

FIRST REGULAR SESSION

HOUSE BILL NO. 296

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CURLS (Sponsor) AND McCANN BEATTY (Co-sponsor).

0852L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 442, RSMo, by adding thereto twenty-four new sections relating to contracts for deeds.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 442, RSMo, is amended by adding thereto twenty-four new sections, to be known as sections 442.700, 442.702, 442.704, 442.706, 442.708, 442.710, 442.712, 442.714, 442.716, 442.718, 442.720, 442.722, 442.724, 442.726, 442.728, 442.730, 442.732, 442.734, 442.736, 442.738, 442.740, 442.742, 442.744, and 442.746, to read as follows:

442.700. 1. Sections 442.700 to 442.746 shall be known and may be cited as the "Contract for Deed Act".

2. As used in sections 442.700 to 442.746, the following words shall mean:

(1) "Default", the failure to:

(a) Make a timely payment; or

(b) Comply with a term of an executory contract;

(2) "County", either a city not within a county or a county in Missouri.

442.702. 1. Sections 442.700 to 442.746 apply only to a transaction involving an executory contract for conveyance of real property, including but not limited to a contract for deed, used or to be used as the purchaser's residence or as the residence of a person related to the purchaser within the second degree of consanguinity or affinity. For purposes of sections 442.700 to 442.746, an option to purchase real property that includes or is combined or executed concurrently with a residential lease agreement, together with the lease, is also considered an executory contract for conveyance of real property.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

8 **2. Sections 442.700 to 442.746 shall not apply to an executory contract that provides**
9 **for the delivery of a deed from the seller to the purchaser within one hundred eighty days**
10 **of the date of the final execution of the executory contract.**

11 **3. Notwithstanding any other provision of sections 442.700 to 442.746, only the**
12 **following sections apply to an executory contract consisting of a lease with an option to**
13 **purchase if the term of the lease and any extension thereof is three years or less and the**
14 **purchaser and seller, or the purchaser's or seller's assignee, agent, or affiliate, have not**
15 **been parties to an executory contract to purchase the property covered by the executory**
16 **contract for longer than three years:**

17 **(1) Sections 442.704, 442.706, and 442.708;**

18 **(2) Section 442.724, except for subdivision (2) of subsection 1 of section 442.724;**
19 **and**

20 **(3) Sections 442.742 and 442.746.**

442.704. 1. Notice under section 442.706 shall be in writing and shall be delivered
2 **by registered or certified mail, return receipt requested. The notice shall be conspicuous**
3 **and printed in fourteen-point bold-faced type or fourteen-point uppercase typewritten**
4 **letters, and shall include on a separate page the statement:**

5 **NOTICE**

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

10 **2. The notice shall also:**

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

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

13 **(a) The delinquent amount, itemized into principal and interest;**

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

15 **(c) The period to which the delinquency and additional charges relate; and**

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

18 **3. Notice by mail is given when it is mailed to the purchaser's residence or place of**
19 **business. The affidavit of a person knowledgeable of the facts to the effect that notice was**
20 **given is prima facie evidence of notice in an action involving a subsequent bona fide**
21 **purchaser for value if the purchaser is not in possession of the real property and if the**
22 **stated time to avoid the forfeiture has expired. A bona fide subsequent purchaser for value**

23 who relies upon the affidavit under this subsection shall take title free and clear of the
24 contract.

442.706. A seller may enforce the remedy of rescission or of forfeiture and
2 acceleration against a purchaser in default under an executory contract for conveyance of
3 real property only if:

4 (1) The seller notifies the purchaser of:

5 (a) The seller's intent to enforce a remedy under this section; and

6 (b) The purchaser's right to cure the default within the thirty-day period described
7 by section 442.708;

8 (2) The purchaser fails to cure the default within the thirty-day period described
9 by section 442.708; and

10 (3) Section 442.710 does not apply.

442.708. Notwithstanding an agreement to the contrary, a purchaser in default
2 under an executory contract for the conveyance of real property may avoid the
3 enforcement of a remedy described by section 442.706 by complying with the terms of the
4 contract on or before the thirtieth day after the date notice is given under that section.

