

HOUSE BILL 437

By Haston

AN ACT to amend Tennessee Code Annotated, Title 66,
relative to transfers of real property.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 66, Chapter 4, is amended by adding the following as a new part:

66-4-401. Definitions.

As used in this part:

(1) "Default" means the failure to:

(1) Make a timely payment; or

(2) Comply with a term of an installment land contract; and

(2) "Installment land contract" means a contract for the sale of land

providing that the buyer will receive immediate possession of the land and pay the purchase price in installments over time, but that the seller will retain legal title until all payments are made, and includes an executory contract for conveyance of real property, a contract for deed, a land contract, and a land sales contract.

66-4-402. Applicability.

(a) This part applies only to a transaction involving an installment land contract for real property used or to be used as a purchaser's residence.

(b) For purposes of this part:

(1) A lot measuring one (1) acre or less is presumed to be residential property; and

(2) An option to purchase real property that includes or is combined or executed concurrently with a residential lease agreement, together with the lease, is an installment land contract.

(c) This part does not apply to sale of land by:

(1) This state or a political subdivision of this state; or

(2) An instrumentality or other entity created to act on behalf of this state or a political subdivision of this state.

(d) This part does not apply to an installment land contract that provides for the delivery of a deed from the seller to the purchaser within one hundred eighty (180) days of the date of the final execution of the installment land contract.

(e) Sections 66-4-407, 66-4-408, 66-4-410, 66-4-416, 66-4-420, 66-4-422, and 66-4-423 do not apply to an installment land contract described by subdivision (b)(2).

(f) Notwithstanding any other provision of this part, only the following sections apply to an installment land contract described by subdivision (b)(2) if the term of the contract is three (3) years or less and the purchaser and seller, or the purchaser's or seller's assignee, agent, or affiliate, have not been parties to an installment land contract to purchase the property covered by the installment land contract for longer than three (3) years:

(1) Sections 66-4-404 - 66-4-406;

(2) Section 66-4-414, except for subdivision (a)(2); and

(3) Sections 66-4-424 and 66-4-426.

66-4-403. Construction with other law.

(a) Except as provided in subsection (b) and § 66-4-402(e), this part applies to the portion of an installment land contract described by § 66-4-402(b)(2) that is a residential lease agreement.

(b) After a tenant exercises an option to purchase leased property under a residential lease described by subsection (a), chapter 28 of this title no longer applies to the lease.

66-4-404. Notice.

(a) Notice under § 66-4-405 must be in writing and must be delivered by registered or certified mail, return receipt requested. The notice must be conspicuous and printed in 14-point boldface type or 14-point uppercase typewritten letters, and must include on a separate page the statement:

NOTICE

YOU ARE NOT COMPLYING WITH THE TERMS OF THE CONTRACT TO BUY YOUR PROPERTY. UNLESS YOU TAKE THE ACTION SPECIFIED IN THIS NOTICE BY (date) THE SELLER HAS THE RIGHT TO TAKE POSSESSION OF YOUR PROPERTY.

(b) The notice must also:

(1) Identify and explain the remedy the seller intends to enforce;

(2) If the purchaser has failed to make a timely payment, specify:

(A) The delinquent amount, itemized into principal and interest;

(B) Any additional charges claimed, such as late charges or attorney's fees; and

(C) The period to which the delinquency and additional charges relate; and

(3) If the purchaser has failed to comply with a term of the contract, identify the term violated and the action required to cure the violation.

(c) Notice by mail is given when it is mailed to the purchaser's residence or place of business. The affidavit of a person knowledgeable of the facts to the effect that notice

was given is prima facie evidence of notice in an action involving a subsequent bona fide purchaser for value if the purchaser is not in possession of the real property and if the stated time to avoid the forfeiture has expired. A bona fide subsequent purchaser for value who relies upon the affidavit under this subsection (c) takes title free and clear of the contract.

66-4-405. Seller's Remedies on default.

