

RENT TO OWN HOME SALES

WHAT YOU NEED TO KNOW

Some people who want to buy their own home may not be able to because they cannot get a home loan from a bank or lender.

There are some dishonest people who might take advantage of people who want to buy a home. One way that some sellers take advantage of a home buyer is by getting the buyer to agree to an unfair rent-to-own home sale.

How is a rent-to-own home sale different from the way that most people buy a home?

In a typical home sale, a buyer gets a special loan called a **mortgage** from a lender (a bank, for instance) to buy a house. The lender pays the loan money to the seller of the house. The seller then signs the deed to the house over to the buyer. The deed is filed with the county and is the buyer's proof that he or she owns the home.

The buyer still has to pay back the mortgage loan to the lender. The buyer will usually do this by making monthly payments to the lender. Each payment the buyer makes gives the buyer more equity (or ownership value) in the home.

Because the lender has to be sure that it will be paid back, the lender takes a **security interest** in the home. This means that if the buyer stops making payments to the lender on the mortgage loan, the lender can take the buyer to court and have the house sold. The money that the house is sold for goes to the lender to pay back the mortgage loan. This process is called foreclosure.

With a rent-to-own home sale, the buyer does not get a loan to buy the house. The buyer makes payments to the seller, who keeps the home in his name until all payments are made. The buyer has no deed to show he owns the home. In fact, it may be hard for the buyer to prove that he has not been renting the home all along.

What type of rent-to-own home sale contracts are there?

Three types of rent-to-own home sales are most common. These are 1) a lease with an option to purchase, 2) a land installment contract, and 3) a wrap-around mortgage.

Lease with an option to buy:

In a lease with an option to buy, a buyer pays a large sum of money called a down payment on a house and then rents the house for a set amount of time. The buyer has the option (or choice) to buy the house before this set amount of time runs out. If the buyer cannot pay the whole amount for the house before time runs out, the seller keeps the down payment, keeps the house, and keeps all the payments the buyer made. The buyer gets nothing. This must be clear in the contract.

Land installment contract:

A land installment contract (also called a contract for deed) is where a buyer makes a monthly payment to the seller, believing that he is buying the house and land with each payment. The contract usually says that the seller will not put the house in the buyer's name until the last monthly payment is made. This may take many years! The contract may also say that if the buyer misses a payment, the buyer will lose all equity and will be treated like a renter. If the buyer is just renting the home, he can be evicted by the seller. Again, the buyer could be left with nothing.

Wrap-around mortgage:

A "wrap-around mortgage" is where the seller takes monthly payments from the buyer and uses them to pay the mortgage loan that the seller owes on the house. The buyer's monthly payment is usually more than the amount of the seller's monthly mortgage payment, so the seller keeps what is left over for him or herself.

One risk with a wrap-around mortgage is that the seller could take the whole monthly payment and stop paying on his own mortgage. There is no way for the buyer to know this is happening. If the seller does that, the lender could **foreclose** on the house and the buyer could end up with nothing. The buyer may never know that a foreclosure is taking place.

Another danger is that most mortgage loan papers will say that a home cannot be sold or be rented for a period of time without the lender's permission. If the seller does not follow this rule, the lender can make the seller pay back all the money the seller still owes the lender on the mortgage in one big payment. If the owner cannot make that payment, the lender can foreclose on the house.

Are all rent-to-own home sales scams? How can I avoid making a bad deal with a rent-to-own home sale?

Not all rent-to-own home sales are scams. Some legitimate sellers do offer fair terms. To avoid getting cheated, a buyer has to be very careful. Before making any deal to buy a house, you should always:

- Talk to someone from a non-profit housing counseling center. Housing counselors can look at your credit rating and your income to help you make a plan to buy a house you can afford.
- Have a lawyer that you choose read the sales contract and any other documents before you sign them. A lawyer will also be able to do a title search on the property. A title search will tell you if the seller really owns the property he or she is trying to sell you.
- Hire your own home inspector to look at the house. Make sure that the house you are buying is in good condition. Do not rely on the seller to tell you if anything is wrong with the house.
- Take your time and use your common sense. If a deal seems too good to be true, it usually is. If you feel pressured by the seller to take a deal, there may be a problem.

Where can I find a non-profit housing counseling center to help me?

Housing counseling centers can give you advice on buying a home and credit issues. Many of these centers will help you for free or for a very low fee. You can find one near you by calling the HUD Housing Counseling and Referral Line at 1-800-569-4287 or the SC State Housing Finance and Development Authority Counseling Hotline at 1-866-756-2895.

What if I am being evicted from my rent-to-own home? How can I get help?

A rent-to-own home sale is a contract for the sale of a home and not just a lease between a landlord and a renter. A seller should not be able to use the state eviction law in Magistrates' Court to have you evicted from the house. Instead, the case should be filed in Circuit Court so that the judge can decide who owns the home.

If you get eviction papers from Magistrates' Court about your rent-to-own home sale, you can ask the Magistrates' Court to dismiss (or close) the eviction case against you. A lawyer can help you with this.

This is not all the information you need to know if you have questions about rent-to-own home sales. You may want to talk to a lawyer about your questions.

If you do not have a lawyer, the South Carolina Bar Lawyer Referral Service can give you the name of a lawyer who is willing to meet with you and advise you at a lower rate. For the name of a lawyer in your area, call the Lawyer Referral Service at 1-800-868-2284 statewide or (803) 799-7100 in Columbia.

If you have a very low income, your local legal services office may be able to help you. To get in touch with them, call the Legal Aid Telephone Intake Service for a referral at 1-888-346-5592 statewide or (803) 744-9430 in Columbia.

REVISED OCTOBER 2012

COPYRIGHT RETAINED BY SOUTH CAROLINA APPLESEED LEGAL JUSTICE CENTER. FOR PERMISSION TO REPRODUCE THIS BROCHURE CONTACT SC APPLESEED P.O. BOX 7187 COLUMBIA, SC 29202