

Information for Buyers about Bank (Foreclosure) Property

- ◆ When a lender forecloses on a property, the lender will often bid the mortgage amount at the sheriff's sale and receive a sheriff's deed to the property. Property owned by the lender is referred to as a Real Estate Owned (REO) property.
- ◆ Rather than manage and sell the REO property itself, the lender often turns the property over to an asset management company which negotiates the sale on the lender's behalf, working through a Wisconsin listing broker.
- ◆ Frequently, neither the lender nor the asset manager is in Wisconsin. They are unfamiliar with Wisconsin real estate forms and laws.
- ◆ They have not seen the property so they are in no position to make meaningful disclosures about the property condition. They do not know whether there are serious defects like frozen/leaking pipes.
- ◆ REO sales are "as-is, where-is" transactions: the seller does not make property condition disclosures and often will not make any repairs.
- ◆ Negotiations to purchase an REO property typically start on the Wisconsin offer to purchase form (required to be used by licensed real estate agents in Wisconsin), but the REO seller typically has a lengthy REO addendum that they want added to the contract that overrides many of the Wisconsin offer to purchase provisions. An REO addendum is written by the lender's legal counsel, favors the seller and is often difficult to understand. The REO seller may not allow any changes to the addendum.
- ◆ Because it is not a Wisconsin form, Wisconsin agents cannot explain the meaning and implications of REO addendum provisions to the buyer (to do so would be illegal,) so the buyer is encouraged to speak with an attorney who can interpret the addendum and answer the buyer's legal questions.
- ◆ REO sellers and asset managers often respond verbally to offers and will not provide written counter-offers. Until a purchase contract is in writing and signed by both parties, it is not final and 100% binding under state law.
- ◆ An asset manager may only have the ability to give a conditional acceptance, while final acceptance requires the corporate lender's approval. Sometimes the lender might change the terms of the offer or even sell to another buyer.

- ◆ Many REO sellers use a title company that is not in Wisconsin and not familiar with Wisconsin law; some also appear to try to short-cut the process (and save money) by providing less coverage and protection than under a traditional Wisconsin title insurance policy. There also may have been title errors if short cuts were taken by the lender during the foreclosure process, which may lead to additional risks for the buyer.

Buyer has been made aware that a property sold by a distant lender or asset manager (REO property) often was acquired through a foreclosure, and that REO sellers do not make disclosures about the condition of the property and may include an addendum that minimizes the seller's responsibility to provide proof of merchantable title and modifies other contract provisions.

Real estate broker _____ and its agent have recommended that you consider the following measures to protect your interest in an REO transaction:

1. Have your attorney review the offer to purchase; other purchase documents, including any REO addendum; and the title evidence.
2. Either (a) purchase the loan title insurance commitment for your lender from a local title insurance company, or (b) purchase your own title insurance commitment (in addition to that provided by the seller) from a local title insurance company to double check the title work (this may involve additional costs). Be sure the local title agent checks all pertinent municipal information including city orders and zoning.
3. Obtain inspections and tests to determine the property condition.
4. Take direction from the attorney before closing or providing any closing funds.

The undersigned Buyer acknowledges receipt of the above disclosures.

Buyer Date

Buyer Date