442.710. 1. If a purchaser defaults after the purchaser has paid thirty percent or
2 more of the amount due or the equivalent of forty-eight monthly payments under the
3 executory contract:

4 (1) The seller is granted the power to sell, through a trustee designated by the seller,
5 the purchaser's interest in the property:

6 (a) As provided by this section; or

7 (b) As provided under the procedures specified in sections 443.190 to 443.270;

8 (2) The seller shall not enforce the remedy of rescission or of forfeiture and
9 acceleration; and

10 (3) The seller may exercise the power granted under subdivision (1) of this
11 subsection after first notifying the purchaser of a default under the contract and allowing
12 the purchaser at least sixty days after the date notice is given to cure the default. The
13 notice shall be provided as prescribed by section 442.704 except that the notice specified
14 in subsection 1 of section 442.704 shall be replaced by the following statement:

15 NOTICE

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

20 **2. The trustee or a substitute trustee designated by the seller under subdivision (1)**
21 **of subsection 1 of this section shall publish and serve a notice of sale as prescribed by**
22 **sections 443.310, 443.320, and 443.325. A notice of sale is not valid unless it is given after**
23 **the period to cure has expired.**

24 **3. The trustee or a substitute trustee designated by the seller shall conduct the sale**
25 **as prescribed by section 443.327. The seller shall:**

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

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

29 **4. The remaining balance of the amount due under the executory contract is the**
30 **debt for purposes of a sale under this section. If the net proceeds of the sale exceed the**
31 **debt amount, the seller shall disburse the excess funds to the purchaser under the**
32 **executory contract. If the proceeds of the sale are insufficient to extinguish the debt**
33 **amount, the seller's right to recover the resulting deficiency is subject to sections 443.230**
34 **and 443.240 unless a provision of the executory contract releases the purchaser under the**
35 **contract from liability.**

36 **5. The affidavit of a person knowledgeable of the facts that states that the notice**
37 **was given and the sale was conducted as provided by this section is prima facie evidence**
38 **of those facts. A purchaser for value who relies on an affidavit under this subsection**
39 **acquires title to the property free and clear of the executory contract.**

40 **6. If a purchaser defaults before the purchaser has paid thirty percent of the**
41 **amount due or the equivalent of forty-eight monthly payments under the executory**
42 **contract, the seller may enforce the remedy of rescission or of forfeiture and acceleration**
43 **of the indebtedness if the seller complies with the notice requirements of sections 442.704**
44 **and 442.706.**

442.712. Notwithstanding any terms of a contract to the contrary, the placement
2 **of a lien for the reasonable value of improvements to residential real estate for purposes**
3 **of providing utility service to the property shall not constitute a default under the terms**
4 **of an executory contract for the purchase of the real property.**

442.714. If the negotiations that precede the execution of an executory contract are
2 **conducted primarily in a language other than English, the seller shall provide a copy in**
3 **that language of all written documents relating to the transaction, including the contract,**
4 **disclosure notices, annual accounting statements, and a notice of default required by**
5 **sections 442.700 to 442.746.**

442.716. 1. Before an executory contract is signed by the purchaser, the seller shall
2 **provide the purchaser with:**

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

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

8 **WARNING**

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

11 **SELLER'S DISCLOSURE NOTICE**

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

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

15 **CHECK ALL THE ITEMS THAT ARE APPLICABLE OR TRUE:**

16 **The property is in a recorded subdivision.**

17 **The property has water service that provides potable water.**

18 **The property has sewer service.**

19 **The property has sewer service or has been approved by the appropriate municipal,**
20 **county, or state agency for installation of a septic system.**

21 **The property has electric service.**

22 **The property is not in a floodplain.**

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

24 **The seller;**

25 **The owner of the property on which the road exists;**

26 **The municipality;**

27 **The county; or**

28 **The state.**

29 **No individual or entity other than the seller:**

30 (1) **Owns the property;**

31 (2) **Has a claim of ownership to the property; or**

32 (3) **Has an interest in the property.**

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

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

36 **NOTICE: SELLER ADVISES PURCHASER TO:**

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

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

42 _____

43 (Date)

(Signature of Seller)

44 _____

45 (Date)

(Signature of Purchaser)

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

49 3. If the seller advertises property for sale under an executory contract, the
50 advertisement shall disclose information regarding the availability of water, sewer, and
51 electric service.

