

# Contract for Deed

**What is a contract for deed?** A contract for deed is an agreement to buy property. The buyer makes monthly payments directly to the seller. When the final payment is made, the seller transfers the deed to the buyer, who becomes the new owner. If the buyer breaches (violates) the contract for any reason during the payment period, the seller can terminate the agreement— putting buyer at risk of losing all money paid under the contract and eviction. Buyers under a contract for deed are at greater risk for losing the property than if purchased through a lender with a warranty deed (a deed that guarantees a clear title to the buyer of real property) and vendor's lien (a legal document that is the security for a real estate loan).

**How can I protect my interest in the property?** Record (file) your contract for deed in the deed records of the county where the property is located. Once recorded, the contract is treated the same as warranty deed with a vendor's lien. If you get behind on payments, the seller must post, file, and serve notice of sale as a foreclosure before you can be removed. Also, recording your deed protects the property against claims from others, not just the seller.

**What are my rights as a buyer under a contract for deed?** The seller must give you certain information *in writing*. If the contract negotiations are in Spanish, the disclosures must also be in Spanish.

You have the right to know the **condition of the property**, including:

- whether utilities are available, including whether the septic system has been approved;
- if the property has been legally subdivided and whether it's in a flood zone;
- whether there are any other persons claiming ownership interest in the property; and
- whether there are any liens or past-due taxes on the property

You have the right to know the **terms of financing**, including:

- the purchase price and total amount to be paid, including interest;
- the interest rate, and total interest to be paid, and
- the terms for late fees. By law, late fees cannot be more than 8% of your monthly payment.

You have the right to an **annual accounting** by Jan 31<sup>st</sup> of every year that includes:

- what you've paid so far and what you owe;
- the number of payments left; and
- the property taxes paid.

*You have the right to receive a warranty deed to the property within 30 days of your last payment under the contract.*

**Can I cancel the contract for deed?** Yes, but there may be time limits.

Cancelling for any reason: When you sign, the seller must inform you of your right to *cancel for any reason within 14 days of signing*. If you cancel, the notice must be written, signed, dated, and include the date of cancellation. Send it by certified mail, or hand deliver it to the seller (get receipt for delivery!). The seller has 10 days from receipt to give you a full refund and cancel any security interests included in the contract.

Property not platted: If the property is not platted and subdivided to show exactly the part you are purchasing, you can cancel the contract *at any time*. Give written, signed and dated notice to the seller by hand delivery or certified mail. The seller has 10 days from receipt to give you a refund or deliver a written notice of intent to subdivide or plat the property.

**Can the seller terminate the contract for deed?** Yes. If you violate (breach) any term of the contract and the seller wants you out, the seller must give you written notice by certified or registered mail. The notice must tell you what you can do to remedy the breach. If the breach is for nonpayment, it must state what you owe in principal and interest, additional charges (like late fees), and the date of each missed payment.

- If you've paid less than 40% of the total purchase price or made less than 48 payments and have not recorded your contract in the property records, you have the right to cure (catch up on all payments due) within 30 days of the notice. If not, the seller can cancel the contract and file an eviction suit in Justice Court to remove you from the property.
- If you've paid more than 40% or made more than 48 payments, or if you recorded your contract in the property records and you defaulted on payment after Sept. 1, 2015, you have the right to cure within 60 days of the notice. If not, the seller can post, file, and serve notice of sale as a foreclosure. After a foreclosure sale, the purchaser can file an eviction suit to have you removed from the property.