advice on the financial implications of the sale relating to debt forgiveness.
- The listing agent should build a relationship with the seller's lender(s). Once credibility has been established, the entire process becomes easier.
 - The agent will have to call the lender for the loan balance.
 - Then, the agent contacts the bank's short sale department (not the collection or customer service department, which is only interested in collecting past due loan payments), the group that will decide whether to accept a short sale. Finding the decision maker can be one of the biggest initial challenges in short sales. The agent may have to make a half dozen phone calls before finding the person responsible for handling short sales. The supervisor should be the one on the other end of the phone, the person actually capable of making the decision.
 - Then, the listing agent needs to submit a very specific financial proposal to the lender. This will expedite the entire process.
 - If the owner has been late with any payments, it should be written into the proposal that any late charges will be dismissed.
 - The listing agent submits a letter of authorization with the following information
 - Property Address
 - Loan Reference Number
 - Name of Owner
 - Date
 - Agent's Name and Contact Information
 - Preliminary Net Sheet
 - Hardship Letter
 - Proof of Income and Assets
 - Copies of Bank Statements
 - Comparative Market Analysis
 - In the proposal, the agent should request that the lender not report any more delinquencies (if there are any) to the credit reporting companies.
- Real estate investors are often willing to help the listing agent negotiate short sales with the banks so they can buy their listings.
- What should the buyer agent do?
 - The buyer agent might want to run two sets of comps, (homes that sold with a short sale and those that sold without a short sale) when preparing the offer.
 - The seller of the home might be using all of the comps to justify his price.
 - The two sets of comps might create a reality check for the seller.

- The buyer agent needs to be patient and remember that to the lender, his transaction is just a number.
- A lot of contingencies should be written into the offer but no one should expect the lender to agree to them.
- The buyer agent should know the condition of the property through inspections so there are no surprises after settlement.
- Once the seller has accepted a contract, the listing agent should
 - Send the contract and listing agreement to the lender. Include an accounting of all expenses, which the seller will pay at settlement and a final number that the lender will receive when settlement takes place.
 - It is helpful for the listing agent and seller to have a HUD-1 settlement statement prepared.
 - The seller should be able to go to the settlement table knowing all the terms and conditions on which the lender will accept the short sale, including whether or not he will have to come up with money at the settlement table.

Part 4 - The Process

- Lender considerations before accepting a short sale
 - Is the seller legitimately suffering a financial hardship? Someone with the assets or the income to pay is unlikely to be considered.
 - Has the seller defaulted on the loan? Has the foreclosure process started?
 - Has the seller prepared a short sale package with the following:
 - Lender-provided short sale application
 - Hardship letter describing seller's situation
 - Financial documentation, which includes
 - Two years of tax returns
 - Two years of W-2s
 - Two months of bank statements
 - Two months of pay stubs
 - Broker Price Opinion (BPO) for the property
 - Has the seller given written authorization for the agent or attorney to communicate with the creditor(s)?
- What must the agent be prepared for?
 - A short sale involves a lot of paperwork.
 - The potential short sale must be disclosed.
 - The agent needs to advise seller and/or buyer client of the need for third-party approval, possible time issues and other downsides.
 - The commission may be reduced on both sides by the lender.
 - Potential commission reduction would have to be disclosed to both sides (brokers and parties to contract)
 - Or, the listing agent can state in the MLS that the commission is subject to third party approval.
 - The settlement of the short sale might not take place due to the third-party approval process; the lender calls all the shots.
 - The agent must be a facilitator, not a negotiator, of the seller's outstanding debts.
 - The process will be much more time consuming than a typical transaction.
 - There will most likely be time delays; it can take forever.
 - This is a very risky transaction and all of the potential difficulties can result in the agent being blamed when the buyer or seller is disillusioned. (In 2007, E & O attorneys indicated that short sales resulted in many lawsuits and complaints being filed nationwide.) Agents are accused of
 - Not submitting offers