52 4. The seller's failure to provide information required by this section:

53 (1) Is an unlawful practice within the meaning of sections 407.020 and 407.025 and
54 is actionable in a public or private suit brought under such sections; and

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

442.718. 1. Before an executory contract is signed by the purchaser, the seller shall
2 provide the purchaser with:

3 (1) A statement of the amount, if any, of delinquent real property taxes or
4 assessments due and owing on the property subject to the executory contract; and

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

7 (a) The name of the insurer and the insured;

8 (b) A description of the property insured; and

9 (c) The amount for which the property is insured.

10 2. The seller's failure to provide information required by this section:

11 (1) Is an unlawful practice within the meaning of sections 407.020 and 407.025 and
12 is actionable in a public or private suit brought under such sections; and

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

442.720. Before an executory contract is signed by the purchaser, the seller shall
2 provide to the purchaser a written statement that specifies:

- 3 (1) The purchase price of the property;
- 4 (2) The interest rate charged under the contract;
- 5 (3) The total amount of principal and interest (which shall be reasonably estimated
- 6 if the interest rate is variable) to be paid under the contract;
- 7 (4) The late charge, if any, that may be assessed under the contract; and
- 8 (5) The fact that the seller may not charge a prepayment penalty or any similar fee
- 9 if the purchaser elects to pay the entire amount due under the contract before the
- 10 scheduled payment date under the contract.

442.722. 1. An executory 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.

2 2. The rights and obligations of the parties to a contract are determined solely from

3 the written contract, and any prior oral agreements between the parties are superseded by

4 and merged into the contract.

5 3. An executory contract may not be varied by any oral agreements or discussions

6 that occur before or contemporaneously with the execution of the contract.

7 4. The seller shall include in a separate document or in a provision of the contract

8 a statement printed in fourteen-point bold-faced type or fourteen-point uppercase

9 typewritten letters that reads substantially similar to the following:

10 **THIS EXECUTORY CONTRACT REPRESENTS THE FINAL AGREEMENT**

11 **BETWEEN THE SELLER AND PURCHASER AND MAY NOT BE CONTRADICTED**

12 **BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL**

13 **AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL**

14 **AGREEMENTS BETWEEN THE PARTIES.**

15 _____

16 _____

17 (Date) (Signature of Seller)

18 _____

19 _____

20 (Date) (Signature of Purchaser)

21 5. The seller's failure to provide the notice required by this section:

22 (1) Is an unlawful practice within the meaning of sections 407.020 and 407.025 and

23 is actionable in a public or private suit brought under such sections; and

24 (2) Entitles the purchaser to cancel and rescind the executory contract and receive

a full refund of all payments made to the seller.

442.724. 1. A seller shall not include as a term of the executory contract a provision

2 that:

3 (1) Imposes a late-payment fee that exceeds eight percent of the monthly payment

4 under the contract;

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

8 (3) Imposes a prepayment penalty or any similar fee if the purchaser elects to pay
9 the entire amount due under the contract before the scheduled payment date under the
10 contract;

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

13 (5) Increases the purchase price, imposes a fee or charge of any type, or otherwise
14 penalizes a purchaser leasing property with an option to buy the property for requesting
15 repairs.

16 2. A provision of the executory contract that purports to waive a right or exempt
17 a party from a liability or duty under sections 442.700 to 442.746 is void.

 442.726. 1. In addition to other rights or remedies provided by law, the purchaser
2 may cancel and rescind an executory contract for any reason by sending by certified or
3 registered mail, return receipt requested, or by delivering in person a signed, written notice
4 of cancellation to the seller not later than the fourteenth day after the date the purchaser
5 signs the contract.

6 2. If the purchaser cancels the contract as provided by subsection 1 of this section,
7 the seller shall, not later than the tenth day after the date the seller receives the purchaser's
8 notice of cancellation:

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

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

12 3. The seller shall include in immediate proximity to the space reserved in the
13 executory contract for the purchaser's signature a statement printed in fourteen-point
14 bold-faced type or fourteen-point uppercase typewritten letters that reads substantially
15 similar to the following:

16 **YOU, THE PURCHASER, MAY CANCEL THIS CONTRACT AT ANY TIME DURING**
17 **THE NEXT TWO WEEKS. THE DEADLINE FOR CANCELING THE CONTRACT IS**
18 **(insert date). THE ATTACHED NOTICE OF CANCELLATION EXPLAINS THIS**
19 **RIGHT.**

20 4. The seller shall provide a notice of cancellation form to the purchaser at the time
21 the purchaser signs the executory contract that is printed in fourteen-point bold-faced type
22 or fourteen-point uppercase typewritten letters and that reads substantially similar to the
23 following:

24 (date of contract)

25 NOTICE OF CANCELLATION

26 YOU MAY CANCEL THE CONTRACT FOR ANY REASON WITHOUT ANY
27 PENALTY OR OBLIGATION BY (insert date).

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

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

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

36 (b) CANCEL AND RELEASE ANY SECURITY INTEREST ARISING OUT OF
37 THE CONTRACT.