A seller may enforce the remedy of rescission or of forfeiture and acceleration against a purchaser in default under an installment land contract only if:

- (1) The seller notifies the purchaser of:
 - (A) The seller's intent to enforce a remedy under this section; and
 - (B) The purchaser's right to cure the default within the thirty-day period described by § 66-4-406;
- (2) The purchaser fails to cure the default within the thirty-day period described by § 66-4-406;
- (3) Section 66-4-407 does not apply; and
- (4) The contract has not been recorded in the county in which the property is located.

66-4-406. Right to cure default.

Notwithstanding an agreement to the contrary, a purchaser in default under an installment land contract may avoid the enforcement of a remedy described by § 66-4-405 by complying with the terms of the contract on or before the thirtieth day after the date notice is given under § 66-4-405.

66-4-407. Equity protection; sale of property.

(a) If a purchaser defaults after the purchaser has paid forty percent (40%) or more of the amount due or the equivalent of forty-eight (48) monthly payments under the

installment land contract or, regardless of the amount the purchaser has paid, the installment land contract has been recorded, the seller may sell, through a trustee designated by the seller, the purchaser's interest in the property as provided by this section. The seller shall not enforce the remedy of rescission or of forfeiture and acceleration after the contract has been recorded.

(b) The seller shall notify a purchaser of a default under the contract and allow the purchaser at least sixty (60) days after the date notice is given to cure the default. The notice must be provided as prescribed by § 66-4-404 except that the notice must substitute the following statement:

NOTICE

YOU ARE NOT COMPLYING WITH THE TERMS OF THE CONTRACT TO BUY YOUR PROPERTY. UNLESS YOU TAKE THE ACTION SPECIFIED IN THIS NOTICE BY (date), A TRUSTEE DESIGNATED BY THE SELLER HAS THE RIGHT TO SELL YOUR PROPERTY AT A PUBLIC AUCTION.

(c) The trustee or a substitute trustee designated by the seller must post, file, and serve a notice of sale and the county clerk shall record and maintain the notice of sale. A notice of sale is not valid unless it is given after the period to cure has expired.

(d) The seller must:

(1) Convey to a purchaser at a sale conducted under this section fee simple title to the real property; and

(2) Warrant that the property is free from any encumbrance.

(e) The remaining balance of the amount due under the installment land contract is the debt for purposes of a sale under this section. If the proceeds of the sale exceed the debt amount, the seller shall disburse the excess funds to the purchaser under the installment land contract. If the proceeds of the sale are insufficient to extinguish the

debt amount, the seller's right to recover the resulting deficiency still exists, unless a provision of the installment land contract releases the purchaser under the contract from liability.

(f) The affidavit of a person knowledgeable of the facts that states that the notice was given and the sale was conducted as provided by this section is prima facie evidence of those facts. A purchaser for value who relies on an affidavit under this subsection (f) acquires title to the property free and clear of the installment land contract.

(g) If a purchaser defaults before the purchaser has paid forty percent (40%) of the amount due or the equivalent of forty-eight (48) monthly payments under the installment land contract, the seller may enforce the remedy of rescission or of forfeiture and acceleration of the indebtedness if the seller complies with the notice requirements of §§ 66-4-404 and 66-4-405.

66-4-408. Placement of lien for utility service.

Notwithstanding any terms of a contract to the contrary, the placement of a lien for the reasonable value of improvements to residential real estate for purposes of providing utility service to the property does not constitute a default under the terms of an installment land contract.

66-4-409. Foreign language requirement.

If the negotiations that precede the execution of an installment land contract are conducted primarily in a language other than English, the seller shall provide a copy in that language of all written documents relating to the transaction, including the contract, disclosure notices, annual accounting statements, and a notice of default required by this part.

66-4-410. Seller's disclosure of property condition.

(a) Before an installment land contract is signed by the purchaser, the seller shall provide the purchaser with:

(1) A survey, which was completed within the past year, or plat of a current survey of the real property;

(2) A legible copy of any document that describes an encumbrance or other claim, including a restrictive covenant or easement, that affects title to the real property; and

(3) A written notice, which must be attached to the contract, informing the purchaser of the condition of the property that must, at a minimum, be executed by the seller and purchaser and read substantially similar to the following:

WARNING

IF ANY OF THE ITEMS BELOW HAVE NOT BEEN CHECKED, YOU MAY NOT BE ABLE TO LIVE ON THE PROPERTY.

