

Contract for Deed

If you are considering entering into a Contract for Deed, it is important to understand that it is not the same as a mortgage loan. Instead, a Contract for Deed is an agreement to buy a home from a seller, while the seller keeps ownership of the home. Buyers make their payments directly to the seller for a certain number of years and then a balloon payment (or remaining balance) is due.

This fact sheet provides answers to Frequently Asked Questions about Contract for Deeds.

FREQUENTLY ASKED QUESTIONS

Is it easier to buy a home with a Contract for Deed?

Entering into a Contract for Deed involves many of the same steps as buying a home with a mortgage loan. One major difference is you do not have the same protection rights, since the seller retains ownership. We strongly recommend consulting a real estate attorney before signing a Contract for Deed.

What is included in the monthly payment?

The monthly payment includes principle, interest, property taxes and insurance. The seller determines the interest rate and how much of your payment is used to pay the principle (or balance). Generally you pay the seller directly for property taxes and insurance. You may want to request proof from the seller that both the property taxes and insurance are paid.

Who is responsible for repairs and maintenance?

You are responsible for repairs and maintenance, including the cost. If you fail to maintain the home or make repairs the seller can cancel the contract.

What happens if the Contract for Deed is canceled by the seller?

A Contract for Deed is generally canceled if you miss a payment or do not maintain the property. If the seller cancels the contract you have **60 days** to resolve the reason. This includes paying fees to reinstate the contract. If the contract is not reinstated, you are required to leave the home. You also lose any money you have paid the seller.

Will I be required to make a down payment?

Sellers often require a down payment, but most of the time the amount can be negotiated. Any down payment paid to the seller should be applied the principle.

Are there closing costs for a Contract for Deed?

Yes, there are closing costs and they are very similar to a mortgage loan closing. The seller may be willing to pay some or all of these costs. We strongly recommend you have the closing done by a title company who can complete a title search and ensure the seller is the legal owner. A title company will also use the Contract for Deed Minnesota Uniform Conveyance form 30.1.1 that can be found at www.commerce.state.mn.us; and record the Contract for Deed with the county recorder's office. State law requires all contracts to be recorded within four months.

What if the balloon payment is due and I can't get approved for a mortgage loan?

Most contracts are between two and ten years. It's important to have enough time to become mortgage ready. If you are unable to pay, the seller will likely cancel the contract.

What happens if the seller doesn't pay their mortgage and the home goes into foreclosure?

If the home is foreclosed, you will likely lose the money you have paid and the right to live in the home. Mortgages and liens have priority over your Contract for Deed. Legally, you can take action against the seller, but it is at your own expense. We recommend requesting proof from the seller that they are paying their mortgage.

How do lenders view a Contract for Deed?

If your contract is for more than 12 months, most lenders no longer consider you a first time home buyer. This means you can't qualify for some mortgage and down payment programs. When you apply for a mortgage loan to pay the balloon payment, you will likely be required to pay additional closing costs and a down payment. If the property has depreciated and is no longer worth the amount you owe the seller, you could be required to pay a very large down payment.

What is the due-on-sale clause?

Most mortgage loans contain what is known as a due-on-sale clause. If the seller does not have approval from their current lender to sell the home with a Contract for Deed, the lender can call the loan due. If this happens, your balloon payment becomes due or the contract is canceled. The due-on-sale clause only applies if the seller has an existing mortgage loan(s).

Is there a difference between Contract for Deed and rent to own?

Yes, rent to own (or lease to own) means you rent with the option to buy in the future. You are the tenant and the seller is the landlord. The seller is responsible for repairs and maintenance and paying property taxes and insurance. You are usually required to make a large non-refundable down payment.

For additional information, speak with a Housing Counselor in your area by contacting the Minnesota Home Ownership Center today: 651-659-9336 or 866-462-6466 or www.hocmn.org