38 I ACKNOWLEDGE RECEIPT OF THIS NOTICE OF CANCELLATION FORM.

39 _____

40 (Date)

(Signature of Purchaser)

41 I HEREBY CANCEL THIS CONTRACT

42 _____

43 (Date)

(Signature of Purchaser)

44 5. The seller shall not request the purchaser to sign a waiver of receipt of the notice
45 of cancellation form required by this section.

442.728. 1. Except as provided by subsection 2 of this section, the seller shall record
2 the executory contract, including the attached disclosure statement required by subdivision
3 (2) of subsection 1 of section 442.716, in the land records of the county in which the
4 property is located on or before the thirtieth day after the date the contract is executed.

5 2. If the executory contract is terminated for any reason, the seller shall record an
6 instrument that releases and terminates the contract.

442.730. 1. The seller shall provide the purchaser with an annual statement in
2 January of each year for the term of the executory contract. If the seller mails the
3 statement to the purchaser, the statement shall be postmarked not later than January
4 thirty-first.

5 2. The statement shall include the following information:

6 (1) The amount paid under the contract;

7 (2) The remaining amount owed under the contract;

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

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

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

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

15 (7) If the seller has changed insurance coverage, a legible copy of the current policy,
16 binder, or other evidence that satisfies the requirements of subdivision (2) of subsection 1
17 of section 442.718.

18 3. A seller who conducts less than two transactions in a twelve-month period under
19 this section who fails to comply with subsection 1 of this section is liable to the purchaser
20 for:

21 (1) Liquidated damages in the amount of one hundred dollars for each annual
22 statement the seller fails to provide to the purchaser within the time required by subsection
23 1 of this section; and

24 (2) Reasonable attorney's fees.

25 4. A seller who conducts two or more transactions in a twelve-month period under
26 this section who fails to comply with subsection 1 of this section is liable to the purchaser
27 for:

28 (1) Liquidated damages in the amount of two hundred fifty dollars a day for each
29 day after January thirty-first that the seller fails to provide the purchaser with the
30 statement, but not to exceed the fair market value of the property; and

31 (2) Reasonable attorney's fees.

 442.732. 1. The named insured under an insurance policy, binder, or other
2 coverage relating to property subject to an executory contract for the conveyance of real
3 property shall inform the insurer, not later than the tenth day after the date the coverage
4 is obtained or the contract executed, whichever is later, of:

5 (1) The executory contract for conveyance and the term of the contract; and

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

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

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

13 **4. Notwithstanding the provisions of this section, if the purchaser and seller agree**
14 **that repair is not feasible the insurance proceeds shall first be used to satisfy any remaining**
15 **amounts due under the executory contract and any remaining balance shall be paid to the**
16 **purchaser.**

17 **5. The seller's failure to comply with the provisions required by this section:**

18 **(1) Is an unlawful practice within the meaning of sections 407.020 and 407.025 and**
19 **is actionable in a public or private suit brought under such sections; and**

20 **(2) Entitles the purchaser to cancel and rescind the executory contract and receive**
21 **a full refund of all payments made to the seller.**

442.734. 1. The seller shall transfer recorded, legal title of the property covered by
2 **the executory contract to the purchaser not later than the thirtieth day after the date the**
3 **seller receives the purchaser's final payment due under the contract.**

4 **2. A seller who violates subsection 1 of this section is liable to the purchaser for:**

5 **(1) Liquidated damages in the amount of:**

6 **(a) Two hundred fifty dollars a day for each day the seller fails to transfer the title**
7 **to the purchaser during the period that begins the thirty-first day and ends the ninetieth**
8 **day after the date the seller receives the purchaser's final payment due under the contract;**
9 **and**