- Not following up
- Lying about offers being “accepted”
- Lying about “highest and best” deadlines
- The parties to the transaction must be fully prepared as to what to expect!
- There is no uniformity in lenders’ documents.
- The lender reserves the right to reject any offer.
- If there are two mortgages, both lenders have to agree to accept less than the payoff amounts. Property encumbered by a second mortgage might kill a short sale deal.
- If the short sale fails, the seller might face foreclosure.
- Closing will occur where the lender stipulates. Often, a quick closing is called for.
- In preparing the packet for the lender, the agent should look for any discrepancies between the seller’s income and the income used to obtain the loan.
 - There is a large group of people who are finding themselves unable to make payments on loans that they initially qualified for by providing “stated income” without documentation. Much of the stated income was inflated.
 - A big gap might indicate mortgage fraud.
 - These owners are unlikely to have a short sale approved by the lender.
- The lender calls the shots
 - From purchase price to seller concessions
 - From timing of negotiation to time of closing
 - From “as is” addendum to broker commissions

What paperwork is necessary at the time of listing?

- Seller’s statement of need or hardship
- Seller’s current employment situation
- Seller’s current income status/pay stubs
- Seller’s financial statements
- Seller’s tax returns
- Seller’s credit analysis
- Property appraisal or BPO
- Listing paperwork
- Short Sale Brokerage Fee Agreement
 - This is the agreement between the listing and selling brokers and is initiated by the listing side
- Short Sale Listing Addendum
 - Creditor Authorization and Release Form (This provides the authority for listing agent to contact the seller’s creditors.)
- Addendum that states that lender can void sale if taking deed in lieu of foreclosure
- Statement of why owner needs to sell home
- An application, provided by the lender and completed and signed by the seller
- How should the short sale property be disclosed to potential purchasers?
 - Most experts favor disclosing that a property is a short sale in the comments section of the MLS listing.
- Paperwork at time of offer
 - Submission of offer
 - Net to seller
 - Lender addenda
 - Lender requirements
 - Short Sale Contingency Addendum to Sales Contract
 - This form is made a part of the sales packet. Without language in the contract stating that the lender must approve the offer and release all

liens on the property, the seller could face a legal problem for failing to execute the contract if the short sale is not approved.

- What type of buyer does the lender favor?
 - A buyer who is willing to close in 30 days
 - A buyer who can make a substantial down payment
 - A buyer who has been pre-approved for a mortgage before submitting the offer
- Legislation that can aid the seller of a short sale
 - The Homes Affordable Program
 - It's a program that started in 2009 and allows home owners to refinance their mortgages at lower rates without having to show 20% equity in their home.
 - Only home owners with loans backed by Fannie Mae or Freddie Mac can participate.
 - It gives sellers up to \$3,000 for relocation expenses.
- Time Delays
 - A short sale involves as much if not more paperwork than an original mortgage application. That is due to the fact that, instead of proving creditworthiness and financial stability, the seller must prove that he is broke. He must be without cash flow, including savings, investments, trusts, liquid retirement funds or other finances to tap.
 - Most lenders require preliminary evaluation before an offer will be reviewed for approval.
 - The listing agent must receive written authorization from the seller to contact the loss mitigation supervisor of the lender at the earliest possible time.
 - This is only one of thousands of short sale requests being processed by the lender. This seller is just a number in the chain.
 - Lenders will typically not consider a short sale unless the owner has been delinquent at least 30 days. Many lenders wait 60 or 90 days before considering a short sale.
 - If the listing agent has not assisted the seller in submitting the required paperwork, approval of the short sale can take weeks and with no guarantee of approval. (Most delays are the fault of the listing agent.)
 - Sometimes, the lender intentionally delays the process hoping for a better offer to come along.
 - Most offers are not accepted as written but are countered.
 - It is recommended that any third party approval contingency be for at least 30 days, if not more.
 - The Homes Affordable Program can create more paperwork and slow down the short sale process
 - The process can be expedited by using the Equator System.
 - The Equator System is a collection database for documents needed in a short sale.
 - No processor is necessary to collect the documents. It is completely computerized.
 - The agent does not deal with a person until all forms are in.
 - As a result, the usual four to five months previously needed to close is usually reduced to two to three months.
 - Any delay might depend upon how much of the process has taken place prior to obtaining a ratified contract.
- Contract Negotiations
 - Acceptance by the bank is given in writing.
 - Commonly, the lender negotiates the price and terms agreed to by the buyer and seller.
 - Many lenders will limit or refuse to
 - Help with down payment assistance
 - Pay buyer closing costs

