



MORTGAGE ASSISTANCE RELIEF SERVICES: REQUIRED DISCLOSURES FOR LISTING AGENTS OF SHORT SALES

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Realtors who handle short sale transactions should be aware of a new federal rule that requires certain disclosures related to the marketing and negotiation of short sale transactions which took effect January 1, 2011. Short sales involve the sale of a property for a price that is inadequate to cover the total amount of all the liens on the property, the seller does not have the funds available to cover the deficiency, and the lenders agree to release the liens on the property to consummate the sale. Although the lender permits the sale of the property, the lien holders may eventually hold the seller liable for the shortage. Realtors who conduct short sales should be aware that there are three types of disclosures they may be required to make to prospective sellers.

General Commercial Communication

General Commercial Communication is defined by the rule as a commercial communication that occurs prior to any agreement for mortgage assistance services on behalf of the consumer that is not directed at a specific consumer. This disclosure is concerned with general advertising. Realtors advertising this form of service must make the following disclosures in a *clear and prominent manner*:

- **IMPORTANT NOTICE** (in two point-type larger than the font size of the disclosure): (Name of company) is not associated with the government, and our service is not approved by the government or your lender. Even if you accept this offer and use our service, your lender may not agree to change your loan. If you stop paying your mortgage, you could lose your home and damage your credit rating.

Consumer Specific Communications

Consumer Specific Communication is defined as a commercial communication that occurs prior to the consumer's agreement for service that is directed to a specific consumer. This disclosure is required before the provider begins MARS related services on behalf of the consumer. Many times listing agents are unaware that a sale may

become a short sale; however, the listing agent should make the following disclosure once they become aware the listing has the potential of becoming a short sale:

- **IMPORTANT NOTICE** (in two point-type larger than the font size of the disclosure): You may stop doing business with us at anytime. You may accept or reject the offer of mortgage assistance we obtain from your lender [servicer]. If you reject the offer, you do not have to pay us. If you accept the offer, you will have to pay us (insert amount or method for calculating the amount) for our services. (Name of company) is not associated with the government, and our service is not approved by the government or your lender. Even if you accept this offer and use our service, your lender may not agree to change your loan. If you stop paying your mortgage, you could lose your home and damage your credit rating.

Disclosure When Providing an Offer of Mortgage Relief

A realtor must make this disclosure once the seller receives final approval from the seller's lenders. The following disclosure must be presented on a separate written page along with the written agreement between the consumer/seller and their lender:

IMPORTANT NOTICE: Before buying this service, consider the following information (in two point-type larger than the font size of the disclosure): This is an offer of mortgage assistance we obtained from your lender or servicer. You may reject or accept this offer. If you reject the offer, you do not have to pay us. If you accept this offer, you will have to pay us [same amount disclosed previously] for our services. If you stop paying your mortgage, you could lose your home and damage your credit rating.

- Richard Campbell
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