10 **(b) Five hundred dollars a day for each day the seller fails to transfer title to the**
11 **purchaser after the ninetieth day after the date the seller receives the purchaser's final**
12 **payment due under the contract; and**

13 **(2) Reasonable attorney's fees.**

14 **3. If a person to whom a seller's property interest passes by will or intestate**
15 **succession is required to obtain a court order to clarify the person's status as an heir or to**
16 **clarify the status of the seller or the property before the person may convey good and**
17 **indefeasible title to the property, the court in which the action is pending may waive**
18 **payment of the liquidated damages and attorney's fees under subsection 2 of this section**
19 **if the court finds that the person is pursuing the action to establish good and indefeasible**
20 **title with reasonable diligence.**

21 **4. As used in this section, "seller" includes a successor, assignee, personal**
22 **representative, executor, or administrator of the seller.**

442.736. For purposes of sections 442.700 to 442.746, a disclosure required by
2 **sections 442.700 to 442.746 that is made by a seller's agent is a disclosure made by the**
3 **seller.**

442.738. 1. A purchaser, at any time after paying fifteen percent of the principal
2 **purchase price and without paying penalties or charges of any kind, is entitled to convert**

3 the purchaser's interest in property under an executory contract into recorded, legal title
4 in accordance with this section.

5 **2. If the purchaser tenders to the seller an amount of money equal to the balance**
6 **of the total amount owed by the purchaser to the seller under the executory contract, the**
7 **seller shall transfer to the purchaser recorded, legal title of the property covered by the**
8 **contract.**

9 **3. Subject to subsection 4 of this section, if the purchaser delivers to the seller of**
10 **property covered by an executory contract a promissory note that is equal in amount to the**
11 **balance of the total amount owed by the purchaser to the seller under the contract and that**
12 **contains the same interest rate, due dates, and late fees as the contract:**

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

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

16 **(a) Contains the same terms as the contract regarding the purchaser's and seller's**
17 **duties concerning the property;**

18 **(b) Secures the purchaser's payment and performance under the promissory note**
19 **and deed of trust; and**

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

23 **4. On or before the tenth day after the date the seller receives a promissory note**
24 **under subsection 3 of this section that substantially complies with that subsection, the seller**
25 **shall:**

26 **(1) Deliver to the purchaser a written explanation that legally justifies why the**
27 **seller refuses to convert the purchaser's interest into recorded, legal title under**
28 **subsection 3 of this section; or**

29 **(2) Communicate with the purchaser to schedule a mutually agreeable day and time**
30 **to execute the deed and deed of trust under subsection 3 of this section.**

31 **5. A seller who violates this section is liable to the purchaser in the same manner**
32 **and amount as a seller who violates section 442.734 is liable to a purchaser. This**
33 **subsection shall not limit or affect any other rights or remedies a purchaser has under**
34 **other law.**

35 **6. On the last date that all of the conveyances described by subsections 2 and 3 of**
36 **this section are executed, the executory contract:**

37 **(1) Is considered completed; and**

38 **(2) Has no further effect.**

442.740. 1. A purchaser under an executory contract, on written request, is entitled to receive the following information from the seller:

(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 section 442.738.

2. On or before the tenth day after the date the seller receives from the purchaser a written request for information described by subsection 1 of this section, the seller shall provide to the purchaser a written statement of the requested information.

3. 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 section 442.738; and

(2) If applicable, select a trustee for a deed of trust under section 442.738.

4. For purposes of subdivision (2) of subsection 3 of this section, a purchaser shall select a trustee that lives or has a place of business in the same county where the property covered by the executory contract is located.

5. Not later than the twentieth day after the date a seller receives notice of an amount determined by a purchaser under subdivision (1) of subsection 3 of this section, the seller may contest that amount by sending a written objection to the purchaser. An objection under this subsection shall:

(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 executory contract.

442.742. 1. Except as provided by subsection 3 of this section, in addition to other rights or remedies provided by law, the purchaser may cancel and rescind an executory contract at any time if the purchaser learns that the property that is covered by the contract is not properly subdivided or platted in accordance with state and local law. A purchaser cancelling and rescinding a contract under this subsection shall:

(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.