CONCERNING THE PROPERTY AT (street address or legal description and city)

THIS DOCUMENT STATES CERTAIN APPLICABLE FACTS ABOUT THE PROPERTY YOU ARE CONSIDERING PURCHASING.

CHECK ALL THE ITEMS THAT ARE APPLICABLE OR TRUE:

___ The property is in a recorded subdivision.

___ The property has water service that provides potable water.

___ The property has sewer service.

___ The property has been approved by the appropriate municipal, county, or state agency for installation of a septic system.

___ The property has electric service.

___ The property is not in a floodplain.

____ The roads to the boundaries of the property are paved and maintained by:

____ the seller;

____ the owner of the property on which the road exists;

____ the municipality;

____ the county; or

____ the state.

____ No individual or entity other than the seller:

____ owns the property;

____ has a claim of ownership to the property; or

____ has an interest in the property.

____ No individual or entity has a lien filed against the property.

____ There are no restrictive covenants, easements, or other title exceptions or encumbrances that prohibit construction of a house on the property.

NOTICE: SELLER ADVISES PURCHASER TO:

(1) OBTAIN A TITLE ABSTRACT OR TITLE COMMITMENT COVERING THE PROPERTY AND HAVE THE ABSTRACT OR COMMITMENT REVIEWED BY AN ATTORNEY BEFORE SIGNING A CONTRACT OF THIS TYPE; AND

(2) PURCHASE AN OWNER'S POLICY OF TITLE INSURANCE COVERING THE PROPERTY.

(Date)

(Signature of Seller)

(Date)

(Signature of Purchaser)

(b) If the property is not located in a recorded subdivision, the seller shall provide the purchaser with a separate disclosure form stating that utilities may not be available to the property until the subdivision is recorded as required by law.

(c) If the seller advertises property for sale under an installment land contract, the advertisement must disclose that the property is for sale under an installment land contract and provide information regarding the availability of water, sewer, and electric service.

(d) The seller's failure to provide information required by this section:

(1) Is an unfair or deceptive act or practice under § 47-18-104, and is actionable in a public or private suit brought under the Consumer Protection Act of 1977, compiled in title 47, chapter 18, part 1; and

(2) Entitles the purchaser to cancel and rescind the installment land contract and receive a full refund of all payments made to the seller.

(e) Subsection (d) does not limit the purchaser's remedy against the seller for other unfair or deceptive acts or practices actionable in a suit brought under the Consumer Protection Act of 1977.

66-4-411. Seller's disclosure of tax payments and insurance coverage.

(a) Before an installment land contract is signed by the purchaser, the seller shall provide the purchaser with:

(1) A tax certificate from the collector for each taxing unit that collects taxes due on the property; and

(2) A legible copy of any insurance policy, binder, or other evidence relating to the property that indicates:

(A) The name of the insurer and the insured;

(B) A description of the property insured; and

(C) The amount for which the property is insured.

(b) The seller's failure to provide information required by this section:

(1) Is an unfair or deceptive act or practice under § 47-18-104, and is actionable in a public or private suit brought under the Consumer Protection Act of 1977, compiled in title 47, chapter 18, part 1; and

(2) Entitles the purchaser to cancel and rescind the installment land contract and receive a full refund of all payments made to the seller.

(c) Subsection (b) does not limit the purchaser's remedy against the seller for other unfair or deceptive acts or practices actionable in a suit brought under the Consumer Protection Act of 1977.

(d) If the installment land contract is recorded, the seller is not required to continue insuring the property.

66-4-412. Seller's disclosure of financing terms.

