



## Legislation Text

---

**File #:** 26476, **Version:** 1

---

### **Fiscal Note**

The City of Madison has a variety of loan programs, administered primarily by the City's Community Development Division (CDD) and Economic Development Division (EDD), that provide financial assistance to residents to enable the purchase and/or rehabilitation of residential properties. CDD estimates that the City currently has approximately \$20 million invested in owner-occupied properties, with individual loans ranging from \$1,200 to \$128,223; the average loan balance is \$21,000. The vast majority of funding for the loans is derived from Federal HUD and other grant monies.

While CDD estimates that the foreclosure rate in which City funds are invested is below 2% (in 2011, CDD estimates total write off amounts of approximately \$155,000 due to foreclosure actions), in the event of a bank foreclosure on a residential property, the City is likely to lose its investment. The loss of these funds means that these proceeds are not available for re-investment in other projects.

For distressed properties, a short sale allows for a negotiated settlement among the City, private lending institutions, and homeowners, which may preclude a foreclosure and allow the City to recover some of its investment. CDD estimates that there have been 5 requests for short sales over the past three years.

The Resolution provides a more efficient City process to address short sale requests. No appropriation or expenditure is required to implement the process.

### **Title**

Authorizing the Community Development Division (CDD) Director and Economic Development Division (EDD) Director to approve requests for short sales and sign off on loan write offs for owner-occupied homes for up to \$50,000.00 per property when there are insufficient funds to cover the repayment.

### **Body**

WHEREAS, City of Madison housing programs offer down payment and closing costs and rehabilitation assistance to home buyers and owners in the form of deferred payment and installment loans. These loans are secured by a mortgage lien and a promissory note using the residential structure as collateral. There has been an increase in the number of requests for short sale approval for City of Madison promissory notes for residential properties. A short sale is a transaction where title transfers; where the sales price is insufficient to pay the total of all liens and costs of sale; and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies.

WHEREAS, HUD has limited the amount of recapture available at sale to participating jurisdictions such as City of Madison to be limited to only the net proceeds from a sale. Net proceeds are defined as the sales price minus superior loan repayment (other than HUD funds) and any closing costs. Under no circumstances can the City of Madison recapture more than is available from net proceeds for loans funded with federal financing such as HOME or CDBG. This short sale policy will also apply to loans funded with City or State Funds.

WHEREAS, a City of Madison staff team, comprised of staff from the CDD and the EDD will review each short sale request to determine if the sale qualifies under the criteria that the distressed owners have a hardship, buyer and seller have entered into an Arms Length Transaction (all parties and their agents must be unrelated) and seller is willing and able to sell. Review will also include discussions and possible negotiation with primary lender. Final approval to determine if the City of Madison will write off the loan amount will be given to the Community Development Division Director or the Economic Development Division Director.

WHEREAS, homeowners do face challenges to sell their properties. The City of Madison will look at potential hardships and determine if there are sufficient funds to pay back junior liens held by the city. Homeowner must meet at least one definition of hardship. Definition of hardship will include one or more of the following.

1. Income has been reduced or lost. For example; unemployment, underemployment, reduced job hours, reduced pay, or a decline in self-employment business earnings.
2. Household financial circumstances have changed. For example; death in family, serious or chronic illness, permanent or short-term disability, increased family responsibilities (adoption or birth of child, taking care of elderly relatives or other family members).
3. Expenses have increased. For example; monthly mortgage payment has increased or will increase, high medical and health-care costs, uninsured losses (such as those due to fires or natural disasters), unexpectedly high utility bills, increased real property taxes.
4. Value of the property has shown a significant decrease since the property was purchased in which the value is significantly less than the amount of liens on the property.

And the following criteria;

Cash reserves are insufficient to maintain the payment on the mortgage loan and cover basic living expense at the same time. Cash reserves include assets such as cash, savings, money market funds, marketable stocks or bonds (excluding retirement accounts). Cash reserves do not include assets that serve as an emergency fund (equal to three times the monthly debt payments).

NOW, THEREFORE BE IT RESOLVED, that the Common Council of the City of Madison does hereby authorize the Community Development Division Director and Economic Development Division Director to approve requests for short sales and sign off on loan write-offs for owner-occupied homes for up to \$50,000.00 per property when there are insufficient funds to cover the repayment.