

## HOUSE BILL No. 2101

By Committee on Financial Institutions and Pensions

1-19

1 AN ACT concerning real estate transactions; regulating contract for deed  
2 transactions; making certain deceptive actions violations of the  
3 consumer protection act.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) Sections 1 through 4, and amendments thereto, shall be  
7 known and may be cited as the Kansas contract for deed act.

8 (b) As used in sections 1 through 4, and amendments thereto:

9 (1) "Buyer" means a person who purchases property subject to a  
10 contract for deed or any legal successor in interest to the buyer.

11 (2) "Contract for deed" means an executory agreement in which the  
12 seller agrees to convey title to real property to the buyer and the buyer  
13 agrees to pay the purchase price in five or more subsequent payments  
14 exclusive of the down payment, if any, while the seller retains title to the  
15 property as security for the buyer's obligation. Option contracts for the  
16 purchase of real property are not contracts for deed.

17 (3) "Property" means real property located in this state upon which  
18 there is located or will be located a structure designed principally for  
19 occupancy of one to four families that is or will be occupied by the buyer  
20 as the buyer's principal place of residence.

21 (4) "Seller" means any person who makes a sale of property by means  
22 of a contract for deed or any legal successor in interest to the seller.

23 Sec. 2. Any contract for deed or affidavit of equitable interest may be  
24 recorded in the office of the county register of deeds where the property is  
25 located by any interested person.

26 Sec. 3. (a) A seller shall not execute a contract for deed with a buyer  
27 if the seller does not hold title to the property. Except as provided further, a  
28 seller shall maintain fee simple title to the property free from any  
29 mortgage, lien or other encumbrance for the duration of the contract for  
30 deed. This subsection shall not apply to a mortgage, lien or encumbrance  
31 placed on the property:

32 (1) Due to the conduct of the buyer;

33 (2) with the agreement of the buyer as a condition of a loan obtained  
34 to make improvements on the property; or

35 (3) by the seller prior to the execution of the contract for deed if:

36 (A) The seller disclosed the mortgage, lien or encumbrance to the

1 buyer; or

2 (B) the seller continues to make timely payments on the outstanding  
3 mortgage, lien or other encumbrance.

4 (b) Any violation of this section is a deceptive act or practice under  
5 the provisions of the Kansas consumer protection act and shall be subject  
6 to any and all of the enforcement provisions of the Kansas consumer  
7 protection act.

8 Sec. 4. (a) A buyer's rights under a contract for deed shall not be  
9 forfeited or canceled except as provided in this section, notwithstanding  
10 any provision in the contract providing for forfeiture of buyer's rights.  
11 Nothing in this section shall be construed to limit the power of the district  
12 court to require proceedings in equitable foreclosure.

13 (b) The buyer's rights under a contract for deed shall not be forfeited  
14 until the buyer has been notified of the intent to forfeit as provided in  
15 subsection (c) and has been given a right to cure the default, and such  
16 buyer has failed to do so within the time period allowed. A timely tender of  
17 cure shall reinstate the contract for deed.

18 (c) A notice of default and intent to forfeit shall:

19 (1) Reasonably identify the contract and describe the property  
20 covered by it;

21 (2) specify the terms and conditions of the contract with which the  
22 buyer has not complied; and

23 (3) notify the buyer that the contract will be forfeited unless the buyer  
24 performs the terms and conditions within the following periods of time:

25 (A) If the buyer has paid less than 50% of the purchase price, 30 days  
26 from completed service of notice; or

27 (B) if the buyer has paid 50% or more of the purchase price, 90 days  
28 from completed service of notice.

29 (d) A notice of default and intent to forfeit shall be served on the  
30 buyer in person, or by leaving a copy at the buyer's usual place of  
31 residence with someone of suitable age and discretion who resides at such  
32 place of residence, or by certified mail or priority mail, return receipt  
33 requested, addressed to the buyer at the buyer's usual place of residence.

34 (e) Nothing in this section shall be construed to preclude the buyer or  
35 the seller from pursuing any other remedy at law or equity.

36 Sec. 5. This act shall take effect and be in force from and after its  
37 publication in the statute book.