

Public Act 100-0416: Installment Sales Contract Act Protecting Rent-to-Own Homebuyers

New Illinois Law Goes into Effect on January 1, 2018

In the aftermath of the foreclosure crisis, there has been a resurgence in “rent-to-own” housing opportunities (a.k.a. contracts for deed or real estate installment contracts) promising homeownership to people who generally are not in a financial position to buy a home through securing a mortgage.

While rent-to-own can be an understandable choice for certain buyers, prior to passage of this new state law, rent-to-own contracts were only minimally regulated under Illinois law and prone to contain misleading and/or unfair terms and conditions. Even worse, some sellers of rent-to-own homes have a business model based on predatory practices that churn a series of buyers through unsustainable agreements that quickly lead to default.

Key consumer protection provisions in Public Act 100-0416 include:

Disclosures and Education Prior to the Sale

- Creates Installment Sales Contract Act regulating sellers of 1-4 unit residential properties who enter into contracts more than 3 times in any 12-month period.
- Requires a written contract for these sales that must include certain information, including any balloon payments due.
- Requires the buyer to receive an amortization schedule prior to closing, so they understand how much of their monthly payment will be applied to principal and interest and how long it will take to pay off the loan.
- Requires disclosure of building code violations and fair cash value, as reflected on tax bills, so that prospective buyers have some sense of the condition and value of the home.
- Creates a 3-day “cooling off period” after the seller has presented the contract to the buyer in its full and final form. During this time, parties cannot be bound to sign the contract and can review an educational disclosure document provided by the seller and prepared by Office of the Attorney General that will describe issues to consider, such as having the property appraised and inspected, before signing the contract.

Protections After the Sale

- Mandates the seller create a public record of the sale by recording the contract or a memorandum of the contract to protect the buyer’s ability to obtain a clear title to the home.
- If the seller fails to record the contract or the memorandum of the contract the buyer has the right to rescind the contract until such time as the seller records the contract. Upon rescission, the seller must refund to the buyer all money paid to the seller.



A stronger Illinois begins at home

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- Allows buyers 90 days to cure defaults before the seller can try to evict or foreclose on them if the buyer misses a payment.
- Bans certain predatory loan terms, such as putting the buyer in default of the contract for failure to repair preexisting conditions and penalties for prepaying the loan.

Enforcement

- Violations of the Installment Sales Contract Act are also violations of the Consumer Fraud and Deceptive Business Practices Act. Under this law, the Attorney General may investigate potential violations and file lawsuits based on unfair or deceptive practices. Results of lawsuits can include orders to cease unfair and/or deceptive practices, revocation of licenses and/or restitution for injured consumers and civil penalties.
- Individuals may also bring legal actions under the Consumer Fraud and Deceptive Business Practices Act and the court may accord actual damages, injunctive relief, attorneys' fees, and costs to the prevailing party.

Expanded Foreclosure Protections

The new state law expands foreclosure protections for all people entering into installment sales contracts, not just those covered by the above provisions, by eliminating the current requirement that contracts be five years in length to require a foreclosure, as opposed to an eviction, in the case of default on the contract. The new law leaves in place the existing requirement that 20 percent of the contract be paid to require a foreclosure proceeding.

Sponsors and Supporters of Original Legislation (Senate Bill 885)

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Supporters of Housing Action Illinois' efforts to pass SB 885 included: Office of the Attorney General, Chicago Coalition for the Homeless, Chicago Urban League, Cook County Recorder of Deeds, Contract Buyers League USA, Illinois PIRG, Navicore Solutions and Woodstock Institute



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