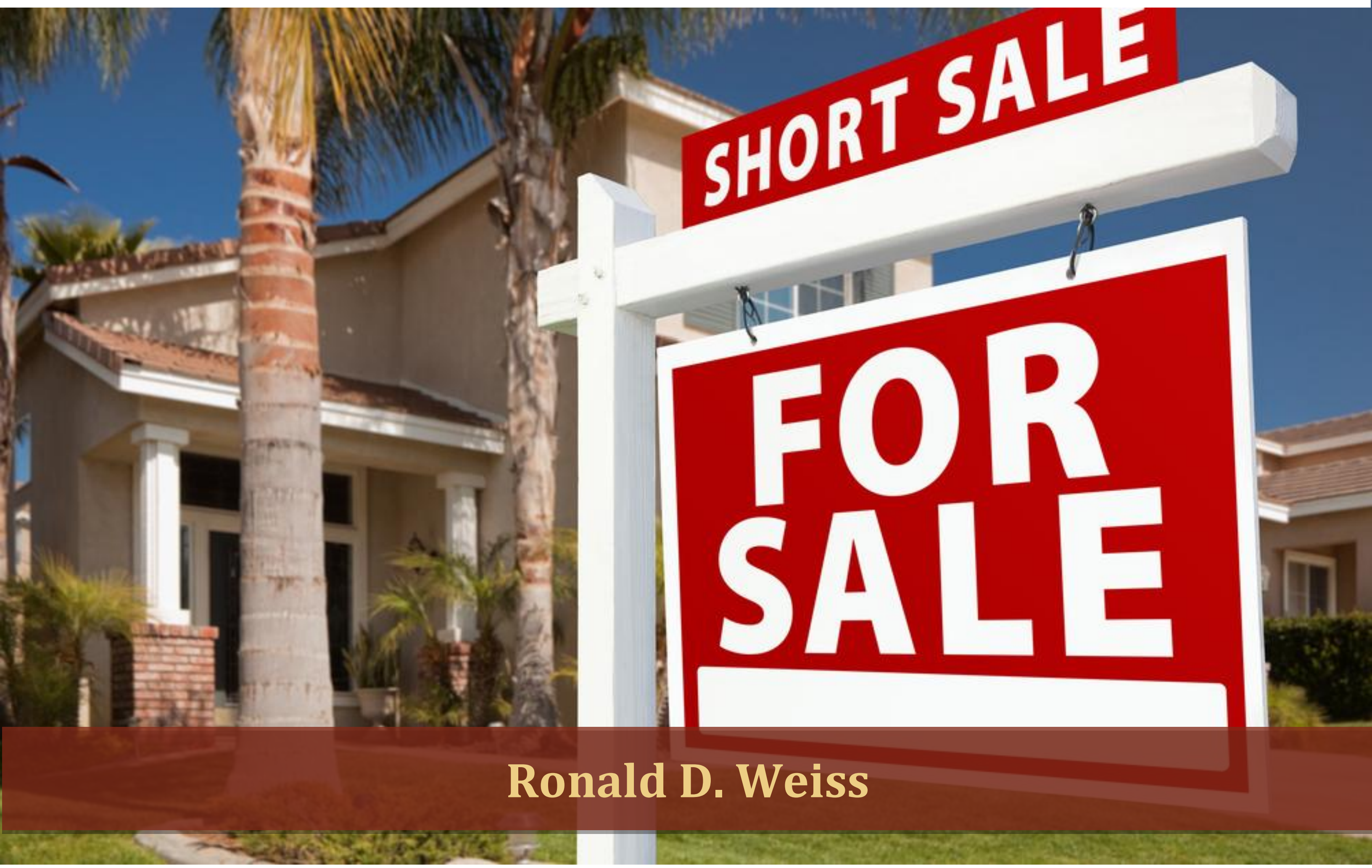
Shortsale vs. Foreclosure in Nassau County

Whenever Possible, It Is Always Best to Avoid Foreclosure in Favor of Other Alternatives; One Such Alternative Is Called a Short Sale



Ronald D. Weiss

If you are behind on your mortgage and cannot make your house payments, you are in danger of being foreclosed on by your mortgage lender. This means that the lender could take the home and force the sale of the house in order to generate funds to pay back the mortgage debt.

Foreclosure can be damaging to your credit and can have far-reaching legal and financial consequences. Whenever possible, it is always best to avoid foreclosure in favor of other alternatives. One such alternative is called a short sale.

Understanding Short Sales

A short sale occurs when you sell your home for an amount that is less than the remaining balance due on your mortgage.

