

**CONTRACT FOR GREED: HOW MICHIGAN LEGISLATORS
CAN CURB PREDATORY PRACTICES IN LAND SALE
CONTRACTS**

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I. INTRODUCTION

After years of saving, the Terranova family¹—a young immigrant couple with two small children—finally scraped together a \$40,000 down payment for a modest three-bedroom home in Detroit’s East Village.² With poor credit history limiting their access to traditional financing, SureGain Properties, the owner of the home, offered to sell it through a land contract.³ Having lived in Metro Detroit for several years, the Terranovas were somewhat familiar with this form of alternative financing and assumed it was their only real means of financing a home purchase. As their vendor, SureGain agreed to sell them the home for \$200,000 at an 8% interest rate, with payments structured over a fifteen-year term.⁴

Prior to closing, SureGain supplied the Terranovas with a document titled “Contract for Deed.” While reading through the contract, the Terranovas were startled by a clause titled “Purchaser’s Default.”⁵ The clause read:

If Buyer fails to perform this agreement or any part of it, Seller has the right immediately after the default to declare the agreement forfeited and void; to retain whatever may have been

1. This scenario is hypothetical and is intended solely for illustrative purposes.

2. *East Village*, THE NEIGHBORHOODS, CITY OF DET. GOV’T, <https://theneighborhoods.org/neighborhoods/east-village> [perma.cc/T3UH-9TA2] (last visited Oct. 17, 2025).

3. See Matthew Goldstein & Alexandra Stevenson, ‘Contract for Deed’ Lending Gets Federal Scrutiny, N.Y. TIMES (May 10, 2016), <https://www.nytimes.com/2016/05/11/business/dealbook/contract-for-deed-lending-gets-federal-scrutiny.html> [perma.cc/VRQ6-HNAP] (discussing the revival of seller-financed home sales targeting individuals who cannot qualify for traditional mortgages); see also MICH. COMP. LAWS §§ 565.351–.361 (2025) (governing the execution, acknowledgment, and recording of land contracts).

4. See MICH. FORECLOSURE TASK FORCE, MICHIGAN LAND CONTRACT GUIDE 1–2, <https://muskegonwpmi.gov/wp-content/uploads/2021/10/Land-Contract-Guide-FINAL-1.pdf> [perma.cc/9DZ2-URCJ] (last visited Oct. 17, 2025) (“There is no standard land contract form in Michigan[,] but a land contract must satisfy the Statute of Frauds in addition to meeting general contract principles, which include offer, acceptance, consideration, competency to contract, and a definite statement of the credit terms.”); see also MICH. COMP. LAWS § 438.31c(6) (2025) (setting the maximum allowable interest rate on a land contract as 11% pursuant to Michigan usury laws).

5. See MICH. COMP. LAWS § 600.5726 (2025) (allowing a vendor to recover immediate possession of a property after forfeiture only if the terms of the contract expressly provide for termination or forfeiture); see also NYAL DEEMS & PETER SCHMIDT, MICH. REAL EST. PRAC. & FORMS, FORM 5.1 RESIDENTIAL LAND CONTRACT (3d ed. 2024) [hereinafter FORM 5.1].

paid on the agreement and all the improvements that may have been made on the premises, together with any additions and accretions; and to consider and treat the Buyer as a tenant holding over without permission. Seller may take immediate possession of the premises and may have buyer and all occupants removed and put out. In all cases where Seller relies on a notice of forfeiture to terminate rights under this agreement, the notice shall specify all unpaid monies and other breaches of this contract and shall declare forfeiture of this contract to be effective 15 days after service, unless the money is paid and any other breaches of the contract are cured within that time.⁶

This clause worried the Terranovas, who were unsure about what would happen if they ever encountered financial trouble. A representative from SureGain assured the family that such clauses were standard in land contracts and that, so long as they made their payments, they had nothing to worry about.⁷ Believing renting to be their only alternative, they decided to sign the agreement.⁸

When the Terranovas finally received the keys, the house was far from habitable: the bathroom plumbing leaked, the cabinet doors sagged, and years of neglect had left the walls stained and floors warped.⁹ The Terranovas were aware that SureGain had done little to maintain the house, and they planned to undertake extensive do-it-yourself (DIY) renovations to transform the dilapidated property.¹⁰ Over the next several months, they poured the remainder of their savings into renovations, watching hours of online tutorials on pipe replacement, drywall patchwork, and even furnace installation.¹¹ After a few difficult months,

6. See FORM 5.1, *supra* note 5, at 308.

7. See *id.* (providing a template for a typical land contract in Michigan, including a forfeiture clause).

8. See discussion *infra* Section II.A.3 (explaining another alternative: the purchase money mortgage).

9. See Adam Staveski et al., *Land Contracts Pose 5 Major Risks for Homebuyers*, PEW CHARITABLE TRUSTS (July 18, 2024), <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2024/07/land-contracts-pose-5-major-risks-for-homebuyers> [perma.cc/N6C6-ARG8] (“Many homes financed with land contracts have major structural problems or other undisclosed repair needs that make them unsafe or unhealthy to live in. In some land contract transactions, sellers place the responsibility for remediating these habitability issues on buyers.”).

10. See *id.*

11. See *10 DIY Statistics Shaping the Home Improvement Industry in 2022–2025*, THE FARNSWORTH GRP. (Apr. 24, 2025), <https://www.thefarnsworthgroup.com/blog/10-diy-statistics-shaping-home-improvement> [perma.cc/B9WY-VHKP] (“About 73 percent of Millennials are DIYers[.]”).

they were ready to move into the East Village home.¹² Not content to stop there, the Terranovas continued to invest whatever savings they had to improve the house over the next several years.¹³

Three years into the agreement, and with over \$95,000 paid toward their balance, the Terranova family had finally begun to feel at home in the house they worked so hard to make their own. But when Mr. Terranova lost his job due to factory-wide layoffs, their sense of security crumbled.¹⁴ Bills quickly began to pile up, not the least of which was their house payment, which they were unable to make. After a few unsuccessful weeks of job hunting by Mr. Terranova, SureGain served the Terranovas with a notice of forfeiture.¹⁵ Under Michigan law¹⁶ and their signed land contract,¹⁷ the Terranovas had only fifteen days from service to cure the default. But with the remainder of their savings poured into renovations, the deadline passed long before the family had any possibility of paying.¹⁸

Not long after, SureGain filed a complaint for possession in district court.¹⁹ A hearing was scheduled within thirty days, and upon finding the Terranovas in default, the court entered a judgment of possession in favor of SureGain.²⁰ Since the Terranovas had paid less than 50% of the purchase price, the court granted them only a ninety-day period to pay the arrears, reinstate the contract, and prevent eviction.²¹ Unfortunately, they

12. See *East Village*, *supra* note 2.

13. See Staveski et al., *supra* note 9.

14. See discussion *infra* Section II.B (explaining that in other states such as Ohio, purchasers are afforded better protections after they have made payments for five-plus years or paid more than 20% of the purchase price).

15. See MICH. COMP. LAWS § 600.5728 (1961) (allowing a vendor to recover possession under MCL 600.5726 only after serving the vendee with a written notice of forfeiture and allowing fifteen days to cure the default or vacate, unless a longer period is agreed upon in writing); see also FORM 5.1, *supra* note 5 (providing example of forfeiture clause).

16. See MICH. COMP. LAWS § 600.5726 (1961)

17. See forfeiture clause *supra* pp. 534–35.

18. See MICH. COMP. LAWS § 600.5728 (1961); see also MICH. COMP. LAWS § 600.5750 (1961) (outlining the remedies available to vendors through summary proceedings, including a judgment for possession after forfeiture of an executory contract).

19. See MICH. COMP. LAWS § 600.5704 (1961) (“The district court, municipal courts and the common pleas court of Detroit have jurisdiction over summary proceedings to recover possession of premises under this chapter.”).

20. See MICH. COMP. LAWS § 600.5741(7) (1961) (explaining that a writ of restitution, colloquially known as an eviction order, cannot be issued if the judgment amount and costs are paid, and any other material breaches of the executory contract are cured within the permitted time).

21. See MICH. COMP. LAWS § 600.5744(4) (1961) (“If a judgment for possession is based on forfeiture of an executory contract for the purchase of the premises, a writ of restitution must not be issued until the expiration of 90 days after the entry of judgment for possession if less than 50% of the purchase price has been paid or until the expiration of 6 months

were unable to gather the necessary funds within this timeframe. Consequently, SureGain obtained a writ of restitution, and the family was promptly evicted.²²

Unlike a mortgage foreclosure, where any amount in excess of what is owed is returned to the borrower, the family was unable to recoup any of the capital it put towards the property.²³ The Terranova family home, now in its best condition since the 1950s, was relisted on the market for \$330,000.²⁴ At the bottom of the home's description, the advertisement read: "Seller Financing Available."²⁵

Michigan's land sale contract laws disproportionately favor vendors at the expense of vulnerable homebuyers, creating a system that incentivizes predatory practices and undermines equitable homeownership.²⁶ By examining regulatory models from other states, this Note argues that the Michigan Legislature should amend MCL 600.5726 to more closely align with Ohio's provision and change MCL 565.354 to reflect Iowa's land contract recordation statute.