- Make repairs
- Most lenders' addenda state that the buyer is accepting the property in "as is" condition.
 - It is still wise to have a home inspection conducted. Therefore, the agent should write into the contract that the buyer will take the property in "as is" condition once he is satisfied with the condition as revealed by the home inspection.
- It can take weeks to get a response from the lender. This is a problem if an offer expiration date is written.
- Banks will not accept electronic signatures in short sales negotiations.
- Banks might require proof of funds showing that the buyer has the ability to close.
- If any of the following occur, it is prudent to release the listing and not move forward:
 - Bankruptcy
 - The house is not available for sale while it is under the protection of the trustee of the bankruptcy court.
 - Judicial Foreclosure
 - The owner's court date for foreclosure has arrived, and there is not a signed letter authorizing a short sale with a closing date before the foreclosure date.
 - Notice of Auction of the property
 - The owner of the home no longer has legal ownership of the property.
- Banks are now trying to prevent the need for short sales because new legislation allows the refinancing of homes that are owned by sellers who have less than 20% down when Fannie Mae or Freddie Mac are involved.

Part 5 - Seller Consequences

- Tax Issues
 - The tax law, up until December of 2007, stated that "forgiven debt" was taxable as current income in the year the debt was forgiven. Many lenders sent 1099 forms at the end of the year.
 - On December 20, 2007, President Bush signed The Mortgage Forgiveness Debt Relief Act of 2007 to provide financial relief for sellers facing foreclosure or short sales. The bill gives a tax break to homeowners who have mortgage debt forgiven as part of a foreclosure or renegotiation of a loan. No taxes would be owed on the value of any debt forgiven or written off.
 - The exclusion of capital gain does apply so long as the seller has owned and occupied the property as his personal residence for 2 of the last 5 years.
- Credit Issues
 - Just because the lender releases the lien after the short sale, it does not mean that the debt is forgiven or that the seller's credit will not be negatively affected. The following could occur:
 - The lien is released; however, the seller could be required to carry the remaining debt on a pre-payment plan.
 - The lien is released; however, the seller could be forced to liquidate other assets to pay the remaining balance.
 - The lien is released; however, the lender sues the seller on the note for deficiency.
 - The lien is released; however, the lender reports the amount of loss as a "charge-off" or "collection" to the credit bureau thereby causing the seller's credit to be negatively impacted. Even so, the credit report will show better with a short sale than with a foreclosure.

- Often, the seller thinks that a short sale will solve all of his problems. In many cases, this is NOT true. However, if the seller has decent credit up to this point, the short sale will minimize the harm to his credit whereas the foreclosure will not.
- The seller should be encouraged by the agent to sign a lease on a rental property before the credit is damaged by the short sale.

Short Sales Final Quiz

1. Is the seller's credit affected by a short sale?
 - a. Usually
 - b. Never
 - c. Only if the lender counters the buyer's offer
 - d. None of the above.
2. Who has most of the control in a short sale?
 - a. The agent
 - b. The buyer
 - c. The owner
 - d. The lender
3. Can working with short sales be advantageous for an agent?
 - a. No way. It's just a pain in the neck.
 - b. Absolutely. An agent who works short sales can provide a wonderful service for owners who are in trouble. When an agent provides a much needed service like this, he is likely to have referrals from those he helped.
 - c. No. They take too long.
 - d. None of the above
4. What is one downside to purchasing a short sale?
 - a. There are no downsides.
 - b. The prices on short sales are usually well above market value.
 - c. The buyer may be required to settle quickly
 - d. None of the above
5. A seller in the following situation might benefit from a short sale:
 - a. He has paid off his mortgage
 - b. He has a lot of equity in his home
 - c. He can't make his payments, and he owes more than his house is worth
 - d. None of the above
6. The following alternatives to foreclosure should be considered by an owner in financial trouble:
 - a. Consider a short sale
 - b. Moving into a smaller home and renting the larger, more expensive home
 - c. Asking the lender to modify the loan and extend the amortization
 - d. All of the above
7. What type of real estate climate contributes to a rash of short sales?
 - a. Homes rapidly appreciating
 - b. A depreciating home market
 - c. A lot of existing mortgages with 100% financing
 - d. b and c