Before an installment land contract is signed by the purchaser, the seller shall provide to the purchaser a written statement that specifies:

(1) The purchase price of the property;

(2) The interest rate charged under the contract;

(3) The dollar amount, or an estimate of the dollar amount if the interest rate is variable, of the interest charged for the term of the contract;

(4) The total amount of principal and interest to be paid under the contract;

(5) The late charge, if any, that may be assessed under the contract; and

(6) The fact that the seller may not charge a prepayment penalty or any similar fee if the purchaser elects to pay the entire amount due under the contract before the scheduled payment date under the contract.

66-4-413. Oral agreements prohibited.

(a) An installment land contract is not enforceable unless the contract is in writing and signed by the party to be bound or by that party's authorized representative.

(b) The rights and obligations of the parties to a contract are determined solely from the written contract, and any prior oral agreements between the parties are superseded by and merged into the contract.

(c) An installment land contract must not be amended by any oral agreements or discussions that occur before or contemporaneously with the execution of the contract.

(d) The seller shall include in a separate document or in a provision of the contract a statement printed in 14-point boldfaced type or 14-point uppercase typewritten letters that reads substantially similar to the following:

THIS INSTALLMENT LAND CONTRACT REPRESENTS THE FINAL AGREEMENT BETWEEN THE SELLER AND PURCHASER AND MUST NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

(Date)

(Signature of Seller)

(Date)

(Signature of Purchaser)

(e) The seller's failure to provide the notice required by this section:

(1) Is an unfair or deceptive act or practice under § 47-18-104, and is actionable in a public or private suit brought under the Consumer Protection Act of 1977, compiled in title 47, chapter 18, part 1; and

(2) Entitles the purchaser to cancel and rescind the installment land contract and receive a full refund of all payments made to the seller.

(f) Subsection (e) does not limit the purchaser's remedy against the seller for other unfair or deceptive acts or practices actionable in a suit brought under the Consumer Protection Act of 1977.

66-4-414. Contract terms, certain waivers prohibited.

(a) A seller shall not include as a term of the installment land contract a provision that:

(1) Imposes an additional late-payment fee that exceeds the lesser of:

(A) Eight percent (8%) of the monthly payment under the contract; or

(B) The actual administrative cost of processing the late payment;

(2) Prohibits the purchaser from pledging the purchaser's interest in the property as security to obtain a loan to place improvements, including utility improvements or fire protection improvements, on the property;

(3) Imposes a prepayment penalty or any similar fee if the purchaser elects to pay the entire amount due under the contract or an additional portion thereof before the scheduled payment date under the contract;

(4) Forfeits an option fee or other option payment paid under the contract for a late payment; or

(5) Increases the purchase price, imposes a fee or charge of any type, or otherwise penalizes a purchaser leasing property with an option to buy the property for requesting repairs or exercising any other right under chapter 28 of this title.

(b) A provision of the installment land contract that purports to waive a right or exempt a party from a liability or duty under this part is void.

66-4-415. Purchaser's right to cancel contract without cause.

(a) In addition to other rights or remedies provided by law, the purchaser may cancel and rescind an installment land contract for any reason by sending by certified or registered mail, return receipt requested, or by delivering in person a signed, written notice of cancellation to the seller not later than the fourteenth day after the date of the contract.

(b) If the purchaser cancels the contract as provided by subsection (a), the seller shall, not later than the tenth day after the date the seller receives the purchaser's notice of cancellation:

(1) Return to the purchaser the executed contract and any property exchanged or payments made by the purchaser under the contract; and

(2) Cancel any security interest arising out of the contract.

(c) The seller shall include in immediate proximity to the space reserved in the installment land contract for the purchaser's signature a statement printed in 14-point boldface type or 14-point uppercase typewritten letters that reads substantially similar to the following:

YOU, THE PURCHASER, MAY CANCEL THIS CONTRACT AT ANY TIME
DURING THE NEXT TWO WEEKS. THE DEADLINE FOR CANCELING THE

CONTRACT IS (date). THE ATTACHED NOTICE OF CANCELLATION
EXPLAINS THIS RIGHT.