Part II provides a background on land sale contracts, explaining their function as an alternative financing method and how they differ from both traditional mortgages and seller-financed mortgages.²⁷ It traces the historical development of land contracts from their early use to their resurgence after the Great Recession.²⁸ This Part also examines Michigan's permissive regulatory framework, highlighting key differences from states like Ohio, Iowa, and Florida, which have stronger

after the entry of judgment for possession if 50% or more of the purchase price has been paid.").

22. See MICH. COMP. LAWS § 600.5744(8) (1961) (explaining that once a writ of restitution is issued, law enforcement is directed to remove all occupants from a property. In addition, the former vendee no longer has any equitable right to pay the full amount owed and reclaim the forfeited property).

23. See MICH. COMP. LAWS §§ 600.3204–.3285 (1961) (governing foreclosure by advertisement, a nonjudicial process where a lender forecloses on a property by publishing a notice in a newspaper and following statutory requirements, without court involvement); see also MICH. COMP. LAWS §§ 600.3101–.3185 (1961) (governing judicial foreclosure, a court-supervised process where a lender files a lawsuit against a borrower, obtains a court order, and sells the property through a judicial sale to satisfy the debt).

24. See discussion *infra* Section II.C (arguing that Michigan land contract vendors have the potential to receive an unreasonable windfall upon purchaser default).

25. See Jonathan Minerick, *How to Advertise Seller Financing*, HOME COIN, <https://support.homecoin.com/hc/en-us/articles/24696428579219-How-to-Advertise-Seller-Financing> [<https://perma.cc/BQS6-Q24B>] (last visited Nov. 9, 2025) (explaining regulations surrounding seller financing).

26. See discussion *infra* Part III.

27. See discussion *infra* Section II.A.

28. See discussion *infra* Section III.B.

buyer protections.²⁹ Through this comparative analysis, this section demonstrates how Michigan's approach exposes buyers to significant risks while other states provide safeguards that better balance the interests of vendors and purchasers.³⁰

Part III assesses the long-term consequences of Michigan's current system, focusing on its disparate impact on low-income and marginalized communities, where land contracts often serve as a last resort for those dreaming of homeownership.³¹ It also considers the potential for federal intervention, including proposals for Consumer Financial Protection Bureau (CFPB) oversight, and evaluates whether national regulations could provide a uniform standard without undermining state autonomy.³² Finally, this Part proposes legislative reforms for Michigan, drawing from best practices in other states.³³ Specifically, it argues for (1) a limitation on forfeiture clauses, modeled after Ohio Revised Code Section 5313.07, to protect buyers who have made substantial payments, and (2) a land contract recording requirement similar to Iowa Code Section 558.46 prior to enforcing forfeiture clauses, which would enhance transparency and prevent exploitative practices.³⁴ These reforms would create a more equitable legal landscape, ensuring that land contracts remain a viable but fair alternative to traditional financing.³⁵ Part IV ultimately concludes that targeted legislative reforms can preserve the benefits of Michigan land contracts while minimizing their potential for abuse, fostering more equitable pathways to homeownership.³⁶

II. BACKGROUND

A. Common Methods of Real Estate Financing

1. The Land Sale Contract

A land sale contract, also known as a contract for deed, installment sales contract, or land contract, is a common form of seller financing used as an alternative to traditional mortgage lending.³⁷ Instead of securing a

29. See discussion *infra* Section III.C.

30. See discussion *infra* Section III.D.

31. See discussion *infra* Section III.A.

32. See discussion *infra* Section III.B.

33. See discussion *infra* Section III.C.

34. See discussion *infra* Section III.C.

35. See discussion *infra* Part IV.

36. See discussion *infra* Part IV.

37. 11 MIDWEST TRANSACTION GUIDE § 355.22 (rev. ed. 2024) (“A real estate installment contract may also be known as a land contract, installment land sale contract, installment

loan from a bank or financial institution, the buyer enters into an agreement directly with the seller “for the sale of an interest in real estate in which the purchase price is to be paid in installments.”³⁸ In land contracts, the seller is generally referred to as the “vendor” and the buyer is generally referred to as the “purchaser” or “vendee.”³⁹ Under this arrangement, the vendor effectively takes the place of the bank, receiving an initial down payment followed by recurring payments that include both principal and interest.⁴⁰ The elements required for land contract formation are substantially similar to those required in any contract.⁴¹ For example, Michigan requires that:

A [land] contract must generally be in writing and must set forth the terms of the agreement with sufficient certainty and definiteness, specifying the identities of the parties and their mutual assent, the property which is the subject of the contract, the price of such property, and any other consideration.⁴²

A key distinction between land contracts and traditional mortgages is that with a land contract, legal title to the property remains with the seller until the buyer has fulfilled all payment obligations under the contract, whereas under a conventional mortgage, the buyer receives legal title at

contract, articles of agreement for deed, contract for deed, land sale contract, conditional sales contract, conditional land contract, or conditional land sales contract.”) (internal quotations omitted).

38. JOHN G. CAMERON, JR., MICHIGAN REAL PROPERTY LAW: PRINCIPLES AND COMMENTARY § 16.1, at 602 (3d ed. 2024); *see also* 11 MIDWEST TRANSACTION GUIDE, *supra* note 37, § 355.22 (explaining that in a land sale contract “the buyer and seller agree to the payment of the purchase price in periodic installments, and under which the seller retains legal title to the property until the full purchase price is paid”).

39. CAMERON, *supra* note 38.

40. *See* Josephine Nesbit, *Land Contracts: What They Are and How They Work*, ROCKET MORTG. (Sep. 4, 2025), <https://www.rocketmortgage.com/learn/land-contract> [<https://perma.cc/5UTN-Y7MR>].

41. 92 C.J.S. *Vendor and Purchaser* § 7 (May 2025); *see also* AFT Mich. v. State, 866 N.W.2d 782, 804 (Mich. 2015) (“A valid contract requires five elements: (1) parties competent to contract, (2) a proper subject matter, (3) legal consideration, (4) mutuality of agreement, and (5) mutuality of obligation. The party seeking to enforce a contract bears the burden of proving that the contract exists.”) (citations omitted).

42. *Zurcher v. Herveat*, 605 N.W.2d 329, 376 (Mich. Ct. App. 1999) (quoting 77 AM. JUR. 2D *Vendor and Purchaser* § 5, at 121–22).

closing, subject to the lender's security interest.⁴³ Under a land contract, the seller transfers title to the buyer only after the final payment is made.⁴⁴

This form of "seller financing" can be attractive to buyers who may not qualify for traditional mortgages due to poor credit history or other financial barriers.⁴⁵ Michigan, in particular, has been a hotspot for land contracts, leading the nation with an estimated 110,185 recorded agreements between 2005 and 2022—nearly 50,000 more than Ohio, the second-highest state.⁴⁶ Notably, over the past eighteen years, Michigan is estimated to account for 20% of all recorded land contracts.⁴⁷

Land contracts carry substantial risks for purchasers in many states.⁴⁸ This is primarily due to vendors having the freedom to include predatory clauses in their agreements.⁴⁹ Chief among these provisions is the forfeiture clause, which gives vendors the power to void an agreement and retain a purchaser's entire investment in the event of a default.⁵⁰ Although forfeiture clauses may appear minor or boilerplate in the context of contracts containing numerous clauses, their significance cannot be overstated; in many cases, they serve as the principal incentive for offering

43. See 11 MIDWEST TRANSACTION GUIDE, *supra* note 37, § 355.22 (explaining that the seller retains legal title to the property until the full purchase price is paid); see also 14 RICHARD A. LORD, WILLISTON ON CONTRACTS § 42:13 (4th ed. 2013) ("[C]ourts of equity and later courts of law defied the literal meaning of a mortgage and treated the property as belonging to the mortgagor except to the extent necessary to protect the mortgagee's security for the debt, adopting the so-called 'lien theory.'").

44. *Id.*

45. Karen Ann Kling & Evelyn Zwiebach, *In Good Faith: Reimagining the Use of Land Contracts*, POVERTY SOLS. AT UNIV. MICH. (June 10, 2021), <https://poverty.umich.edu/publications/in-good-faith-reimagining-the-use-of-land-contracts/> [perma.cc/55XF-DVJ3] ("In the wake of the Great Recession, land contracts have reemerged in Detroit and across the country as a prominent alternative pathway to homeownership for households with limited access to capital and lending.").

46. Staveski et al., *supra* note 9. According to research by The Pew Charitable Trusts, "approximately 1.4 million Americans were using" land contracts as of 2022. *Id.* Among the estimated 490,000 recorded land contracts between 2005 and 2022, Michigan had the highest number at 110,185, followed by Ohio with 60,537. *Id.* However, the report mentions that many land contracts are not publicly recorded, suggesting that the actual total may be over 40% higher. *Id.*

47. *Id.*

48. Kling & Zwiebach, *supra* note 45, at 1 ("There is an extensive and ongoing history of sellers using land contracts to exploit and extract wealth, particularly from Black communities.").

