



OWENS & PERKINS

Areas of Practice

Family Law
Bankruptcy
Business Law
Contract Law
Criminal & DUI
Civil Litigation
Estate Planning
Probate
Real Estate Law
Short Sales

Family Law

OWENS & PERKINS offers a full range of legal services for all aspects of Family Law such as divorce, legal separation, paternity and post decree matters.

Attorney Spotlight

Joseph P. McGurk

On graduating magna cum laude from SUNY, Joseph received his J.D. from St. John's School of Law. Joseph's areas of practice include Commercial Litigation, Business Law, Real Estate and Appellate Practice.



IS A SHORT SALE RIGHT FOR ME?

With so much information and misinformation about residential short sales in today's media and conversation, it is important for anyone thinking about a short sale to understand the basic anti-deficiency laws that may protect a homeowner from a deficiency balance arising from a Trustee's Sale.

First, let's define deficiency balance and Trustee's Sale. A deficiency balance is the difference between what the homeowner owes the bank and what the property sells for. You may have a deficiency balance from the property being sold at a Trustee's Sale or a short sale. For example, if you owe the bank \$400,000 and it sells for \$280,000, there is a deficiency balance of \$120,000. A Trustee's Sale is an auction of the home initiated by the lender when the home owner has breached their contract with the lender. Typical breaches are for failure to pay the mortgage.

In a Trustee's Sale, the lender must provide notice to the homeowner that the lender will sell the property due to the failure to pay. This Notice of Trustee's Sale (NOTS) is typically issued 90 to 120 days after the homeowner misses their first payment. After receiving the NOTS, the homeowner has 91 days before the lender may sell the property at auction. During this period, the homeowner may redeem the property by paying the delinquent past due and penalty amounts and not lose the property at the Trustee's Sale.

Under Arizona law, if the property is residential and two and one-half acres or less and used as a single one-family or a single two-family dwelling and the loan was to purchase the property *and* the property was sold at a Trustee's Sale, the lender may NOT sue to recover the difference between the auction price and the amount owed to the lender. This anti-deficiency law is an important protection for homeowners in Trustee's Sales but does not apply to short sales.

Short sales are similar to a normal sale of your home. The only difference between a short sale and a normal sale is that your lender must approve the sale due to the fact that they will not be receiving the full amount that the borrower owes. Because the property is not sold at a Trustee's Sale, there is no anti-deficiency protection for the homeowner and the debt and liability forgiveness must be negotiated directly with the lender. At Owens & Perkins, we provide residential short sale services including negotiations and debt settlement.

If you are considering a short sale, please call OWENS & PERKINS, P.C. to schedule your free consultation at 480.994.8824.