(d) The seller shall provide a notice of cancellation form to the purchaser at the time the purchaser signs the installment land contract that is printed in 14-point boldface type or 14-point uppercase typewritten letters and that reads substantially similar to the following:

(date of contract)

NOTICE OF CANCELLATION

YOU MAY CANCEL THE INSTALLMENT LAND CONTRACT FOR ANY
REASON WITHOUT ANY PENALTY OR OBLIGATION BY (date).

(1) YOU MUST SEND BY CERTIFIED OR REGISTERED MAIL,
RETURN RECEIPT REQUESTED, OR DELIVER IN PERSON A SIGNED AND
DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN
NOTICE TO (Name of Seller) AT (Seller's Address) BY (date).

(2) THE SELLER SHALL, NOT LATER THAN THE 10TH DAY AFTER
THE DATE THE SELLER RECEIVES YOUR CANCELLATION NOTICE:

(A) RETURN THE EXECUTED CONTRACT AND ANY
PROPERTY EXCHANGED OR PAYMENTS MADE BY YOU UNDER
THE CONTRACT; AND

(B) CANCEL ANY SECURITY INTEREST ARISING OUT OF
THE CONTRACT.

I ACKNOWLEDGE RECEIPT OF THIS NOTICE OF CANCELLATION FORM.

(Date)

(Purchaser's Signature)

I HEREBY CANCEL THIS CONTRACT.

(Date)

(Purchaser's Signature)

(e) The seller shall not request the purchaser to sign a waiver of receipt of the notice of cancellation form required by this section.

66-4-416. Purchaser's right to pledge interest in property on contracts entered into before July 1, 2021.

(a) On an installment land contract entered into before July 1, 2021, a purchaser may pledge the interest in the property, which accrues pursuant to § 66-4-407, only to obtain a loan for improving the safety of the property or any improvements on the property.

(b) Loans that improve the safety of the property and improvements on the property include loans for:

- (1) Improving or connecting a residence to water service;
- (2) Improving or connecting a residence to a wastewater system;
- (3) Building or improving a septic system;
- (4) Structural improvements in the residence; and
- (5) Improved fire protection.

66-4-417. Recording requirements.

(a) The seller shall record the installment land contract, including the attached disclosure statement required by § 66-4-410, on or before the thirtieth day after the date the contract is executed.

(b) If the installment land contract is terminated for any reason, the seller shall record the instrument that terminates the contract.

(c) A seller who violates this section is liable to the purchaser in the same manner and for the same amount as a seller who violates § 66-4-420 is liable to a purchaser, except the damages may not exceed five hundred dollars (\$500) for each calendar year of noncompliance. This subsection (c) does not limit or affect any other rights or remedies a purchaser has under other law.

66-4-418. Annual accounting statement.

(a) The seller shall provide the purchaser with an annual statement in January of each year for the term of the installment land contract. If the seller mails the statement to the purchaser, the statement must be postmarked not later than January 31.

(b) The statement must include the following information:

(1) The amount paid under the contract;

(2) The remaining amount owed under the contract;

(3) The number of payments remaining under the contract;

(4) The amounts paid to taxing authorities on the purchaser's behalf if collected by the seller;

(5) The amounts paid to insure the property on the purchaser's behalf if collected by the seller;

(6) If the property has been damaged and the seller has received insurance proceeds, an accounting of the proceeds applied to the property; and

(7) If the seller has changed insurance coverage, a legible copy of the current policy, binder, or other evidence that satisfies the requirements of § 66-4-411(a)(2).

(c) A seller who conducts less than two (2) transactions in a twelve-month period under this part who fails to comply with subsection (a) is liable to the purchaser for:

(1) Liquidated damages in the amount of one hundred dollars (\$100) for each annual statement the seller fails to provide to the purchaser within the time required by subsection (a); and

(2) Reasonable attorney's fees.

(d) A seller who conducts two (2) or more transactions in a twelve-month period under this part who fails to comply with subsection (a) is liable to the purchaser for:

(1) Liquidated damages in the amount of two hundred fifty dollars (\$250) a day for each day after January 31 that the seller fails to provide the purchaser with the statement, but not to exceed the fair market value of the property; and

(2) Reasonable attorney's fees.