49. See MICH. COMP. LAWS § 600.5728 (1961) (authorizing forfeiture clauses under Michigan law and providing a land contract template that includes a forfeiture clause).

50. CAMERON, *supra* note 38, § 16.15, at 619 ("When a land contract is forfeited, the contract is declared to be terminated, all consideration paid remains with the vendor, and legal and equitable title to the property merge in the vendor."); see also FORM 5.1, *supra* note 5.

land sale contracts.⁵¹ As Professor Grant Nelson, a leading scholar on real estate law⁵² explains, “the *raison d’être*—the heart and soul—of the contract for deed is the forfeiture provision.”⁵³

2 *The Traditional Mortgage*

A traditional mortgage is by far the most common form of property financing.⁵⁴ This typically involves a financial institution approving a loan which allows a buyer to purchase the property while securing the lender’s interest with a mortgage lien.⁵⁵ In addition, traditional mortgages are heavily regulated at both the state and federal levels, with laws such as the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act (TILA) increasing borrower protections.⁵⁶ Under a traditional mortgage, the buyer receives legal title to the property immediately, and the lender retains a security interest through a recorded mortgage.⁵⁷

Although there is minimal practical difference between a traditional mortgage and a land contract when every payment is timely made, their

51. Grant S. Nelson, *The Contract for Deed as a Mortgage: The Case for the Restatement Approach*, 1998 B.Y.U. L. REV. 1111, 1112–23, 1116 (1998).

52. Grant S. Nelson: Professor of Law Emeritus, UCLA L., <https://law.ucla.edu/faculty/faculty-profiles/grant-s-nelson> [<https://perma.cc/VY95-NMRJ>] (last visited Oct. 18, 2025) (listing Nelson’s achievements and publications in the area of real estate law).

53. Nelson, *supra* note 51, at 1116.

54. *Summary of 2023 Data on Mortgage Lending*, CONSUMER FIN. PROT. BUREAU (July 11, 2024), <https://www.consumerfinance.gov/data-research/hmda/summary-of-2023-data-on-mortgage-lending/> [perma.cc/9Y4R-YBB9] (reporting that in 2023, 5.7 million applications resulted in loan originations).

55. LORD, *supra* note 43.

56. Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601–2617 (requiring lenders to provide disclosures about real estate settlement costs and prohibiting kickbacks in mortgage transactions); Truth in Lending Act, 15 U.S.C. §§ 1601–1667 (mandating disclosure of key credit terms and costs to protect consumers in credit transactions); *see also* Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. §§ 5301–5641 (establishing comprehensive financial regulatory reforms, including consumer protection measures and stricter oversight of financial institutions); *see also* MICH. COMP. LAWS §§ 600.3101–.3185, 600.3204–.3285 (1961) (governing Michigan statutes that provide remedies for mortgage lenders in event of default).

57. *See* 59 C.J.S. *Mortgages* § 241 (2025) (explaining “distinction between ‘title theory’ and ‘lien theory’ jurisdictions” in property law, “which determines whether [a] mortgage passes title to the mortgagee or [merely] constitutes a lien”). Under the title theory, legal title passes to the mortgagee while the mortgagor retains equitable title, and the mortgage is considered a transfer of legal title as security for the debt, with title reverting to the mortgagor upon repayment. *Id.* In contrast, under the lien theory, the mortgagee holds only a lien, while the mortgagor retains legal title and possession, even in default, unless otherwise agreed. *Id.* Some jurisdictions do not fit neatly into either category, recognizing a mortgage as both a lien and a conditional conveyance of title. *Id.*

distinguishing factors cannot be more obvious than in the event of a default.⁵⁸ If the borrower in a mortgage defaults, the lender must go through a judicial or non-judicial foreclosure process, depending on state law, to recover the property.⁵⁹ Unlike the usual default process in a land contract, both the judicial and non-judicial foreclosure processes involve the sale of the house but still allow the purchaser to recoup any surplus after the debt is satisfied.⁶⁰ Because Michigan law requires foreclosure and sale to recover a mortgaged property, a forfeiture clause—allowing a seller to retain both the property and all prior payments without a sale—would be unenforceable in a mortgage default.⁶¹

3. *The Seller-Financed Purchase Money Mortgage*

When offered by the seller, a purchase money mortgage can function as something of a hybrid between a traditional bank-offered mortgage and a land contract, allowing buyers to obtain direct seller financing *and* receive legal title at closing.⁶² This form of financing occurs when a buyer obtains ownership of a property and, as part of the same transaction, gives the seller or lender a mortgage to secure the loan used for the purchase.⁶³ The buyer then repays the loan in installments, just as they would with a

58. Nelson, *supra* note 51, at 1113 (“To the extent that the forfeiture provision is effective, the contract for deed enables the vendor to avoid the purchaser’s equity of redemption, the foreclosure process, and other traditional protections afforded to debtors under the law of mortgages.”).

59. See *Foreclosure Laws and Procedures: 50-State Survey*, JUSTIA (Nov. 2022), <https://www.justia.com/foreclosure/foreclosure-laws-and-procedures-50-state-survey/> [<https://perma.cc/FB6N-6A7G>] (providing a state-by-state overview of foreclosure laws and procedures); MICH. COMP. LAWS § 600.3101 (1961) (authorizing judicial foreclosure proceedings); MICH. COMP. LAWS § 600.3204 (1961) (setting forth requirements for foreclosure by advertisement).

60. See MICH. COMP. LAWS § 600.3135(1) (1961) (“The proceeds of every sale under a judgment shall be applied to the discharge of the debt adjudged by the court to be due and of the costs awarded; and if there is any surplus it shall be brought into court for the use of the defendant, or of the person entitled to it, subject to the order of the court.”).

61. See *Guardian Depositors Corp. v. Powers*, 296 N.W. 675, 678 (Mich. 1941) (explaining that a mortgagee “may have recourse to any one of four remedies” upon default: (1) “an action at law on the [promissory] note”; (2) “an action at law on the covenant in the mortgage”; (3) “a foreclosure in equity, with the right to a deficiency judgment”; or (4) “foreclosure by advertisement . . . with a subsequent right to an action for deficiency”); MICH. COMP. LAWS § 600.3280 (1961) (preventing a mortgagee from securing an excessive deficiency judgment following foreclosure by advertisement); MICH. COMP. LAWS § 600.3135 (1961) (requiring that any surplus from a judicial foreclosure be held for the defendant or other entitled party).

62. See 59 C.J.S. *Mortgages* § 12 (2025).

63. See 17 MICH. CIV. JUR. *Mortgages* § 113 (2025) (explaining the purchase money mortgage, referencing Michigan caselaw).

traditional mortgage or land contract.⁶⁴ However, if the purchaser defaults, the seller's remedies are limited to those available to institutional mortgage lenders.⁶⁵ This is unlike Michigan land contract law, where vendors can retain both the property and all payments made towards the loan.⁶⁶ In a practical sense, this arrangement allows the contracting parties to enter into an agreement without bank involvement while ensuring that both the mortgagor and mortgagee have access to the same remedies available in a traditional mortgage.⁶⁷

Although the seller-financed purchase money mortgage seems to be the most sensible option for purchasers seeking alternative financing, they are difficult to come by as vendors prefer the "protections" available in land contracts.⁶⁸ Professor Nelson attributes this preference entirely to "the forfeiture clause found in virtually every contract for deed."⁶⁹ When given the option, vendors will choose to offer the financing instrument with the lowest risk and highest reward.⁷⁰

B. History of Land Sale Contracts

1. Early History

Although cases involving land sale contracts date back to the 1800s, the legal principles behind land sale contracts have remained widely unchanged since their inception.⁷¹ As Professor Nelson stated in his article

64. *Id.*

65. MICH. COMP. LAWS §§ 600.3101–3185 (1961) (judicial foreclosure); MICH. COMP. LAWS §§ 600.3201–3285 (1961) (foreclosure by advertisement). Both statutes govern the required procedures, notice, and redemption. These statutes apply to all valid mortgages and do not contain provisions that distinguish or create a separate remedial track for purchase money mortgages held by the seller or a third-party lender. *See also Guardian Depositors Corp.*, 296 N.W. at 678 (outlining the only remedies available to mortgage lenders in the event of a default, none of which allowing for the enforcement of a forfeiture provision).

66. *See* MICH. COMP. LAWS § 600.5726 (1961); *see also* CAMERON, *supra* note 38, § 16.15, at 619 (explaining that, in Michigan, forfeiture extinguishes the contract and consolidates title and payments in the vendor).

67. *See generally supra* note 65 and accompanying text (explaining that the statutory foreclosure scheme in Michigan applies to all mortgages and does not create a separate remedial track for purchase money mortgages).

68. Nelson, *supra* note 51, at 1112–13 ("Vendors have traditionally favored contracts for deed over purchase money mortgages or deeds of trust.").

69. *Id.* at 1113.

