Buying a Short Sale or Foreclosure

A Guide for Massachusetts & New Hampshire Buyers

BUYER-SIDE COMPANION GUIDE

You found the house. Then you saw the words short sale or foreclosure. What now?

You found a home you really like. Then you noticed something in the listing: Short Sale. Foreclosure. Bank Owned. REO. Subject to Lender Approval. Now what?

You do not necessarily have to walk away. Buying a distressed property can be a very different process from buying a traditional home, but with the right expectations, preparation, and guidance, it may still be worth considering.

This guide explains what buyers should know before moving forward.

First: These Are Not All the Same Thing

The words foreclosure and short sale are sometimes used together, but they describe very different situations.

Short Sale

In a short sale, the homeowner still owns the property.

The sale proceeds are expected to be less than what is owed against the property, so one or more lenders may need to approve the sale before it can close.

That means the seller may accept your offer, but the lender may still have to approve:

- The purchase price
- The terms of the sale
- Certain closing costs or credits
- The final payoff

This extra layer of approval can make the process longer and less predictable.

Foreclosure / Bank-Owned Property

If foreclosure has already been completed, the lender or another entity may own the property.

These properties are often called: REO - Real Estate Owned.

In this situation, you may be negotiating directly with a bank or asset manager rather than a traditional homeowner.

Their procedures, contracts, deadlines, and property-condition requirements may be different from a typical transaction.

You Love the House. Should You Still Consider It?

Possibly. The fact that a property is a short sale or foreclosure does not automatically mean it is a bad house or a bad purchase.

But you should understand what you are getting into before becoming emotionally or financially committed.

Ask:

- Who currently owns the property?
- Is lender approval required?
- Has a short-sale package already been submitted?
- Are there multiple mortgages or liens?
- Is the property occupied or vacant?
- Are utilities currently on?
- Is the property being sold as-is?
- Are inspections allowed?
- Will your financing work with the property's condition?
- Is there a deadline or special bank requirement?

The answers can dramatically affect the transaction.

Massachusetts and New Hampshire Are Not the Same

This guide is written for buyers in both Massachusetts and New Hampshire, but the legal process is not identical in the two states.

Foreclosure procedures, required notices, timelines, title issues, redemption rights, closing practices, and the way a distressed property moves through the system can differ depending on which state the property is located in.

The same is true with short sales. The general concept is similar, but the details of the transaction may vary based on the property, the lender, the lienholders involved, the contract, and state-specific requirements.

That is why it is important to look at each property individually.

A buyer should understand:

- Which state's laws apply
- What stage the foreclosure or short-sale process is in
- Who currently owns the property
- Whether lender approval is required
- Whether there are title or lien issues
- What deadlines or special requirements apply to that particular transaction

Your real estate agent, lender, and attorney should help you understand the specific process for the property you are considering.

Massachusetts and New Hampshire may be neighbors, but when it comes to distressed-property transactions, the details matter.

Expect the Timeline to Be Different

A traditional seller can usually respond directly to an offer.

A lender-controlled transaction may involve several additional people and approvals.

A short sale may require review by:

- The homeowner
- The listing agent
- The seller's attorney
- The mortgage servicer
- The investor that owns the loan
- A mortgage insurer
- A second mortgage holder
- Other lienholders

That can mean waiting. Sometimes there are long periods when very little appears to be happening.

A buyer considering one of these properties should have patience and should avoid assuming that a delay automatically means the transaction is dead.

At the same time, deadlines matter. Your agent and attorney should continue monitoring the transaction and protecting your interests while the approval process moves forward.

“As-Is” Does Not Mean “Do Not Inspect”

Many distressed properties are marketed as-is. That generally means the seller or lender does not intend to make repairs. It does not necessarily mean you should skip understanding the condition of the property.

Depending on the transaction and contract, inspections may still help you identify:

- Structural concerns
- Roof problems
- Heating or electrical issues
- Plumbing damage
- Water intrusion
- Mold concerns
- Failed septic systems
- Well issues
- Deferred maintenance
- Damage caused while the property was vacant

The purpose of an inspection may be less about asking the seller to repair something and more about deciding: Do I still want to buy this property knowing what I now know?

Your inspection rights depend on the contract, property, lender requirements, and state law.

Found a short sale or foreclosure you're considering? Before you make an offer, call or text Judy.

Financing Can Become a Major Issue

A property can be attractively priced and still be difficult to finance.

Traditional mortgage financing generally requires the property to meet certain condition and appraisal standards.

Problems may arise if the home has:

- No working heat
- Major plumbing damage
- Missing fixtures
- Significant safety issues
- Severe water damage
- An unfinished kitchen or bathroom
- Structural concerns
- Problems affecting habitability

A cash buyer may have more flexibility, but cash does not eliminate the need for due diligence.

Before making an offer, your lender should understand that the property is a foreclosure, short sale, or distressed sale.

You do not want to discover late in the process that the loan program cannot finance the house in its current condition.

The Price Is Only One Part of the Deal

Buyers are often attracted to distressed properties because they expect a bargain. Sometimes there is an opportunity. Sometimes there is not.

A bank may already have:

- An appraisal
- A broker price opinion
- An internal valuation
- A minimum acceptable net amount

A lender does not necessarily have to accept a low offer simply because the property is distressed.

There can also be competition from:

- Cash buyers
- Investors
- Contractors
- Buyers willing to purchase as-is

The goal should not simply be to buy something because it appears discounted.

Does the price make sense after considering the home's condition, repairs, financing, title issues, timing, and risk?

Title, Liens and Legal Issues Matter

Distressed properties can have more complicated title histories.

Possible issues may include:

- Multiple mortgages
- Tax liens
- Municipal liens
- Condominium balances
- Judgments
- Estate issues
- Bankruptcy
- Foreclosure-related documentation

This is one reason your real estate attorney or closing attorney plays such an important role.

You want to know that the property can ultimately be transferred with acceptable title before closing.

Do not assume that every issue showing up in the history of the property automatically becomes your problem.

But do make sure the proper professionals are reviewing it.

Protect Yourself Before You Fall in Love With the Deal

A foreclosure or short sale may be a great opportunity for the right buyer.

It may also require more patience, flexibility, and due diligence than a traditional purchase.

Before you move forward:

- Understand the type of sale.
- Know who has authority to approve the transaction.
- Talk with your lender about the property's condition.
- Understand your inspection rights.
- Have an attorney review the contract and title issues.
- Be realistic about the timeline.

And most importantly:

Do not let the words “foreclosure” or “short sale” scare you away before you understand the property and the process.

Sometimes the right answer is to walk away. Sometimes the right answer is to stay patient and keep moving forward.

The important part is knowing what you are buying and what the transaction requires.

Found a property? Let's look at it together before you decide.

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