



One Minute Analysis
SB 414- Deficiency Judgments and Short Sale Response

This “One Minute Analysis” is intended to encapsulate SB 414 in a nutshell. [Link to SB 414](#)

Section 3 A Bank may NOT “unreasonably delay” responding to an offer for “sale in lieu of foreclosure” of a residence. (90 days unless otherwise agreed). “Sale in lieu of foreclosure” includes short sales and deeds in lieu of foreclosure or any other sale where the sales price does not pay the debt and costs of sale.

Section 3.5 The court MAY NOT award a deficiency judgment to a bank IF:

- 1- The property is a single family owner occupied residence
- 2- The debt is purchase money debt (this means that the loan was used to buy the home, not refinanced or used to buy vehicles or other property)
- 3- The owner continuously occupied the residence
- 4- The owner and bank entered a short sale agreement that:
 - a. Is silent on two things
 - i. The amount of money still owed (deficiency amount)
 - ii. Language authorizing the bank to recover a deficiency
 - AND
 - b. Is specific on two things
 - i. A conspicuous statement that the bank has WAIVED the deficiency and
 - ii. Sets forth the amount being waived.

Two Scenarios (examples of 4a and 4b):

4(a)- Short Sale agreement #1: states that the Owner owes a deficiency of \$50,000 that the bank may recover. In this case, Bank MAY be granted a deficiency judgment by a court.

4(b)- Short Sale agreement #2: states that the Bank waives a deficiency of \$50,000. In this case, Bank may NOT be granted a deficiency judgment by a court.

Effective June 13, 2011.

This ONE MINUTE ANALYSIS is an abbreviated synopsis of a bill. If this bill pertains to you or your client please read the language in full and consult an attorney. [Link to SB 414](#) Do not give legal advice to your clients as to whether a deficiency may be granted.

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NRS 40.455

What does NRS 40.455 Say about Senior Lienholders and Deficiencies?

Unless Paragraph 3 applies, the creditor can apply within 6 months of the date of the foreclosure sale for a deficiency judgment.

If the debt is on more than one piece of property the 6 months starts after the foreclosure of the last parcel, but not more than 2 years after the first foreclosure.

If the lienholder is a financial institution, the court MAY NOT award a deficiency judgment if:

Single family dwelling

AND

Purchase money

AND

Continuously owner occupied

AND

Not refinanced

FOR OBLIGATIONS
INCURRED AFTER
OCTOBER 1, 2009?

SB 414 Short Sales

WHERE A BANK AND HOMEOWNER ENTERED A SHORT SALE AGREEMENT (SSA)