70. *Id.*

71. *See, e.g.,* Crane v. O'Reiley, 8 Mich. 312, 312 (1860) ("It appears that on April 20, 1855, Crane entered into an agreement with O'Reiley, signed by both, to sell to the latter certain premises in Detroit, for \$1,350, payable, \$50 down, and the balance with interest in nineteen equal quarterly installments[.]").

advocating for land contract regulation, “[f]or most of this century, the contract for deed has been the most pervasively used substitute for the mortgage or deed of trust.”⁷² Nelson goes on to reason that “the contract for deed was a product of the second half of the nineteenth century, a period when a ‘freedom-of-contract’ perspective and its related laissez faire economic philosophy were making a substantial impact on American jurisprudence.”⁷³

Unlike traditional mortgage arrangements, which require lengthy and costly judicial foreclosure proceedings, the contract for deed offered a more expedient process for vendors to recover property in case of default.⁷⁴ This legal device gained traction before the widespread adoption of nonjudicial foreclosure mechanisms, making it an attractive alternative to mortgages.⁷⁵ However, as mortgage law evolved, courts and legislatures increasingly scrutinized forfeiture provisions, prompting a gradual shift towards treating contracts for deed similarly to mortgages.⁷⁶ This shift culminated in recommendations from the *Restatement (Third) of Property: Mortgages*, which suggests that contracts for deed should be treated as mortgage equivalents.⁷⁷ Despite this legal evolution, the contract for deed continues to be used in modern real estate transactions, particularly in low-income and underserved markets, where access to traditional mortgage financing can depend greatly on external economic factors.⁷⁸

2. *Following the Great Recession*

After numerous financial institutions across the country incurred significant losses during the Great Recession of 2008, primarily due to their issuance of loans to high risk borrowers, banks adopted stricter lending practices and became more selective in approving loans.⁷⁹

72. Nelson, *supra* note 51, at 1112.

73. *Id.* at 1114–15.

74. *Id.* (“Judicial foreclosure, the only remedy then available to mortgagees, required a full court proceeding . . . and was, and still is, both time-consuming and costly.”)

75. *Id.*

76. *Id.* at 1116 (“This Article, however, takes the position that, whatever its value historically, the contract for deed has no place in a modern land financing system.”)

77. *Id.* at 1116 (“A contract for deed creates a mortgage.”); RESTATEMENT (THIRD) OF PROP.: MORTGAGES § 3.4(b) (1997).

78. Ben S. Bernanke, *Financial Panic and Credit Disruptions in the 2007–09 Crisis*, BROOKINGS INST. (Sep. 13, 2018), <https://www.brookings.edu/articles/financial-panic-and-credit-disruptions-in-the-2007-09-crisis/> [perma.cc/29EB-HKYF] (discussing the effect of the 2008 financial crisis on the supply of credit); Kling & Zwiebach, *supra* note 45, at 1.

79. John V. Duca, *Subprime Mortgage Crisis, 2007–2010*, FED. RSRV. HIST. (Nov. 22, 2013), <https://www.federalreservehistory.org/essays/subprime-mortgage-crisis> [https://perma.cc/48SZ-63BV]; Kling & Zwiebach, *supra* note 45, at 1.

However, the nationwide economic downturn did not lead lower income individuals to set aside their plans for home ownership.⁸⁰ In fact, the opposite was true—many individuals waited for an economic downturn to capitalize on the steep decline in property values.⁸¹ As a result, land contracts re-emerged as a solution to finance real estate transactions.⁸² Purchasers felt that they were able to build equity in an undervalued property and vendors sold homes that otherwise might have remained vacant.⁸³ This resurgence of seller financing has regrettably led to land contracts becoming infamous as predatory tools for siphoning wealth from marginalized communities.⁸⁴ Federal agencies, such as the Consumer Financial Protection Bureau (“CFPB”), have expressed a desire to prevent what they consider bad faith transactions.⁸⁵

C. Comparing Michigan Land Contract Law to Other States

Because land sale contracts have roots in common law, state law governs their formation and enforceability.⁸⁶ As a result, the binding effect of certain provisions in a land contract varies by state.⁸⁷ The fewer regulations a state places on terms vendors can include in a land contract,

80. *Id.* (“In the wake of the Great Recession, land contracts have re-emerged in Detroit and across the country as a prominent alternative pathway to homeownership for households with limited access to capital and lending.”).

81. *Id.*; see also Joshua Akers & Eric Seymour, *Instrumental Exploitation: Predatory Property Relations at City’s End*, 91 GEOFORUM 127, 130 (2018) (“There are three primary conditions that make this cycle of accumulation by repossession possible following the foreclosure crisis: The confluence of limited consumer credit, the damaged credit of individuals caught in the foreclosure crisis, and the sheer volume of undervalued houses on foreclosure markets.”) (emphasis added).

82. Kling & Zwiebach, *supra* note 45, at 1.

83. Akers & Seymour, *supra* note 81, at 130.

84. See Sarah Mancini & Margot Saunders, *Land Installment Contracts: The Newest Wave of Predatory Home Lending Threatening Communities of Color*, FED. RSRV. BANK BOS. (Apr. 13, 2017), <https://www.bostonfed.org/publications/communities-and-banking/2017/spring/land-installment-contracts-newest-wave-of-predatory-home-lending-threatening-communities-of-color.aspx> [perma.cc/43D8-6B9X] (discussing how land contracts disproportionately affect lower-income and minority homebuyers, often stripping them of wealth while providing little security in return.)

85. *CFPB Takes Action to Stop Contract-for-Deed Investors from Setting Borrowers Up to Fail*, CONSUMER FIN. PROT. BUREAU (Aug. 13, 2024), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-to-stop-contract-for-deed-investors-from-setting-borrowers-up-to-fail/> [https://perma.cc/CV7L-QCY3] (announcing enforcement action against contract-for-deed investors).

86. 1 BAXTER DUNAWAY, *THE LAW OF DISTRESSED REAL ESTATE* app. at 16A (2023) (discussing state laws and practices regarding installment land contracts and their basis in common law).

87. See Nelson, *supra* note 51, at 1117–18.

the greater the upside for the vendor.⁸⁸ States with more policed bargaining processes regulate land contracts in a way that offers purchasers similar protections to mortgagors.⁸⁹ In contrast, other states approach these agreements with a “freedom-of-contract” approach, allowing vendors and purchasers (often without legal guidance) to draft their own terms.⁹⁰ This Note focuses on Ohio, Iowa, and Florida because each state exemplifies a different regulatory approach to land contracts, offering Michigan a blueprint for adopting stronger buyer protections from Ohio and Iowa without imposing the rigid foreclosure requirements seen in Florida.⁹¹

1. Michigan

Notwithstanding Michigan’s most recent 1998 statutory amendments permitting vendors and vendees to mortgage their interests in land contracts, the state’s “freedom-of-contract” approach still objectively favors vendors.⁹² This approach is most problematic in the lack of purchaser protections upon default.⁹³ Michigan makes its current stance on vendor remedies clear in MCL 600.5726, which states:⁹⁴

A person entitled to any premises may recover possession thereof by a proceeding under this chapter after *forfeiture of an executory contract* for the purchase of the premises but *only if the terms of the contract expressly* provide for termination or forfeiture, or give the vendor the right to declare a forfeiture, in consequence of the nonpayment of any moneys required to be paid under the

88. *Id.* (explaining that vendors have historically favored land contracts over purchase money mortgages because of the enforceability of forfeiture clauses).

89. FLA. STAT. ANN. § 697.01 (1973) (subjecting land contracts in the state of Florida to the same regulations, restraints, and forms prescribed to mortgages).

90. See Nelson, *supra* note 51, at 1114–15 (“The contract for deed was a product of the second half of the nineteenth century, a period when a ‘freedom-of-contract’ perspective and its related *laissez faire* economic philosophy were making a substantial impact on American jurisprudence.”).

91. See *infra* Sections II.C.2–4 (explaining the regulatory schemes of Ohio, Iowa, and Florida as they relate to land sale contracts).

92. MICH. COMP. LAWS § 565.357 (1998); see also CAMERON, *supra* note 38, § 16.24, at 603 (mentioning that as of 2024, Michigan’s Land Contract act was last amended twenty-six years ago); see also Nelson, *supra* note 51, at 1115 (quoting Sidney P. Simpson, *Legislative Changes in the Law of Equitable Conversion by Contract: II*, 44 YALE L.J. 754, 776 (1935)) (“The doctrine that equity will enforce forfeiture provisions in land contracts where time is expressly made of the essence developed in this country during the latter half of the nineteenth century, at a time when extreme ideas as to ‘freedom of contract’ were influencing American judicial decisions in every field.” (citations omitted)).