(e) The requirements of this section continue to apply after a purchaser obtains title to the property by conversion or any other process.

66-4-419. Disposition of insurance proceeds.

(a) The named insured under an insurance policy, binder, or other coverage relating to property subject to an installment land contract shall inform the insurer, not later than the tenth day after the date the coverage is obtained or the contract executed, whichever is later, of:

(1) The installment land contract and the term of the contract; and

(2) The name and address of the other party to the contract.

(b) An insurer who disburses proceeds under an insurance policy, binder, or other coverage relating to property that has been damaged shall issue the proceeds jointly to the purchaser and the seller designated in the contract.

(c) If proceeds under an insurance policy, binder, or other coverage are disbursed, the purchaser and seller shall ensure that the proceeds are used to repair, remedy, or improve the condition on the property.

(d) The failure of a seller or purchaser to comply with subsection (c) is an unfair or deceptive act or practice under § 47-18-104, and is actionable in a public or private suit brought under the Consumer Protection Act of 1977, compiled in title 47, chapter 18, part 1.

(e) Subsection (d) does not limit either party's remedy for other unfair or deceptive acts or practices actionable in a suit brought under the Consumer Protection Act of 1977.

66-4-420. Title transfer.

(a) A recorded installment land contract is the same as a deed with a vendor's lien. The vendor's lien is for the amount of the unpaid contract price, less any lawful deductions, and may be enforced by foreclosure sale under § 66-4-407 or by judicial foreclosure. A general warranty is implied unless otherwise limited by the recorded installment land contract. If an installment land contract has not been recorded or converted under § 66-4-422, the seller shall transfer recorded, legal title of the property covered by the installment land contract to the purchaser not later than the thirtieth day after the date the seller receives the purchaser's final payment due under the contract.

(b) A seller who violates the transfer provisions of subsection (a) is liable to the purchaser for:

(1) Liquidated damages in the amount of:

(A) Two hundred fifty dollars (\$250) a day for each day the seller fails to transfer the title to the purchaser during the period that begins the

thirty-first day and ends the ninetieth day after the date the seller receives the purchaser's final payment due under the contract; and

(B) Five hundred dollars (\$500) a day for each day the seller fails to transfer title to the purchaser after the ninetieth day after the date the seller receives the purchaser's final payment due under the contract; and

(2) Reasonable attorney's fees.

(c) If a person to whom a seller's property interest passes by will or intestate succession is required to obtain a court order to clarify the person's status as an heir or to clarify the status of the seller or the property before the person may convey good and indefeasible title to the property, the court in which the action is pending may waive payment of the liquidated damages and attorney's fees under subsection (b) if the court finds that the person is pursuing the action to establish good and indefeasible title with reasonable diligence.

(d) As used in this section, "seller" includes a successor, assignee, personal representative, executor, or administrator of the seller.

66-4-421. Liability for disclosures.

For purposes of this part, a disclosure required by this part that is made by a seller's agent is a disclosure made by the seller.

66-4-422. Right to convert contract.

(a) A purchaser, at any time and without paying penalties or charges of any kind, is entitled to convert the purchaser's interest in property under an installment land contract into recorded, legal title in accordance with this section, regardless of whether the seller has recorded the installment land contract.

(b) If the purchaser tenders to the seller an amount of money equal to the balance of the total amount owed by the purchaser to the seller under the installment

land contract, the seller shall transfer to the purchaser recorded, legal title of the property covered by the contract.

(c) Subject to subsection (d), if the purchaser delivers to the seller of property covered by an installment land contract a promissory note that is equal in amount to the balance of the total amount owed by the purchaser to the seller under the contract and that contains the same interest rate, due dates, and late fees as the contract:

(1) The seller shall execute a deed containing any warranties required by the contract and conveying to the purchaser recorded, legal title of the property; and

(2) The purchaser shall simultaneously execute a deed of trust that:

(A) Contains the same terms as the contract regarding the purchaser's and seller's duties concerning the property;

(B) Secures the purchaser's payment and performance under the promissory note and deed of trust; and

(C) Conveys the property to the trustee, in trust, and confers on the trustee the power to sell the property if the purchaser defaults on the promissory note or the terms of the deed of trust.

