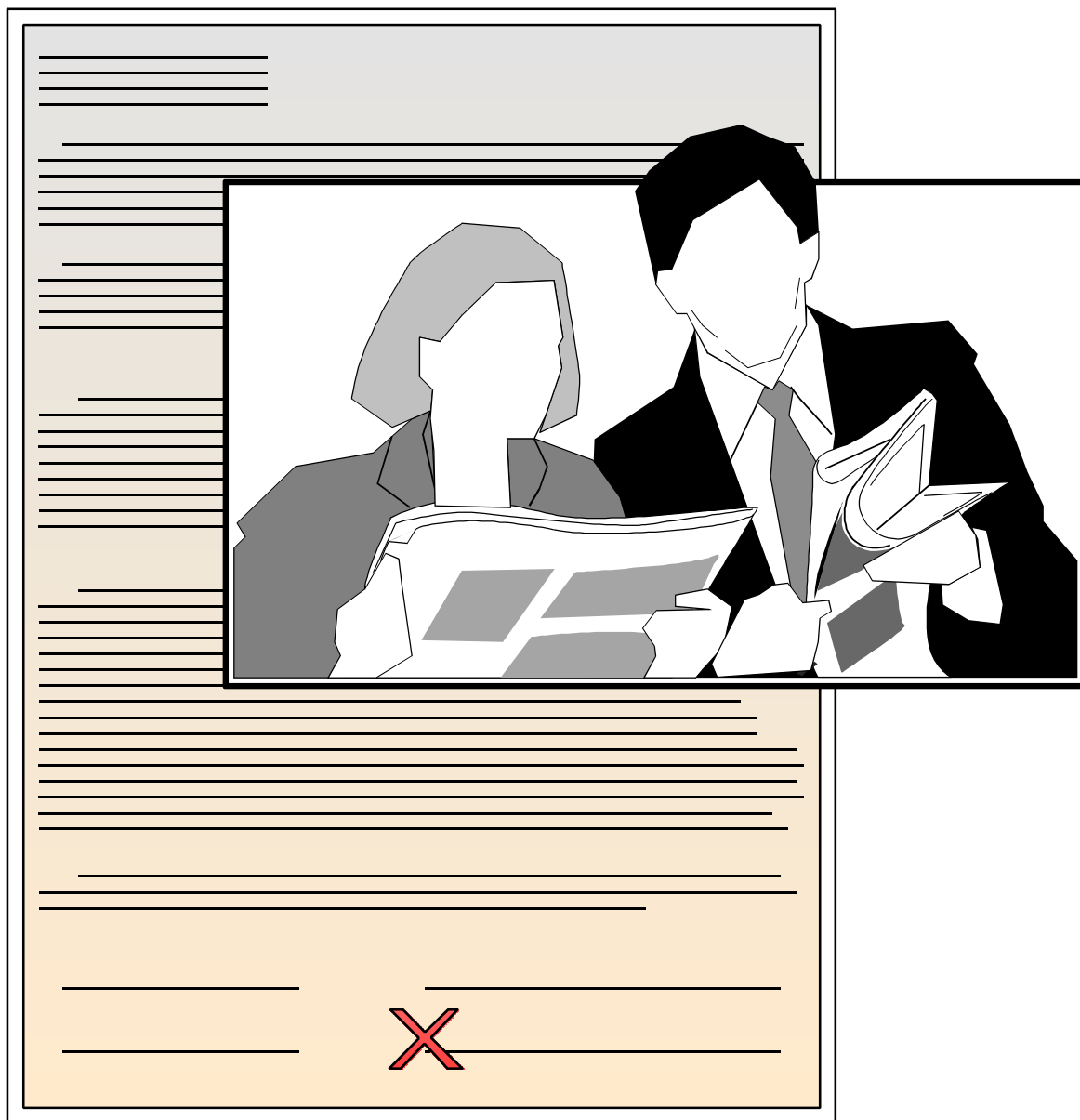


What You Should Know
About
LAND CONTRACTS



*This pamphlet prepared by and distributed by
Southeastern Ohio Legal Services
1-800-589-5888*

**What You Should Know
About
LAND CONTRACTS**

You are reading this pamphlet because you either want to buy a home and be able to make payments, are having problems with an existing land contract, or just want to know more about land contracts. This pamphlet is not a substitute for legal advice. We urge you to consult with an attorney if you have any questions about, or before entering into or cancelling, a land contract. If you are low-income or a senior citizen, call 1-866-LAW-OHIO (1-866-529-6446).