93. See Nelson, *supra* note 51, at 1115.

94. MICH. COMP. LAWS § 600.5726 (1961).

contract or any other material breach of the contract. For purposes of this chapter, moneys required to be paid under the contract shall not include any accelerated indebtedness by reason of breach of the contract.⁹⁵

So long as Michigan vendors provide a forfeiture clause somewhere in their agreement—which they almost always do—this statute gives them the power to initiate proceedings that will essentially transform an equity building purchaser into a delinquent tenant, who can now be evicted and “forfeit” their entire investment.⁹⁶ In addition, MCL 565.359 authorizes vendors to also pursue the typical remedies afforded to mortgagors, such as foreclosure by advertisement and judicial foreclosure.⁹⁷ These remedies can be preferable in the event that reclaiming the property and retaining all payments made is insufficient to compensate the vendor.⁹⁸ Although some courts have progressively declined to enforce forfeiture clauses in extreme cases, Michigan courts continue to apply MCL 600.5726 as drafted.⁹⁹

In *Sindlinger v. Paul*, the Michigan Supreme Court determined whether a vendor in a land contract could accelerate the unpaid principal balance after the purchaser paid their overdue installments but before the vendor exercised their contractual option to declare the full balance immediately due and payable.¹⁰⁰ The court held that a purchaser’s full payment on a past due balance prevents the vendor from exercising an option to declare the entire amount due if made before the vendor attempts to exercise their option.¹⁰¹ Although the court’s decision in *Sindlinger* protects purchasers by preventing vendors from accelerating the entire balance after overdue payments are made, Michigan’s regulatory framework still leaves purchasers vulnerable to losing the entirety of their

95. *Id.* (emphasis added); see also MICH. COMP. LAWS § 600.5728 (1961) (allowing a vendor to recover possession under Section 600.5726 only after serving the vendee with a written notice of forfeiture and allowing fifteen days to cure the default or vacate, unless a longer period is agreed upon in writing).

96. See Nelson, *supra* note 51, at 1113 (claiming that “forfeiture clause[s] are] found in virtually every contract for deed”); MICH. COMP. LAWS § 600.5726 (1961).

97. MICH. COMP. LAWS § 565.359 (1998).

98. See *Guardian Depositors Corp. v. Powers*, 296 N.W. 675, 678 (Mich. 1941) (explaining that mortgagors can pursue a deficiency judgement if the sale of the property does not cover the total judgment against the purchaser).

99. See Nelson, *supra* note 51, at 1122–23 (“Courts have increasingly refused to enforce against a defaulting purchaser forfeiture clauses that they have deemed unreasonable or inequitable.”); see, e.g., *Klock v. Vaughn*, No. 354778, slip. op. at 6–7 (Mich. Ct. App. Nov. 23, 2021).

100. *Sindlinger v. Paul*, 404 N.W.2d 212, 212 (Mich. 1987).

101. *Id.* at 213.

equity in a forfeiture.¹⁰² If a vendor acts quickly and exercises their acceleration option before the purchaser pays any overdue installments, the purchaser could still lose their investment and their home.¹⁰³ Without stronger safeguards like mandatory notice periods and additional protections for equitable interests, purchasers remain at risk of losing their investments, especially in situations where vendors exploit legally naïve purchasers and demand unfavorable terms.¹⁰⁴

Michigan vendors not only benefit from minimal restrictions on default provisions, but also from the state's land contract recording statutes, which favor sellers.¹⁰⁵ MCL 565.354 states in relevant part:

Any contract executed and acknowledged, according to the foregoing provisions, shall, with the certificates . . . thereto attached, be *entitled to be recorded* in the office of the register of deeds of the county where the lands lie, and the recording of the same shall have the same force and effect, as to subsequent encumbrancers and purchasers, as the recording of deeds and mortgages as now provided by law.¹⁰⁶

Based on this statute, Michigan vendors are under no obligation to record land contracts with the register of deeds.¹⁰⁷ Lax recording statutes pose two major disadvantages to purchasers and legislators.¹⁰⁸ First, without recording, land contracts are not part of the public record, making it difficult for potential buyers and creditors to determine the property's

102. *Id.* at 212; see also Jeremiah Battle, Jr. et al., *Toxic Transactions: How Land Installment Contracts Once Again Threaten Communities of Color*, NAT'L CONSUMER L. CTR. 1–2 (July 2016), <http://www.nclc.org/images/pdf/pr-reports/report-land-contracts.pdf> [perma.cc/JS53-MXUX].

103. See *supra* notes 92–95 and accompanying text.

104. See Aaron Mondry, *Land Contracts, A Path to Homeownership in Detroit, Could Be Reformed for Better Protection*, DETOUR DET., <https://detourdetroit.com/land-contracts-reform-detroit/> [perma.cc/6ZBU-T2XH] (last visited Oct. 18, 2025); see also Staveski et al., *supra* note 9 (explaining the prevalent risks regarding land contracts and how vendors can exploit purchasers).

105. See Nelson, *supra* note 51, at 1143. (“Since vendors anticipate a high default rate among vendees, it is in the vendors’ interest that the contracts not be recorded so that they may quickly resell to other purchasers without the necessity of a judicial proceeding to remove a title cloud posed by a recorded contract.”).

106. MICH. COMP. LAWS § 565.354 (1998) (emphasis added).

107. *Id.*; see also MICH. COMP. LAWS § 565.29 (1998). Michigan follows a race-notice recording system, meaning that a subsequent buyer or lender who records their interest first, without notice of an unrecorded mortgage, has priority in ownership. *Id.*

108. Kling & Zwiebach, *supra* note 45, at 2 (“Data on the current prevalence of land contracts is incomplete, in part due to the fragmented and limited regulatory framework, including the lack of recording requirements in Michigan and other states.”).

true ownership status.¹⁰⁹ Second, the absence of a mandatory recordation makes it difficult for legislators and economists to accurately monitor the frequency of land contract formation and default.¹¹⁰ Without accurate data, Michigan vendors are free to “bargain” with and later evict many would-be homeowners on a single property without any constraint.¹¹¹

2. Ohio

While not eliminating vendor protections entirely, Ohio legislators have taken a slightly more purchaser-friendly approach to land contract defaults.¹¹² Ohio’s statutory framework governing land installment contracts balances protections for buyers and sellers while also addressing common risks associated with these agreements.¹¹³ Chapter 5313 of the Ohio Revised Code—titled Land Installment Contracts—includes a provision explaining when a vendor loses the right to evict and must initiate foreclosure proceedings.¹¹⁴

If the vendee of a land installment contract has paid in accordance with the terms of the contract for a period of five years or more from the date of the first payment or has paid toward the purchase price a total sum equal to or in excess of 20% thereof, the vendor may recover possession of his property only by use of a proceeding for foreclosure and judicial sale of the foreclosed property as provided in section 2323.07 of the Revised Code. Such action may be commenced after expiration of the period of time prescribed by sections 5313.05 and 5313.06 of the Revised Code. In such an action, as between the vendor and vendee, the vendor shall be entitled to proceeds of the sale up to and including the unpaid balance due on the land installment contract.¹¹⁵

The five-year or 20% hard stop on contract nullification protects purchasers who have made a substantial dent in their payments, while also shielding vendors from early defaults which could leave the vendors with considerable losses.¹¹⁶ The critical difference between protections afforded to purchasers in Michigan and Ohio is that Ohio vendors must

109. *Id.*

110. *Id.* at 2–3.

111. Battle, Jr. et al., *supra* note 102, at 2.

112. *See generally* OHIO REV. CODE ANN. §§ 5313.01-5313.10 (West 1969).

113. *See id.*

114. *Id.*; OHIO REV. CODE ANN. § 5313.07 (West 1969).

115. § 5313.07; *see also* TEX. PROP. CODE ANN. § 5.066 (West 1984) (requiring the vendor to give clear notice to the purchaser, designate a trustee, and provide a sixty-day opportunity to cure any default if the purchaser in a land contract has paid over 40% of the amount due or forty-eight monthly payments).

116. *See* OHIO REV. CODE ANN. §5313.07 (West 1969).

reimburse the purchaser any funds received in excess of the amount owed.¹¹⁷ Michigan purchasers, on the other hand, have no protections even after dutifully making payments for years.¹¹⁸ Because of this, Michigan vendors have an incentive to select purchasers with a high risk of default.¹¹⁹ It is far more profitable for vendors to evict a vendee after a few years when they have paid a significant portion of the balance.¹²⁰ Ohio's laws do not entirely prohibit bad faith sellers from seeking out high risk, as vendors just need their purchasers to default before the five-year or 20% mark.¹²¹

3. Iowa

The Iowa legislature has taken a unique approach to regulating land contracts by compelling land contract recordation and tying recordation to a seller's ability to enforce forfeiture.¹²² Unlike many states where land contract recordation is optional, Iowa requires sellers to record residential real estate installment contracts within ninety days, ensuring greater transparency and legal accountability.¹²³ If a seller fails to comply, they face daily fines of up to \$100 per day and cannot initiate forfeiture proceedings.¹²⁴ While failure to record does not invalidate the contract itself, the law explicitly prevents vendors from enforcing forfeiture clauses when they have failed to properly record the contract.¹²⁵ This statute reinforces buyer protections, disincentivizes bad faith actors, and promotes transparency in land contract transactions.¹²⁶

117. *See id.*

118. *See* Mondry, *supra* note 104; Staveski et al., *supra* note 9.

119. Staveski et al., *supra* note 9.

120. *Id.*

121. *See* OHIO REV. CODE ANN. § 5313.07 (West 1969); *see* discussion *infra* Section III.C.

