

Contract for Deed

What is a contract for deed? A contract for deed is a contract in which the buyer pays for land by making monthly payments for a period of years. The buyer does not usually receive a deed to the land until all payments are made according to the contract. A contract for deed can leave the purchaser more vulnerable to fraud or unscrupulous sellers than purchasing under a warranty deed with a deed of trust.

Do I need to file the contract in the property records? Yes, because it will protect your ownership interest in the property. A new Texas law says that if a contract for deed is recorded (filed) in the deed records of the county where the property is located, it is treated the same as deed with a vendor's lien. That means the seller can no longer rescind, forfeit, or accelerate payments on the contract. The seller only has a lien against the property for what you owe. By recording the contract for deed, you can protect your equity in the property.

What are my rights as a buyer under a contract for deed? The law requires that certain information to be given to the buyer *in writing*. If the negotiations are in Spanish, the disclosures must 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 is part of a subdivision, who maintains the roads and whether it's in a flood zone;
- whether any back taxes are owed, and
- the types of buildings that are allowed 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 31st 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 take title *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 contract, the seller must give you notice of your right to cancel for any reason *within 14 days* after you sign the contract. To cancel, you must deliver a dated *written* notice of the cancellation to the seller by hand delivery or by certified mail, return receipt requested. The seller has 10 days to make a full refund and cancel any security interests included in the contract

Property not platted and subdivided: If the property is not platted and subdivided, you can cancel the contract *at any time* by notifying the seller in writing by certified mail, return receipt requested or by hand delivery. After notice, the seller has 10 days to make a full refund or deliver a written notice of intent to subdivide or plat the property.

Can the seller cancel my contract for deed? If you don't comply with the terms of the contract, the seller may send you written notice of default by certified mail. The notice must state what you owe in principal and interest, additional charges (like late fees), the contract terms that were violated, and what you can do to cure the violation. What happens next depends on how long or how much you've paid.

- If you've paid less than 40% of the amount due or made less than 48 payments –cure the default within 30 days or notice. If not, the seller can cancel the contract and take possession of the property (through an eviction procedure) unless your contract has been filed in the property records and the default occurred on or after September 1, 2015.
- If you've paid more than 40% or made more than 48 payments or your contract has been filed in the property records and the default occurred on or after September 1, 2015 – cure the default within 60 days of the notice. If not, the seller can post, file, and serve notice of sale as a foreclosure.