10 **2. If the purchaser cancels the contract as provided under subsection 1 of this**
11 **section, the seller, not later than the tenth day after the date the seller receives the notice**
12 **of cancellation and rescission, shall:**

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

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

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

19 **(b) The value of any improvements made to the property by the purchaser.**

20 **3. A purchaser shall not exercise the purchaser's right to cancel and rescind an**
21 **executory contract under this section if, on or before the ninetieth day after the date the**
22 **purchaser receives the seller's notice under subdivision (1) of subsection 2 of this section,**
23 **the seller:**

24 **(1) Properly subdivides or plats the property; and**

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

28 **4. The seller shall not terminate the purchaser's possession of the property covered**
29 **by the contract being cancelled and rescinded before the seller pays the purchaser any**
30 **money to which the purchaser is entitled under subsection 2 of this section.**

442.744. If a seller is liable to a purchaser under sections 442.700 to 442.746, the
2 **purchaser, without taking judicial action, may deduct the amount owed to the purchaser**
3 **by the seller from any amounts owed to the seller by the purchaser under the terms of an**
4 **executory contract.**

442.746. 1. A potential seller shall not execute an executory contract with a
2 **potential purchaser if the seller does not own the property in fee simple free from any liens**
3 **or other encumbrances.**

4 **2. Except as provided by this subsection, a seller, or the seller's heirs or assigns,**
5 **shall maintain fee simple title free from any liens or other encumbrances to property**
6 **covered by an executory contract for the entire duration of the contract. This subsection**
7 **shall not apply to a lien or encumbrance placed on the property that is:**

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

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

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

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

15 **a. Of the name, address, and phone number of the lienholder or, if applicable,**
16 **servicer of the loan;**

17 **b. Of the loan number and outstanding balance of the loan;**

18 **c. Of the monthly payments due on the loan and the due date of those payments;**

19 **and**

20 **d. In fourteen-point type that, if the seller fails to make timely payments to the**
21 **lienholder, the lienholder may attempt to collect the debt by foreclosing on the lien and**
22 **selling the property at a foreclosure sale;**

23 **(b) The lien:**

24 **a. Is attached only to the property sold to the purchaser under the contract;**

25 **b. Secures indebtedness that, at no time, is or will be greater in amount than the**
26 **amount of the total outstanding balance owed by the purchaser under the executory**
27 **contract; and**

28 **c. Secures indebtedness that by its terms is scheduled to be fully repaid on a date**
29 **after the date on which the purchaser's installment payments on the executory contract are**
30 **scheduled to be fully paid;**

31 **(c) The lienholder:**

32 **a. Does not prohibit the property from being encumbered by an executory contract;**
33 **and**

34 **b. Consents to verify the status of the loan on request of the purchaser and to**
35 **accept payments directly from the purchaser if the seller defaults on the loan; and**

36 **(d) The following covenants are placed in the executory contract:**

37 **a. A covenant that obligates the seller to make timely payments on the loan and to**
38 **give monthly statements to the purchaser reflecting the amount paid to the lienholder, and**
39 **the information described by paragraph (a) of this subdivision;**

40 **b. A covenant that obligates the seller, not later than the third day after the seller**
41 **receives or has actual knowledge of a document or an event described by this**
42 **subparagraph, to notify the purchaser in writing in fourteen-point type that the seller has**
43 **been sent a notice of default, notice of acceleration, or notice of foreclosure or has been**
44 **sued in connection with a lien on the property and to attach a copy of all related documents**
45 **received to the written notice; and**

46 **c. A covenant that warrants that if the seller does not make timely payments on the**
47 **loan or any other indebtedness secured by the property, the purchaser may, without notice,**
48 **cure any deficiency with a lienholder directly and deduct from the total outstanding**
49 **balance owed by the purchaser under the executory contract, without the necessity of**
50 **judicial action, one hundred fifty percent of any amount paid to the lienholder.**

51 **3. A violation of this section:**

52 **(1) Is an unlawful practice within the meaning of sections 407.020 and 407.025 and**
53 **is actionable in a public or private suit brought under such sections; and**

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

56 **(a) The return of all payments of any kind made to the seller under the contract;**
57 **and**

58 **(b) Reimbursement for:**

59 **a. Any payments the purchaser made to a taxing authority for the property; and**

60 **b. The value of any improvements made to the property by the purchaser.**

61 **4. A seller is not liable under this section if:**

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

63 **(2) Not later than the thirtieth day after the date the seller receives notice of the**
64 **lien, the seller takes all steps necessary to remove the lien and has the lien removed from**
65 **the property.**