122. *See* IOWA CODE § 558.46 (1998) (titled the statute: "Mandatory recording of certain residential real estate installment sales contracts").

123. *Id.* § 558.46(1) ("Every real estate installment sales contract transferring an interest in residential property *shall* be recorded by the contract seller with the county recorder in the county in which the real estate is situated not later than ninety days from the date the contract was signed by the contract seller and contract purchaser.") (emphasis added); *see also* Nelson, *supra* note 51, at 1120–21 (explaining the unique Iowa approach to forfeiture enforcement).

124. IOWA CODE § 558.46(2) (1998) (explaining the monetary consequence for a failure to comply with the statute).

125. *Id.* § 558.46(3) ("Failure to timely record shall not invalidate an otherwise valid real estate contract. However, a contract seller is *prohibited from initiating forfeiture proceedings* on the basis of a failure to comply with the terms of a real estate contract, if the contract has not been recorded.") (emphasis added).

126. *See id.*; *see* discussion *infra* Section III.C.

4. Florida

With land contract laws that are notably purchaser-friendly, Florida provides protections that limit the potential for predatory contract drafting and ensure buyers are safeguarded against unfair terms.¹²⁷ Florida's statute governing foreclosure under a land contract provides that:

All conveyances, obligations conditioned or defeasible, bills of sale or other instruments of writing conveying or selling property, either real or personal, for the purpose or with the intention of securing the payment of money, whether such instrument be from the debtor to the creditor or from the debtor to some third person in trust for the creditor, shall be deemed and held mortgages, and shall be subject to the same rules of foreclosure and to the same regulations, restraints and forms as are prescribed in relation to mortgages.¹²⁸

Compared to Michigan's regulations, Florida's regulations emphasize consumer protection, offering a strong framework for buyers and making it more difficult for sellers to exploit vulnerable purchasers.¹²⁹ Florida is not the only state to have opted to regulate land contracts in a similar way to mortgages.¹³⁰

D. Consequences of the Current System on Marginalized Communities

In theory, land contracts and mortgages are quite similar: property owners replace traditional lenders and earn an interest rate that justifies receiving monthly payments instead of a lump sum for the purchase price.¹³¹ In practice, however, unforeseen circumstances can cause

127. FLA. STAT. § 697.01 (1973) (subjecting land contracts in the state of Florida to the same regulations, restraints, and forms prescribed to mortgages).

128. FLA. STAT. § 697.01 (1973); *see also* *Muina v. Canning*, 717 So. 2d 550, 552 (Fla. Dist. Ct. App. 1998) (“A contract for deed whereby the seller agrees to convey legal title to the buyer after the buyer pays all of the installments of the purchase price is merely a security device and is an alternative to immediate conveyance of title to the buyer with a purchase money mortgage back to the seller . . . Such an agreement is treated under Florida law as a mortgage, and is subject to all the rules of foreclosure.”).

129. *See* discussion *infra* Section III.C. (evaluating the Florida approach).

130. *See, e.g.*, OKLA. STAT. tit. 16, § 11A (1965) (providing that any instrument conveying real estate to secure payment of a debt is deemed a mortgage, requiring foreclosure upon default).

131. CAMERON, *supra* note 38, at 602 (explaining the purpose of land contracts).

individuals to struggle with payments.¹³² Land contracts become particularly infamous during economic downturns.¹³³ As banks become less likely to approve mortgages, buyers often turn to vendors.¹³⁴ Whether as a result of legal illiteracy or desperation, these purchasers agree to terms which surrender essential protections and enter into contracts designed to frustrate their chances of home ownership.¹³⁵ Moreover, even if these purchasers have the opportunity to salvage their agreements, the process is hopeless if they cannot procure adequate legal representation.¹³⁶ As David Palmer—a real estate agent with over ten years of experience in the Detroit market—explained in an interview with *Bridge Detroit*:

Almost 100% of all land contract examples I've seen in the City of Detroit are (actually) rent-to-own agreements with a land contract cover sheet. The seller, or the lender in this case, is using what is arguably a fraudulent document to represent a contract when there's actually a lease. The buyer typically does not have either an understanding of the process, or the right professional supporting them through the process, to know that they need to do certain things to protect their interests under that land contract agreement.¹³⁷

This critique of land sale contracts is no cause for alarm when purchasers can dutifully make their payments. However, in the event of a default, purchasers can be left in a far worse position than had they simply leased a property. This is because in a lease agreement, tenants are

132. See, e.g., Joel Kurth, *Land Contracts Trip Up Would-Be Homeowners*, DET. NEWS (Feb. 29, 2016), <https://www.detroitnews.com/story/news/local/detroit-city/2016/02/29/land-contracts-detroit-tax-foreclosure-joel-kurth/81081186/> [perma.cc/T4NH-J9U2] (discussing and providing a real story showing how predatory land contracts in Detroit have left many buyers vulnerable to eviction and tax foreclosure).

133. See Kling & Zwiebach, *supra* note 45, at 2 (explaining the resurgence of land contracts and its negative effects on communities of color).

134. See *id.*

135. Nelson, *supra* note 51, at 1113 (“[T]he contract for deed enables the vendor to avoid the purchaser’s equity of redemption, the foreclosure process, and other traditional protections afforded to debtors under the law of mortgages.”).

136. Carl Rauscher, *Low-Income Americans Face Immense Justice Gap According to New Legal Services Corporation Report*, LEGAL SERVS. CORP. (Apr. 29, 2022), <https://www.lsc.gov/press-release/low-income-americans-face-immense-justice-gap-according-new-legal-services-corporation-report> [perma.cc/ZP62-96NK] (revealing that “[l]ow-income Americans received no or inadequate legal help for a staggering 92% of all the civil legal problems that impacted them substantially”).

137. Malachi Barrett, *Considering a Land Contract in Detroit? What Buyers Should Know*, BRIDGE DET. (Aug. 17, 2022, at 08:00 ET), <https://www.bridgedetroit.com/considering-a-land-contract-in-detroit-what-buyers-should-know/> [perma.cc/QE53-LXZ6].

afforded the implied covenant of habitability, which requires landlords to both keep the premises fit for the use intended by the parties and keep the premises in reasonable repair throughout the duration of the lease.¹³⁸ Combining the enforceability of forfeiture provisions with the absence of habitability protections leaves land contract purchasers not only vulnerable to losing their homes, but also incentivizes landlords to offer land contracts on decrepit properties. Vendors do not invest any capital into repairing the home, and if the contract is forfeited after repairs, the purchaser is evicted, effectively providing the vendor with free repairs and improvements.¹³⁹

These hardships are particularly acute in marginalized communities: “For more than half a century, land contracts have been used to exploit and extract wealth from Black communities locked out of more traditional and regulated pathways to homeownership.”¹⁴⁰ A 2017 investigation published by *The Chicago Reader* documented how this exploitation persists today.¹⁴¹ The properties examined in the investigation were all originally acquired by out-of-state investment firms which began selling homes through land contracts following the Great Recession.¹⁴² Moreover, their inquiry found that more than 90% of properties acquired by these investment firms in Cook County, Illinois were situated in census tracts where the majority of residents were people of color.¹⁴³ Upon closer review of the purchasers’ contracts, attorneys and housing experts discovered that nearly every contract not only contained a forfeiture provision but also set interest rates that were “roughly double [those of] a standard federally backed bank loan.”¹⁴⁴

In Detroit, purchasers have expressed frustration with similar practices involving forfeiture.¹⁴⁵ Local news reports have shown that investment

138. MICH. COMP. LAWS § 554.139 (1968) (codifying Michigan’s implied covenant of habitability).

139. See Nelson, *supra* note 51, at 1112 (“During this contract period, the vendee is required to perform the normal obligations associated with being a mortgagor in possession. These include payment of real estate taxes, maintenance of casualty insurance, and keeping the property in good repair.”).

140. Kling & Zwiebach, *supra* note 45, at 8.

141. Rebecca Burns, *The Infamous Practice of Contract Selling Is Back in Chicago*, CHI. READER (Mar. 1, 2017), <https://chicagoreader.com/news/the-infamous-practice-of-contract-selling-is-back-in-chicago/> [<https://perma.cc/75MF-7QA4>].