GET IT IN WRITING!!!!!!!!!!

What Is a Land Contract?

1. A Land Contract is an agreement by a Seller to sell you land and a house on that land (in the state of Ohio) for an agreed price. A mobile home can be sold on Land Contract **only if it is affixed to (that is, a part of) the land being bought.**
2. You agree to make installment payments or monthly payments of the agreed price, plus interest, until paid in full.
3. The Seller agrees to transfer the deed to you after all of the payments have been made.

What Isn't a Land Contract?

1. Leases with an option to purchase real property or rent-to-buy agreements are not Land Contracts. These are screwy legal deals. If you have one, talk to a lawyer.
2. Under Ohio law, the Land Contract must be for a home and the property the home sits on, not just land. It can be for a mobile home **only if** the mobile home is **affixed to** (that is, a part of) the land.
3. You cannot use a Land Contract to buy just a mobile home without the land. To buy a mobile home on Land Contract, the mobile home must have been made part of

the land by the Auditor. If you think you have bought just a mobile home on a Land Contract, talk to a lawyer.

Who Is Who?

“Buyer” or **“vendee”** is the individual(s) buying on Land Contract.

“Seller” or **“vendor”** is the owner of the property selling it to a Buyer on Land Contract.

What Law Governs?

Land installment contracts are regulated by Ohio Revised Code Chapter 5313.



TIP

How do you know if a mobile home is affixed to the land?

You can look to see if there are wheels attached to the mobile home or if it is on a permanent foundation.

The best way is to go to the Tax Office in which the property is located to determine if JUST real estate taxes are being collected. If JUST real estate taxes are collected, you can buy the mobile home on Land Contract because the mobile home is attached or affixed to the land.

If any other type of taxes are collected, talk to a lawyer before signing a Land Contract.



Questions to Ask Yourself Before You Enter into a Land Contract

- Who owns the property? Does the person trying to sell me the property really own it? **Ask to see the deed.** Are there any other Land Contracts on the property? Will you get clear title? Go to the County Recorder's Office to find out.
- Is there a mortgage on the property? Check the mortgage records at the Recorder's Office of the county in which the property is located.
- If you buy the property on Land Contract, you will have to make all repairs that are needed on the property after you make an agreement.
- What is the condition of the property? What sort of repairs am I going to have to do? Can I afford them?
- Walk through the property carefully. **INSPECT IT!** Get an inspector to look at it. *Look for leaks, mold, and termites. How old are the furnace, roof, pipes, and septic system? Talk to people who lived there before. If the Seller says something about the property's condition, get it in writing, as part of the contract. If the Seller will not put it in writing, be very wary or suspicious.*

- Check with the Seller—you may be responsible for taxes on the property and homeowner's insurance. Will you be able to afford these and a monthly payment? *Ask the County Auditor if there are any unpaid taxes on the property.*
- Can I afford payments and pay taxes, insurance and repairs on my income? What may have been a bargain may turn into a nightmare.
- How much of a down payment is expected? If I move, will I get any money back? Do I have the money?
- Who is drawing up the papers? What costs will be involved? **Get a copy of all papers to review BEFORE signing.**
- Where will the Land Contract be recorded? If you are told that it will not be recorded, **do not sign. The law requires Land Contracts to be recorded!**
- Before you sign any contract, you should contact an attorney to review the paperwork.
- **Walk away and think about it. If it is too good to be true, it is.**

✓ A Land Contract should be in writing ✓



TIP

What about the down payment?

