

HMLS Policy on Short Sales

SECTION 5.1 (of the HMLS Rules & Regulations) – SHORT SALES

Participants must disclose potential short sales when reasonably known to the listing Participants. When disclosed, Participants may, at their discretion, advise other Participants whether and how any reduction in the gross commission established in the listing agreement, required by the lender as a condition of approving the sale, will be apportioned between listing and cooperating Participants.

In 2008, the HMLS Board of Directors approved a rule “requiring” notification to other Participants through the MLS when there is knowledge of a short sale or potential short sale. The Directors also stipulated that this notification must be placed in the Showing Agent Info (Private Remarks) on MLS listings. They later added a policy allowing placement of further references to a Short Sale in the Remarks field at the discretion of the listing agent, but only after first placing notice of a short sale in the Showing Agent Info (Private Remarks).

Things to Remember Regarding Short Sales:

1. Short Sales and Potential Short Sales must be disclosed on the MLS property listing data, when known.
2. Listing agents may advise other agents that there may be a change in the commission offered because it is subject to lender approval.
3. Notification of a short sale or possible short sale must be displayed in the Showing Agent Info (Private Remarks). Here are examples of wording that could be used: **“Short Sale”, “This is a potential short sale” or “This is a short sale and all offers are subject to lender approval”**. (This last sentence puts everyone on notice of the short sale and also reminds them that the lender must approve all offers, including the compensation/commission.)
4. Additional wording related to a short sale may be placed in the other Remarks or Directions fields, but must be in compliance with other HMLS guidelines for Remarks/Directions wording placement. For example, no reference may be made to any commission or compensation except in the Showing Agent Info (Private Remarks).
5. HMLS has included references to a "short sale" on the non-compliant data list (Guidelines for Remarks & Directions Fields) and failure to include the short sale notification in the Showing Agent Info (Private Remarks) is subject to fines as stated in Section 7.3 of the rules.
6. Short sale approval by a lender usually does not occur within one (1) calendar day: however, HMLS does require that the listing be placed in a contract status within one (1) calendar day of acceptance signatures by the buyers and sellers, per advice from legal counsel.