

BEST PRACTICES # 2
Short Sale/Short Payoff Negotiations

A Short Sale/Short Payoff is a transaction where:

1. Debts are secured by one or more liens on the property. (A lien is a recorded claim or lien against the property, including, but not limited to, a mortgage, deed of trust, mechanic's lien or tax lien).
2. The proceeds available through the transaction may not be enough to cover all the liens and costs of the transaction.
3. The lien holder releases its lien against the property for an amount less than the full amount owed.

Title companies should be aware that the negotiation of a short sale/short payoff by a title company employee may be the unauthorized practice of law (UPL). Subsequent questions and/or clarifications should be directed to your entity's legal counsel..

The Real Estate Commission has promulgated the following approved forms that specifically limit the actions of a closing company in their instructions for closing real estate transactions:

Practitioners should be aware of practices defined under CRS. (10-11-108) and Regulation 3-5-1 (Section 6 A-16) and the guidelines established by the Colorado Division of Real Estate.

CLOSING INSTRUCTIONS only authorizes the closing company to **obtain** any information necessary for the closing.

SHORT SALE ADDENDUM provides that a title company may **receive** any loan, financial information from a lien holder and its representative, only with the consent of the seller or the attorney for the seller