When you sell your home, the mortgage balance on the house generally must be paid in full in order for the bank or lender to release the lien (the claim on the house) and allow the new owners to take ownership and possession. In an ideal situation, the sale of your home will generate enough money to repay the mortgage in full and perhaps even leave you with money left over.

Unfortunately, many people who are struggling to pay their home mortgage are not in an ideal situation. If your house is worth less than you currently owe on it, the sale of the home is not going to generate enough proceeds to repay the mortgage. For example, if your home is worth $250,000 in current market conditions but you owe $300,000 on the house, then selling the home would be difficult or impossible unless you could bring $50,000 in cash to the table at closing to pay the difference to the lender.

Since very few people who are behind on house payments have a lot of cash to repay their lender, the inability to either make payments or sell the house could drive the home into foreclosure. However, a short sale allows for another alternative.

In a short sale, the bank or mortgage lender agrees to accept less than the full amount of the balance due on the mortgage. The lender, for example, might agree to accept the $250,000 that the house is worth and to allow the sale to go through. Lenders may agree to short sales because the lender does not want the expense of foreclosure and the lender knows that seizing and selling the home is not likely to generate any additional profit.

How Short Sales Work

When you wish to opt for a short sale in lieu of a foreclosure, you will need to speak to your lender to work out the arrangement. The lender may agree in advance to a price that it is willing to accept for the home.

You then need to find a buyer for the home who is willing to pay the agreed upon price (or a reasonable amount of money). The lender must approve the buyer and the sale will go forward. The lender will then be repaid when the buyer purchases the home.

Benefits of Short Sales to Homeowners

Short salesare less damaging to a homeowner's credit than a foreclosure would be. Short sales also do not result in the same public process of a lender seizing and selling the home, which means that you can avoid any potential embarrassment that a foreclosure could cause.

Another major benefit associated with short sales is the opportunity to negotiate to avoid a deficiency judgment. In the state of New York, if a lender forecloses and sells a home but does not recover enough money to pay the mortgage in full, the homeowner can be held responsible for the remaining balance. The lender could go to court and get a judgment against the homeowner. The homeowner would then have to pay back money for a home that has been lost to foreclosure.

A deficiency judgment could result in garnishment of wages, liens on property and other undesirable consequences for homeowners who have been foreclosed on. When you enter into a short sale agreement with the lender, you may be able to negotiate to have the lender waive the right to pursue a deficiency judgment and try to collect this extra money from you. This protects you from being forced to continue paying a lender for a home that no longer belongs to you.

Getting Legal Help with Short Sales & Foreclosures

An experienced debt relief and bankruptcy lawyer in Nassau County can help individuals who are in danger of losing their homes. Your attorney will review your situation to determine if a short sale is the right solution when you are unable to make house payments. Your lawyer will also represent you throughout the short sale process.

The Law Offices of Robert D. Weiss, P.C. can assist both with short sales and foreclosure actions. Call or contact us online today to speak with a member of our legal team and learn how we can help when you are in danger of losing your home.

About the Author

Ronald D. Weiss, Esq.

Ronald D. Weiss, Esq., is an attorney who since 1987 has specialized in bankruptcy solutions, foreclosure solutions, and modification and negotiation solutions for individuals and businesses in the greater Long Island and New York areas undergoing financial hardship.

Mr. Weiss is a member of the American Bankruptcy Institute, the National Association of Consumer Bankruptcy Attorneys, the Suffolk County Bar Association and the Nassau County Bar Association, and is admitted to practice in the State of New York, the State of Connecticut, and the federal courts for the Eastern and Southern Districts of New York. Mr. Weiss is a 1988 graduate of New York University School of Law where he was a recipient of the Galgay Fellowship in Bankruptcy and Reorganization Law and has published several law journal articles. Mr. Weiss' past experience includes having been a law clerk to the Honorable Prudence B. Abram, a United States Bankruptcy Judge in the Southern District of New York, and having practiced corporate bankruptcy law at several large Manhattan law firms, including Moses & Singer, LLP, and Walter, Conston, Alexander & Green, P.C. Mr. Weiss later worked for Fischoff, Gelberg& Director in Garden City, NY where he had practiced consumer and business bankruptcy before starting the Law Office of Ronald D. Weiss, P.C.

Mr. Weiss started the Law Office of Ronald D. Weiss, P.C. in 1993, which has been located in Melville, New York since its inception.

Please call us at (631) 479-2455, or e-mail us at weiss@ny-bankruptcy.com for a free consultation to discuss your legal options in greater detail.

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