8. Going the short sale route instead of the foreclosure route will completely save the owner's credit.
 - a. True
 - b. It will help but not completely save the owner's credit.
 - c. The owner's credit will be affected more by a short sale than a foreclosure
9. Why might an owner decide not to go the short sale route?
 - a. To save the embarrassment
 - b. He finds the process completely overwhelming.
 - c. He cannot cope with the length of time a short sale might take.
 - d. All of the above
10. How might the listing agent minimize the effect of a short sale on neighborhood values?
 - a. By putting a remark in the MLS after settlement or by checking a box stating that the transaction was a short sale
 - b. There's no way to minimize the effect a short sale will have on the neighborhood.
 - c. Short sales never affect property values.
 - d. None of the above
11. Why must a listing agent educate himself fully in short sales before attempting one?
 - a. To minimize the chance of a lawsuit
 - b. To make the process go more smoothly
 - c. Both a and b
 - d. None of the above
12. Once a seller's net has been prepared, and it is determined that if the owner sells, he will be "upside down," the listing agent should
 - a. Determine, along with the owner, if the owner must sell
 - b. List the house
 - c. Offer to give up his commission
 - d. None of the above
13. The first thing that the listing agent should do once it is determined that the seller is upside down and must sell is
 - a. Have a frank discussion about short sales
 - b. Discuss staging with the owner
 - c. Explain to the owner that it will be impossible to sell the house
 - d. None of the above
14. Which of the following can be a potential problem in short sale negotiations?
 - a. Lenders do not respond quickly.
 - b. Lenders would prefer foreclosure to short sale.
 - c. Lenders do not want to be involved in the negotiations.
 - d. None of the above
15. In a short sale situation, lenders often refuse to
 - a. Help with down payment assistance
 - b. Make repairs
 - c. Accept electronic signatures
 - d. All of the above

16. Lenders sometimes drag their heels on accepting an offer
 - a. Because they do not want the short sale to go through
 - b. Because they want to wait for another potentially better offer to come in
 - c. They don't like listing agents
 - d. None of the above

17. In a short sale situation, what kind of buyer do lenders like?
 - a. Ones with a lot of cash
 - b. Ones who can be flexible on settlement date and willing to patiently wait out the process
 - c. Ones who have been pre-approved
 - d. All of the above

Name_____Date_____

THE INS AND OUTS OF SHORT SALES FINAL QUIZ

Please circle the correct answer for each question.

1. A B C D
2. A B C D
3. A B C D
4. A B C D
5. A B C D
6. A B C D
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12. A B C D
13. A B C D
14. A B C D
15. A B C D
16. A B C D
17. A B C D

Potomac Real Estate School Certification Sheet for Correspondence Course

Please fax to (703) 758-0044, scan and email to info@PotomacRESchool.com, or mail to Potomac Real Estate School, Box 494, Oakton, Virginia 22124

Print Name _____ **Course: 2 Hour**

Billing Address _____ **Short Sales**

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RE License # _____ (10 digits)

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_____ I enclose a check payable to Potomac Real Estate School LLC in the amount of \$24.00

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Did you find the material well organized?	Yes	No
Was the material well written?	Yes	No
Was the course material relevant?	Yes	No

Suggestions _____

How did you find us? Please circle

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Other



Student Declaration: I hereby certify that I completed this continuing education course (2 Hour Short Sales) on my own without assistance.

Signed _____

Date _____

Name (Print) _____

Notary Public Declaration: Taken, subscribed, and sworn before me this ____ day of _____, 20____
In the City/County/Town of _____
In the State/Commonwealth of _____
My commission expires ____/____/_____

Notary Public _____

Notary Signature Required

But Seal NOT Required