(d) On or before the tenth day after the date the seller receives a promissory note under subsection (c), the seller shall:

(1) Deliver to the purchaser a written explanation that legally justifies why the seller refuses to convert the purchaser's interest into recorded, legal title under subsection (c); or

(2) Communicate with the purchaser to schedule a mutually agreeable day and time to execute the deed and deed of trust under subsection (c).

(e) A seller who violates this section is liable to the purchaser in the same manner and amount as a seller who violates § 66-4-420 is liable to a purchaser. This subsection (e) does not limit or affect any other rights or remedies a purchaser has under other law.

(f) On the last date that all of the conveyances described by subsections (b) and (c) are executed, the installment land contract:

- (1) Is considered completed; and
- (2) Has no further effect.

(g) This section does not limit the purchaser's interest in the property established by other law, if any, or any other rights of the purchaser under this part.

66-4-423. Request for balance and trustee.

(a) A seller shall, upon written request of the purchaser, provide the following information to the purchaser:

- (1) As of the date of the request or another date specified by the purchaser, the amount owed by the purchaser under the contract; and
- (2) If applicable, the name and address of the seller's desired trustee for a deed of trust to be executed under § 66-4-422.

(b) On or before the tenth day after the date the seller receives from the purchaser a written request for information described by subsection (a), the seller shall provide to the purchaser a written statement of the requested information.

(c) If the seller does not timely respond to a request made under this section, the purchaser may:

- (1) Determine or pay the amount owed under the contract, including determining the amount necessary for a promissory note under § 66-4-422; and
- (2) If applicable, select a trustee for a deed of trust under § 66-4-422.

(d) For purposes of subdivision (c)(2), a purchaser must select a trustee that lives or has a place of business in the same county where the property covered by the installment land contract is located.

(e) Not later than the twentieth day after the date a seller receives notice of an amount determined by a purchaser under subdivision (c)(1), the seller may contest that amount by sending a written objection to the purchaser. An objection under this subsection (e) must:

(1) Be sent to the purchaser by regular and certified mail;

(2) Include the amount the seller claims is the amount owed under the contract; and

(3) Be based on written records kept by the seller or the seller's agent that were maintained and regularly updated for the entire term of the installment land contract.

66-4-424. Right to cancel contract for improper platting.

(a) Except as provided by subsection (c), in addition to other rights or remedies provided by law, the purchaser may cancel and rescind an installment land contract at any time if the purchaser learns that the seller has not properly subdivided or platted the property that is covered by the contract in accordance with state and local law. A purchaser canceling and rescinding a contract under this section must:

(1) Deliver a signed, written notice of the cancellation and rescission to the seller in person; or

(2) Send a signed, written notice of the cancellation and rescission to the seller by certified or registered mail, return receipt requested.

(b) If the purchaser cancels the contract as provided under subsection (a), the seller, not later than the tenth day after the date the seller receives the notice of cancellation and rescission, shall:

(1) Deliver in person or send by certified or registered mail, return receipt requested, to the purchaser a signed, written notice that the seller intends to subdivide or plat the property properly; or

(2) Return to the purchaser all payments of any kind made to the seller under the contract and reimburse the purchaser for:

(A) Any payments the purchaser made to a taxing authority for the property; and

(B) The value of any improvements made to the property by the purchaser.

(c) A purchaser shall not exercise the purchaser's right to cancel and rescind an installment land contract under this section if, on or before the ninetieth day after the date the purchaser receives the seller's notice under subdivision (b)(1), the seller:

(1) Properly subdivides or plats the property; and

(2) Delivers in person or sends by certified or registered mail, return receipt requested, to the purchaser a signed, written notice evidencing that the property has been subdivided or platted in accordance with state and local law.

(d) The seller shall not terminate the purchaser's possession of the property covered by the contract being canceled and rescinded before the seller pays the purchaser any money to which the purchaser is entitled under subsection (b).

66-4-425. Right to deduct.