Unless you and the Seller agree otherwise, you will not get your down payment back if you do not pay the Land Contract. If you pay more than 20%, or have been paying for five or more years, you may get some money back.



What Should Be Contained in a Land Contract?

Every Land Contract should be signed (the legal term is “executed”) in duplicate (two copies), and a copy of the contract given to both the Seller and to you (the Buyer). At a minimum, the following should be included in a land installment contract:

- the names and current mailing addresses of all parties to the contract;
- the date the contract was signed by both parties;
- a legal description of the property to be sold;
- the contract price of the property;

- any charges or fees for service that are included in the contract separate from the contract price;
- the amount of the Buyer's down payment;
- the principal balance owed;
- the amount and due date of each installment payment;
- the interest rate on the unpaid balance and the method of computing the rate;
- a statement of any encumbrances against the property conveyed;
- a statement requiring the Seller to deliver a general warranty deed on completion of the contract, or another deed that is available when the Seller is legally unable to deliver a general warranty deed;
- a provision that the Seller provide evidence of title;
- a provision that, if the Seller defaults on any mortgage on the property, the Buyer can pay on that mortgage and receive credit on the land installment contract;
- a provision that the Seller shall cause a copy of the contract to be recorded;

- a requirement that the Buyer be responsible for the payment of taxes, assessments, and other charges against the property from the date of the contract, unless agreed to the contrary; and
- a statement of any pending order of any public agency against the property.

What If My Land Contract Does Not Have These Terms?

Ohio courts have upheld Land Contracts which do not meet all of the above terms. Courts generally will look at the intent of the parties. Did the parties intend to have a Land Contract? That is why a written contract which contains all of the legal requirements is important. If you are in any doubt, consult with a lawyer. If you are a senior or low-income, call your local Legal Services, 1-866-LAW-OHIO (1-866-529-6446).

What the Law Says a Seller Can't Do

- A Seller cannot sell property by Land Contract if the Seller owes more on a mortgage on that property than the balance due under the Land Contract.
EXCEPTION: a mortgage that covers more property than just the real property sold on Land Contract to the Buyer is acceptable if the Seller has made **prior** written disclosure to the Buyer of the amount of the mortgage.
- A Seller cannot put a mortgage on property being sold by Land Contract during the Land Contract in an amount **BIGGER** than the balance due on the contract without the **consent** of the Buyer.

What the Law Says a Seller Must Do

- Every Seller must, at least once year or upon your demand, (but no more than twice a year), give you a statement showing the amount paid in principal, amount paid in interest, and the remaining balance owed.
- The Seller must **RECORD** the Land Contract in the County Recorder's Office where the property is located within **20 days of signing**, and it shall contain the legal description of the property. If the Seller does not record it, you should record it to protect your interest.

If I Do Not or Cannot Pay on My Land Contract, What Happens?

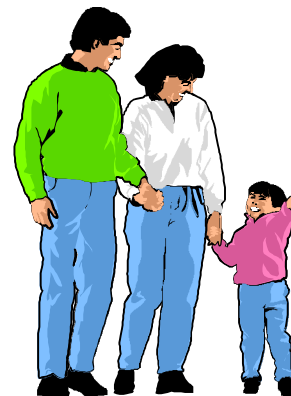
- If you fail to make a payment or fail to comply with other terms of the Land Contract for 30 days, you may lose your rights to remain in the property.
- If, before those 30 days are up, you make all payments currently due under the contract, pay any fees and charges which you owe under the Land Contract, and begin complying with all other terms, you should not lose the property.
- If, at the end of the 30-day period, you are still behind in your payments, fees or charges owed under the Land Contract, or are not complying with all other terms, the Seller must give you a **WRITTEN NOTICE** if the Seller wants to end the Land Contract. The notice must include:
 1. an indication that there is a Land Contract and the address of the property;
 2. a reason(s) for ending the contract; and
 3. a statement that the Buyer has ten days to correct the problem.

