

# Real Estate Short Sale Contract

## ARE YOU WRITING SHORT SALE CONTRACTS?

### CALIFORNIA SENATE BILL 306 ENACTS NEW RULES FOR LENDER AND ESCROW PROCEDURES.

*The new law inserts a short payoff amount request into the existing payoff demand law which generally requires a lender to respond to a request for a payoff demand statement within 21 days from when it is requested, typically by escrow.* The new law essentially requires, after a short sale has already been approved, for the lender to respond to a request for a short-pay demand statement within 21 days. The lender's response to escrow can be a short-pay demand statement or even, depending on the circumstances, a written statement electing not to proceed with the proposed transaction.

Senate Bill 306 does not require lenders to review short sale requests from sellers and their agents within 21 days.

*Another provision of SB 306 deals with the time a lender has to approve a closing statement.* In practice, a lender may approve a short sale subject to its review of a closing statement prepared by escrow, but the lender may not review that closing statement promptly. ***Under SB 306, if a lender fails to approve the closing statement within four days, the closing statement shall be deemed approved, but only if it is "not clearly contrary to the terms of the short-pay agreement or the short-pay demand statement provided to the escrow holder."*** The new law does not bind a lender to a short payoff amount in an offer that the lender has not approved.

***Senate Bill 306 contains other technical changes in real estate related laws, such as, but not limited to, the following:***

- Expanding the existing requirement for a lender to contact certain borrowers to explore options for avoiding foreclosure at least 30 days before filing a notice of default, to include not only owner-occupied residences, but also owner-occupied residential property with two-to-four dwelling units.
- Extending the existing requirement for a lender to record a notice of sale from 14 to 20 days before a trustee's sale. This provision does not change existing law requiring a lender to wait at least 20 days after mailing a notice of sale before conducting a trustee's sale.

The full text of Senate Bill 306 is available at [www.leginfo.ca.gov/pub/09-10/bill/sen/sb\\_0301-0350/sb\\_306\\_bill\\_20090806\\_chaptered.html](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0301-0350/sb_306_bill_20090806_chaptered.html)

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# Chicago Title

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For informational purposes only. Information gleaned from public resources and deemed reliable but not guaranteed. Consult your legal professional for specific provisions of the new law and how it could affect your specific situation.