142. *Id.*

143. *Id.*

144. *Id.*

145. M. Krist & Karen Drew, *Investors Profit as Detroit Land Contracts Fail*, CLICK ON DET. (July 31, 2024, at 18:21 ET), <https://www.clickondetroit.com/news/investigations/2024/07/31/investors-profit-as-detroit-land-contracts-fail/> [<https://perma.cc/LM9P-HMEW>].

firms continue to sell homes through land contracts that impose risk of forfeiture on buyers, particularly in marginalized neighborhoods.¹⁴⁶ As Josh Akers, research manager for the Mid-America Regional Council, explained in an interview with *Click On Detroit*, “This is the same story that many people have been telling for over a decade, and keeps happening again, and again.”¹⁴⁷ Concerns over the exploitative potential of land contracts have prompted calls for increased federal regulation of land contracts.¹⁴⁸

E. Potential for Federal Intervention

In 2016, *The University of Baltimore Journal of Land and Development* published an article advocating for federal oversight in land sale contracts.¹⁴⁹ The author reasoned that buyers should be entitled to standard truth-in-lending disclosures to better assess affordability and develop sound financial plans.¹⁵⁰ Further, the article emphasized the need for greater uniformity in land contract regulations across states, noting significant disparities.¹⁵¹ Ultimately, the author suggested adopting Ohio’s standards nationwide, either through federal oversight by the CFPB or through coordinated state-level reforms.¹⁵² While this plan for uniformity is appealing to those seeking increased buyer protections, there are alternative measures with fewer drawbacks.¹⁵³

III. ANALYSIS

A. Are Land Sale Contracts Inherently Predatory?

While land contract practices are rightly criticized, the land sale contract as originally used is not inherently predatory.¹⁵⁴ For many individuals, especially those with poor credit or limited financial means,

146. *Id.*

147. *Id.*

148. See discussion *infra* Section II.E.

149. Christopher Barron, *Are Land Contracts Preying on Low-Income Buyers or Do They Offer a Different Avenue for Home Ownership?*, 6 U. BALT. J. LAND & DEV. 1 (2016).

150. *Id.* at 7.

151. *Id.* at 7–8.

152. *Id.* at 8.

153. See discussion *infra* Section III.B (arguing that federal regulation would infringe on state autonomy).

154. Kling & Zwiebach, *supra* note 45, at 1 (“Land contracts are not inherently predatory. Instead, they have features—including minimal regulation and loose terms and conditions—that make them ripe for abuse by bad-faith sellers and for victimization of buyers.”).

land contracts can remove roadblocks imposed by traditional lenders on the pathway to homeownership.¹⁵⁵ The flexibility of these agreements allows buyers to negotiate terms directly with sellers, often resulting in lower upfront costs and fewer bureaucratic hurdles.¹⁵⁶ In communities like Detroit, where many do not have access to mortgages due to poor credit history, land contracts have become a practical alternative.¹⁵⁷ Research from Karen Ann Kling, assistant director at the University of Michigan's Poverty Solutions, and Evelyn Zwiebach, director of policy and programs at Enterprise Community Partners in Detroit, highlights the potential of land contracts.¹⁵⁸ Their 2021 study emphasizes that when structured responsibly and used by good faith sellers, land contracts can serve as a sustainable pathway to homeownership rather than a predatory mechanism.¹⁵⁹

Kling and Zwiebach's research found that several Metro Detroit-based organizations, such as Oakland Housing and the United Community Housing Coalition (UCHC), frequently rely on land contracts to help community members achieve sustainable homeownership.¹⁶⁰ For instance, Oakland Housing has finalized over 250 home sales through land contracts, all while never taking a single house through forfeiture or foreclosure.¹⁶¹ Similarly, UCHC's Make it Home Program has assisted more than 100 households in land contract buyouts, using land contracts in over 75% of these buyouts to effectively convey homes to the occupant.¹⁶² The majority of these success stories would be impossible without land contracts.¹⁶³ Albeit imperfect, land contracts remain a crucial alternative to large lender financing.¹⁶⁴

Unfortunately, the flaw in land contracts drawing significant criticism—unrestricted forfeiture provisions—is the very characteristic that makes them preferable to vendors over alternatives such as purchase money mortgages.¹⁶⁵ Attractive as they are for vendors, forfeiture clauses

155. *Id.* at 3.

156. *Id.*

157. *Id.* at 1; *see also* Staveski et al., *supra* note 9 (estimating 20% of all land contracts recorded in the United States between 2005 and 2022 were formed in Michigan).

158. Kling & Zwiebach, *supra* note 45, at 1.

159. *Id.* at 3.

160. *Id.*

161. *Id.*

162. *Id.* at 3–4.

163. *Id.*

164. *See* Kling & Zwiebach, *supra* note 45, at 4.

165. Nelson, *supra* note 51, at 1112–13 (“Vendors have traditionally favored contracts for deed over purchase money mortgages or deeds of trust. Why this preference for a nontraditional financing device when it serves the same economic function as its well-

provide an antiquated and extreme remedy.¹⁶⁶ This Note advocates for the restriction of forfeiture clauses, to protect buyers from predatory arrangements and ensure that these agreements contribute to, rather than undermine, housing stability in marginalized communities.¹⁶⁷

B. Is Federal Regulation an Ideal Solution?

A federal approach, such as an amendment to the Truth in Lending Act targeted at the restriction of forfeiture clauses, would have significant disadvantages.¹⁶⁸ Chief among them is the preemption of state autonomy in an area traditionally governed by a mix of state statutes and common law doctrines.¹⁶⁹ States have long had the authority to craft regulations that reflect their unique economic, social, and legal environments.¹⁷⁰ Although not likely to be held unconstitutional, a “one-size-fits-all” federal standard could impose requirements that fail to account for regional variations in housing markets and buyer-seller dynamics.¹⁷¹ For instance, Michigan has a long history of using land contracts as a common tool for homeownership, particularly in urban areas where traditional financing options may be limited.¹⁷² Conversely, other states where land contracts

established mortgage counterpart? The answer lies in the *forfeiture clause* found in virtually every contract for deed.”).

166. *Id.* at 1115–16. Although Nelson contends that “the contract for deed has no place in a modern land financing system,” his overall thesis is primarily directed at rendering forfeiture clauses, rather than land contracts unenforceable. *Id.*

167. Kling & Zwiebach, *supra* note 45, at 8 (“[L]and contracts implemented by good-faith sellers can offer a sustainable pathway to homeownership and represent an important alternative for buyers without access to mortgage financing.”); *see also* discussion *infra* Section III.C (advocating for amendments to the enforceability of forfeiture clauses rather than their abolition).

168. Barron, *supra* note 149, at 7; *see also* Truth in Lending Act, 15 U.S.C. §§ 1601–1667 (2018) (mandating disclosure of key credit terms and costs to protect consumers in credit transactions).

169. *See supra* notes 90–131 and accompanying text (providing an overview of statutory and judicial approaches in Michigan, Ohio, Iowa, and Florida concerning remedies for default under land sale contracts and mortgage law).

170. U.S. CONST. amend. X (“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”).

171. *See Wickard v. Filburn*, 317 U.S. 111, 125 (1942) (holding that Congress may regulate activities that “exert a substantial economic effect on interstate commerce,” even if the activity only indirectly affects interstate commerce); *see also* Staveski et al., *supra* note 9 (claiming that over 20% of all land contracts are formed in Michigan).

172. *See* Staveski et al., *supra* note 9; Sarah Hulett & Kaye LaFond, *Why Detroit Is “Ground Zero” for Surge in Land Contracts*, MICH. PUB. (June 14, 2017, at 14:12 ET), <https://www.michiganpublic.org/economy/2017-06-14/why-detroit-is-ground-zero-for-surge-in-land-contracts> [perma.cc/672G-VGSK].

are rare, such as California, does not rely on these contracts as heavily, likely making federal regulation less relevant or even burdensome.¹⁷³

In addition, sweeping federal intervention could undermine the ability of states to innovate or tailor protections to their constituents' needs.¹⁷⁴ For instance, Ohio's 20% threshold for triggering foreclosure protections may not represent the ideal balance for every state, as market conditions vary significantly across jurisdictions.¹⁷⁵ New federal consumer protection laws could make land contracts unattractive to vendors, perhaps even dissuading vendors from offering land contracts altogether.¹⁷⁶ A national approach targeting individual vendors could reduce access to alternative homeownership options for low-income buyers, inadvertently harming those the regulations aim to protect.¹⁷⁷ Despite concerns about restricting vendor access, the CFPB has already taken steps to regulate land contracts.¹⁷⁸ In 2024, the CFPB issued an advisory opinion clarifying that contracts for deed are subject to the Truth in Lending Act, thereby extending federal consumer protections to these arrangements.¹⁷⁹ As of 2025, it is unclear whether this advisory opinion will have any effect on the use of land contracts and the enforceability of their clauses.¹⁸⁰

C. How Can Michigan Reshape its Current Approach to Land Sale Contracts?

Michigan's legislation must reform its land sale contract regulations to better protect low-income communities.¹⁸¹ The lack of regulation,

173. See Staveski et al., *supra* note 9 (discussing research suggesting that California recorded only 2,913 land contracts between 2005–2022).

174. See *Gregory v. Ashcroft*, 501 U.S. 452, 457–58 (1991) (“As every schoolchild learns, our Constitution establishes a system of dual sovereignty between the States and the Federal Government This federalist structure of joint sovereigns preserves to the people numerous advantages. It assures a decentralized government that will be more sensitive to the diverse needs of a heterogeneous society; it increases opportunity for citizen involvement in democratic processes; it allows for more innovation and experimentation in government; and it makes government more responsive by putting the States in competition for a mobile citizenry.”).