- This notice must be served by the Seller by handing you a written copy of the notice, **by leaving** it at the property which is the subject of the Land Contract, or by mailing it to you by registered or certified mail to your last known address.

If you get this notice, call Legal Services:
1-866-LAW-OHIO (1-866-529-6446)

What Next?

- After the ten-day notice period, the Seller can file court action if you have not corrected the default and complied with the contract. There are two (2) possibilities:



1. If the contract has been in effect for less than five years, or less than 20% of the principal amount due has been paid, and you have been in default for over 30 days, an **eviction** action against you can be filed just like a landlord evicting a tenant. If this happens, you could lose your down payment **You must receive notice as explained above first.**

2. If you have paid under the Land Contract for **five years** or more from the date of the first payment, or have paid toward the purchase price a total sum equal to or more than **20%** of the contract price, the Seller may recover the property **only** by **use of FORECLOSURE** and judicial sale of the property.



What Is a Foreclosure?

If you have paid more than 20% of the contract price, or the Land Contract has been in force for five years and you have been paying, the Seller must FORECLOSE. This means that a legal action is filed and if you lose, the property is sold. If the property is sold for more than what is owed on your Land Contract, you will get what is left.

That is why it is important not to just walk away or move out if you get a notice. You have valuable rights. You should contact a lawyer.

What If I Made Improvements or Repairs?

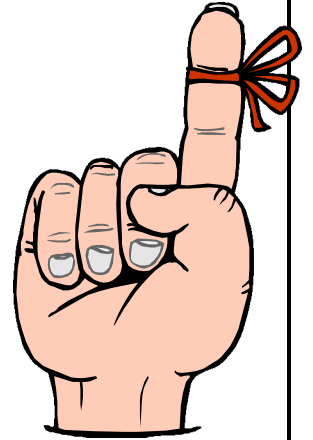
You may be able to get reimbursed the value from the Seller for improvements or repairs made to the property. You may have to go to court to do that. You should keep all receipts for the work done and materials bought. You may want to consider adding reimbursement for the costs of repairs and improvements to your Land Contract. You should contact a lawyer regarding your rights.

DO NOT JUST MOVE.

**You have rights. If you get a notice, call a lawyer.
If you are low-income or a senior citizen,
call 1-866-LAW-OHIO (1-866-529-6446).**

What You Need to Know about Lead Paint

Lead poisoning is having too much lead in the body. Lead poisoning is a serious health problem that affects people's minds and bodies. Children under age six and unborn children are at the greatest risk of harm from lead poisoning because their bodies and nervous systems are still developing.



If the home you are considering buying on Land Contract was built before 1977 and you want to know if the house contains lead paint, you should contact your local Health Department to have the home tested. Ask the Seller if there is lead paint. Look for chipping paint and dust. Lead can also be in the dirt around the house.

Lead poisoning is serious. Do not agree to buy a house which has lead paint. If the Seller refuses to give you the required lead paint notice, walk away. For more information on lead issues, you can contact your local Health Department, your child's doctor or local clinic, or your local Legal Services office at 1-866-LAW-OHIO (1-866-529-6446).



Things to Keep in Mind

A Land Contract that does not contain all of the terms required by Ohio law can still be good. You should contact an attorney. If you cannot afford an attorney, contact your local Legal Services.

A written contract protects **both** the Buyer and the Seller. It helps the Buyer to make more informed decisions. And it helps both parties to know their rights. **Read before you sign.**

Oral Land Contracts can sometimes be valid, **BUT SHOULD BE AVOIDED**. You should contact an attorney or your local Legal Services immediately if you think that you have this type of Land Contract.

When reviewing a written instrument, courts must look to what the parties thought they were getting—the intent should be gathered from the written language.

If the contract is not clear, the contract is interpreted against the party who wrote the contract.

Record your Land Contract to protect your rights.

A LAND CONTRACT SHOULD BE IN WRITING