



## Housing

### **Predatory land contracts strip wealth from communities**

**Victoria Jackson**

Housing is a basic need that can be exploited for a profit. For some, homeownership provides stability and wealth, but many who aspire to own a home are taken advantage of by predatory lending practices. Communities that are locked out of traditional home buying because of income, race, and credit history are common targets for exploitative practices. Land installment contracts, also called land contracts, are one way of exploiting buyers. These contracts, common during legal housing segregation, have seen a resurgence as tightened access to conventional lending has reduced home-buying options for many aspiring homeowners.

A land contract is a seller-financed home purchase transaction where the buyer makes payments directly to the seller over time, and the seller agrees to transfer the title to the buyer after the house has been paid in full. They can include egregious terms like exorbitant fees, buyer-required repairs, and balloon payments. In Ohio if a buyer defaults before making substantial payments, the seller can cancel the contract through a process called forfeiture, which allows the seller to force the buyer to leave and to forfeit all prior payments and investments entirely. Land contracts are often advertised as an alternative model to homeownership, but usually they represent a blatant predatory lending practice that harms buyers and communities.

In Ohio, a state hit hard by the foreclosure crisis, investors, like Harbour Portfolio Advisors, are buying foreclosed derelict properties in bulk, marking up prices, and selling houses on contract. From January 2008 to January 2018, there were 47,610 recorded land contracts in Ohio.<sup>1</sup> This number does not include the large number of unrecorded contracts.<sup>2</sup> Land contracts often provide the illusion of homeownership to the buyer but are instead a predatory agreement that deeply, almost exclusively, advantages the seller.

To address the issue of predatory land contracts, Ohio should provide greater legal protections for land contract buyers, allowing seller financing to be restricted to terms that are fair, equitable, and ethical.

<sup>1</sup> Public records request from County Recorder's Offices. Montgomery County is not included. Montgomery County's online records system lists 7,490 land contracts. This number is an outlier and does not reflect the actual lower number of recorded land contracts. A staff person in the Montgomery County Recorder's Office confirmed their online database can include multiple records for one land contract, which results in an unusually high number of records.

<sup>2</sup> Peter M. Ward, Heather K. Way, and Lucille Wood, The Contract for Deed Prevalence Project: A Final Report to the Texas Department of Housing and Community Affairs (Aug. 2012), available at <http://www.tdhca.state.tx.us/housing-center/docs/CFD-Prevalence-Project.pdf>

## Recommendations

Ohio needs to create better rules for land contracts and better enforce them once they're in place. Without regulation, Ohioans are vulnerable to predatory practices. Community leaders have been working with the legislature to document the problems and put forth best practice solutions. Solutions should include:

1. Require houses sold through land contracts to be habitable and up to code prior to sale and over the course of the contract and require sellers to provide documentation that property is in compliance.
2. Require sellers to pay for independent inspections and appraisals, ensure clear rules about inspections, and ensure that sellers use reputable appraisers.
3. Require sellers to pay off liens on the property prior to executing a contract and prohibit sellers from holding a mortgage on the property.
4. Ensure that contracts are understandable, clearly spell out seller obligations, are provided to buyers, and inform buyers of their rights.
5. Deviation from land contract law provisions should only be permitted when the buyer and seller each have their own attorney.
6. Ensure that buyers have the right to sue for contract or law violations and can be awarded money damages.
7. Contracts must be subject to the federal Truth in Lending Act. Contracts should not be permitted to contain forfeiture clauses; prepayment penalties; or unfair, deceptive, or abusive practices.
8. The state should vigorously enforce and monitor compliance, including collecting data to enable assessment of how land contracts affect communities.

It is essential that Ohio protect its people from predatory land contracts. Legislators should support measures to shield Ohio communities from predatory practices that strip wealth from homebuyers and harm neighborhoods.