



# The Basics of Land Contracts

## What is a Land Contract?

A land contract is a written legal contract or agreement that is used to purchase real estate, such as vacant land, a house, an apartment building, a commercial building, or other real property. A land contract is a form of seller financing that is similar to a mortgage. But, rather than borrowing money from a lender or bank to buy real estate, the buyer makes payments to the real estate owner, or seller, until the purchase price is paid in full.

A buyer and a seller both sign the land contract covering the agreed upon terms and conditions of the sale. Upon satisfaction of all contract terms and conditions, including payment of the purchase price over a specified time period, the legal title of the property transfers from the seller to the buyer by way of a warranty deed or other deed used to convey title.

## Why Are Land Contracts Used?

As with other types of seller financing, a land contract may be beneficial for both the buyer and the seller.

**Benefits to buyers.** There may be a buyer interested in the real estate for sale but, because of their credit history or other reasons, they cannot obtain approval for the mortgage they need. The parties can enter into a sale by land contract so that the buyer makes monthly payments directly to the seller.

**Benefits to sellers.** The seller does not receive the full purchase price up front, like the seller would if the buyer used a mortgage or paid all cash, but the seller may have more options for potential buyers. Also, the seller may be able to negotiate a higher purchase price on the property by offering a sale by land contract. The seller may also require and receive a large cash down payment

## When Does the Buyer Become the New Owner of the Land Contract Property?

While the buyer is making payments to the seller, the buyer is considered to have an “equitable title” to the property. As an equitable title holder, the buyer has an interest in the land contract property and the seller is precluded from selling the property to a third party or subjecting the property to a lien or encumbrance that would interfere with the buyer’s interest in the property.

The “legal title” to the property remains with the seller until the buyer makes the final payment. When the final payment is made, and all conditions of the land contract are met, the deed to the property will be filed with the appropriate government office, such as the county register of deeds. This establishes the buyer as the new owner of the property.

## What Happens if the Buyer Fails to Make the Land Contract Payments Due?

If the buyer defaults on the land contract or fails to make the monthly payments to the seller as required, the seller can file a court action called a land contract forfeiture. Forfeiture will result in the buyer “forfeiting,” or giving up, all money paid to the seller for the property pursuant to the land contract. The equitable title of the buyer will be extinguished. In other words, if the buyer fails to pay, the seller keeps all money received, plus the seller keeps the real estate.

The seller takes a risk selling by land contract because the seller does not receive the full purchase price at the time of sale, but a forfeiture right protects the seller from a buyer who fails to pay allowing the seller keep payments and a usually large down payment made by the buyer while retaining the property to offer for sale to someone else.

## Does an Attorney Need to Review a Land Contract?

Real estate rules vary by state, so it is important to consult with an experienced real estate attorney to draft a land contract in order to allow for appropriate terms and to be able to enforce a forfeiture action, if needed by the seller.

Source: [www.nolo.com/legal-encyclopedia/the-basics-land-contracts.html](http://www.nolo.com/legal-encyclopedia/the-basics-land-contracts.html)

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