175. See discussion *supra* Section II.C.2.

176. *Contra* Consumer Financial Protection Bureau, Truth in Lending (Regulation Z): Consumer Protections for Home Sales Financed Under Contracts for Deed, 89 Fed. Reg. 68086 (proposed Aug. 23, 2024) (to be codified at 12 C.F.R. pt. 1026).

177. See *id.*

178. *Id.*

179. *Id.* (discussing consumer protections for land installment contracts).

180. *Id.*

181. See Kling & Zwiebach, *supra* note 45; see generally Nelson, *supra* note 51 (advocating for every state to adopt the restatement approach which treats land contracts as mortgages).

particularly related to forfeiture clauses, has enabled exploitative practices, leaving many buyers vulnerable to losing their homes and investments.¹⁸² To address these systemic issues, Michigan must adopt reforms that ensure an equitable amount of protections for both vendors and purchasers in land contract transactions.¹⁸³ By taking inspiration from Iowa and Ohio, Michigan can create a legal framework that reduces exploitation and promotes equitable access to homeownership.¹⁸⁴ Michigan legislators should consider two key reforms: (1) requiring that all land contracts be recorded before a forfeiture clause is enforced, as in Iowa, and (2) limiting the enforceability of forfeiture clauses under certain conditions, as in Ohio.¹⁸⁵

Iowa law bars vendors from acting on a forfeiture clause unless the land contract is recorded with the register of deeds.¹⁸⁶ This requirement advances multiple goals, such as ensuring that buyers have legal recourse if disputes arise and providing a public record of transactions that can improve data collection and oversight.¹⁸⁷ For Michigan, amending MCL 565.354 to more closely resemble Iowa's recording mandate would serve two purposes. First, a change in legislation would incentivize good faith sellers to record, which would help further the original purpose of the recording acts.¹⁸⁸ More importantly, the mandate would require recordation every time vendors wish to enforce a forfeiture clause, at the very minimum giving purchasers more time to salvage the contract.¹⁸⁹ This would disincentivize bad faith sellers who must either record the contract

182. See Kling & Zwiebach, *supra* note 45.

183. *Id.*

184. See *generally* notes 109–23 and accompanying text (explaining legislative frameworks in Ohio and Iowa).

185. OHIO REV. CODE ANN. § 5313.07 (West 1969) (requiring foreclosure and judicial sale if the vendee has paid for five years or at least 20% of the purchase price under a land installment contract); IOWA CODE § 558.46(3) (1998).

186. § 558.46(3) (“Failure to timely record shall not invalidate an otherwise valid real estate contract. However, a contract seller is *prohibited from initiating forfeiture proceedings* on the basis of a failure to comply with the terms of a real estate contract, if the contract has not been recorded.”).

187. See Nelson, *supra* note 51, at 1143 (“[I]f the purchaser records the contract when it is executed, there will be protection against any subsequent liens or other interest arising through or against the vendor.”).

188. *Id.* (“Since vendors anticipate a high default rate among vendees, it is in the vendors’ interest that the contracts not be recorded so that they may quickly resell to other purchasers without the necessity of a judicial proceeding to remove a title cloud posed by a recorded contract.”).

189. See Nelson, *supra* note 51, at 1143 (explaining the obstacles a vendor seeking to enforce forfeiture would need to overcome in a state like Iowa).

or lose their contractual right of forfeiture.¹⁹⁰ As Professor Nelson puts it: “Since vendors anticipate a high default rate among vendees, it is in the vendors’ interest that the contracts not be recorded so that they may quickly resell to other purchasers without the necessity of a judicial proceeding to remove a title cloud posed by a recorded contract.”¹⁹¹ By incentivizing land contract recordation, Michigan can fulfill the goals of the recording acts and protect buyers from exploitative practices.¹⁹²

Ohio’s land contract forfeiture laws provide critical protections for buyers who have made substantial progress in their land contracts.¹⁹³ In Ohio, sellers cannot enforce a forfeiture clause if the buyer has paid a significant portion of the purchase price or has made payments for an extended period.¹⁹⁴ Michigan legislators should amend MCL 600.5726 to only allow the enforcement of a land contract forfeiture clause when over 80% of the loan is outstanding.¹⁹⁵ A provision similar to Ohio Rev. Code Ann. Section 5313.07 would balance the interests of buyers and sellers, ensuring that homeowners who have invested significantly in their homes are not left vulnerable to sudden forfeiture.¹⁹⁶ While this law would not prevent all defaults, it could offer a safety net for those with the most to lose, those who have poured years of payments and effort into homeownership.¹⁹⁷

While implementing Ohio and Iowa’s approaches would strike a careful balance between buyer and seller interests, Michigan should not adopt Florida’s more rigid model, which, under Fla. Stat. Section 697.01, treats all land contracts identically to mortgages.¹⁹⁸ Although Florida’s law effectively renders all forfeiture clauses unenforceable, such a rigid system could inadvertently harm the very buyers it seeks to protect.¹⁹⁹ In urban markets like Detroit, where land contracts are more prominent than anywhere else in the country, imposing full mortgage-equivalent

190. IOWA CODE § 558.46(3) (1998); *see also* Battle, Jr. et al., *supra* note 102 (advocating for enhanced seller protections in land contracts, including mandatory recordation).

191. Nelson, *supra* note 51, at 1143.

192. *See* Battle, Jr. et al., *supra* note 102.

193. *See generally* notes 109–18 and accompanying text (providing and explaining Ohio’s statutory regulations relating to land contract enforceability).

194. OHIO REV. CODE ANN. § 5313.07 (1969) (explaining the circumstances where a forfeiture clause in a land contract would be unenforceable).

195. MICH. COMP. LAWS § 600.5726 (1962) (authorizing the use and enforceability of forfeiture clauses in land contracts).

196. OHIO REV. CODE ANN. § 5313.07 (West 1969); *see also* discussion *supra* Section II.C.2 (explaining the advantages afforded to purchasers under the Ohio framework).

197. *See* Kling & Zwiebach, *supra* note 45, at 5 (noting the increased protections prevalent in Ohio’s statute on land contract foreclosure).

198. FLA. STAT. § 697.01 (1973).

199. *Id.*

foreclosure requirements on all land contracts would potentially discourage sellers from offering land contracts altogether.²⁰⁰ This could shrink homeownership opportunities for low-income and credit-challenged buyers who rely on land contracts as their only viable path to purchasing a home.²⁰¹ Florida's blanket rule offers no flexibility for early defaults and risks making land contracts economically unattractive for vendors.²⁰²

IV. CONCLUSION

Michigan's land sale contract laws favor vendors over purchasers, exposing buyers to significant financial risks.²⁰³ While land contracts serve as an effective alternative financing method for those unable to secure traditional mortgages, the current lack of safeguards—such as mandatory recording requirements, structured foreclosure procedures, and notice periods—places buyers in a precarious position.²⁰⁴ Without legislative adjustments, the potential for inequitable outcomes will continue to harm vulnerable homebuyers, particularly those who have invested significant time and money into a property without obtaining legal ownership rights.²⁰⁵

Implementing just two of the provisions enacted in other states could dramatically impact the home ownership process, especially in Michigan's most vulnerable communities.²⁰⁶ By adopting Ohio's limitations on forfeiture clauses, Michigan can prevent unjust contract nullification for buyers who have made substantial financial investments in their homes.²⁰⁷ Similarly, by requiring the recording of land contracts, as seen in Iowa, Michigan can enhance title transparency, create legal safeguards for

200. Staveski et al., *supra* note 9 (estimating the total amount of land contracts recorded between 2005 and 2022 to be nearly 490,000, with Michigan making up approximately 20% of that).

201. See Kling & Zwiebach, *supra* note 45, at 3 (“[Land contracts] remain an important tool for buyers and sellers alike, particularly in challenged housing markets such as Detroit.”).

202. See *id.* at 5 (advocating for forfeiture clause nullification only under certain conditions).

203. See discussion *supra* Section II.C.1.

204. See discussion *supra* Section III.A.

205. See discussion *supra* Section III.C.

206. See Battle, Jr. et al., *supra* note 102, at 1 (noting that predatory land contracts disproportionately affect minorities).

207. See Kling & Zwiebach, *supra* note 45, at 1; see also Barron, *supra* note 149, at 7 (advocating for the use of the Ohio framework).

buyers, and disincentivize predatory practices.²⁰⁸ These reforms would address key deficiencies in Michigan's current legal framework, ensuring that land contracts function as a fair and viable alternative financing option rather than a tool for exploitation.²⁰⁹ However, Michigan should avoid adopting Florida's more rigid model, which could discourage sellers from offering land contracts altogether.²¹⁰

By aligning with best practices from Ohio and Iowa, Michigan can modernize its approach to land sale contracts and foster greater stability and economic security for low-income homebuyers. In so doing, Michigan can restore the original promise of land contracts: a fair and accessible path to sustainable homeownership.

208. IOWA CODE § 558.46 (1998) (mandating the recording of certain residential real estate installment sales contracts).

209. See Barron, *supra* note 149, at 7 (advocating for the widespread implementation of the Ohio statute governing land contract forfeiture).

210. See discussion *supra* Section II.C.4.