If a seller is liable to a purchaser under this part, the purchaser, without taking judicial action, may deduct the amount owed to the purchaser by the seller from any

amounts owed to the seller by the purchaser under the terms of an installment land contract.

66-4-426. Fee simple title required; maintenance of fee simple title.

(a) A potential seller shall not execute an installment land contract with a potential purchaser if the seller does not own the property in fee simple free from any liens or other encumbrances.

(b) Except as provided by this section, a seller, or the seller's heirs or assigns, must maintain fee simple title free from any liens or other encumbrances to property covered by an installment land contract for the entire duration of the contract. This subsection (b) does not apply to a lien or encumbrance placed on the property that is:

(1) Placed on the property because of the conduct of the purchaser;

(2) Agreed to by the purchaser as a condition of a loan obtained to place improvements on the property, including utility or fire protection improvements; or

(3) Placed on the property by the seller prior to the execution of the contract in exchange for a loan used only to purchase the property if:

(A) The seller, not later than the third day before the date the contract is executed, notifies the purchaser in a separate written disclosure:

(i) Of the name, address, and phone number of the lienholder or, if applicable, servicer of the loan;

(ii) Of the loan number and outstanding balance of the loan;

(iii) Of the monthly payments due on the loan and the due date of those payments; and

(iv) In 14-point type that, if the seller fails to make timely payments to the lienholder, the lienholder may attempt to collect the debt by foreclosing on the lien and selling the property at a foreclosure sale;

(B) The lien:

(i) Is attached only to the property sold to the purchaser under the contract; and

(ii) Secures indebtedness that, at no time, is or will be greater in an amount than the amount of the total outstanding balance owed by the purchaser under the installment land contract;

(C) The lienholder:

(i) Does not prohibit the property from being encumbered by an installment land contract; and

(ii) Consents to verify the status of the loan on request of the purchaser and to accept payments directly from the purchaser if the seller defaults on the loan; and

(D) The following covenants are placed in the installment land contract:

(i) A covenant that obligates the seller to make timely payments on the loan and to give monthly statements to the purchaser reflecting the amount paid to the lienholder, the date the lienholder receives the payment, and the information described by subdivision (b)(3)(A);

(ii) A covenant that obligates the seller, not later than the third day the seller receives or has actual knowledge of a document or an event described by this subdivision (b)(3), to notify the purchaser in writing in 14-point type that the seller has been sent a notice of default, notice of acceleration, or notice of foreclosure or has been sued in connection with a lien on the property and to attach a copy of all related documents received to the written notice; and

(iii) A covenant that warrants that if the seller does not make timely payments on the loan or any other indebtedness secured by the property, the purchaser may, without notice, cure any deficiency with a lienholder directly and deduct from the total outstanding balance owed by the purchaser under the installment land contract, without the necessity of judicial action, one hundred fifty percent (150%) of any amount paid to the lienholder.

(c) A violation of this section:

(1) Is an unfair or deceptive act or practice under § 47-18-104, and is actionable in a public or private suit brought under the Consumer Protection Act of 1977, compiled in title 47, chapter 18, part 1; and

(2) In addition to other rights or remedies provided by law, entitles the purchaser to cancel and rescind the installment land contract and receive from the seller:

(A) The return of all payments of any kind made to the seller under the contract; and

(B) Reimbursement for:

(i) Any payments the purchaser made to a taxing authority for the property; and

(ii) The value of any improvements made to the property by the purchaser.

(d) A seller is not liable under this section if:

(1) A lien is placed on the property by a person other than the seller; and

(2) Not later than the thirtieth day after the date the seller receives notice of the lien, the seller has the lien removed from the property.

66-4-427. Equitable interest disclosure.

Before entering into a contract, a person selling an option or assigning an interest in a contract to purchase real property must disclose to any potential buyer that the person is selling only an option or assigning an interest in a contract and that the person does not have legal title to the real property.

SECTION 2. The headings to sections, parts, and chapters in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 3. This act takes effect July 1, 2021, the public welfare requiring it, and applies only to installment land contracts entered into on or after that date.