

# HOUSING AND COMMUNITY DEVELOPMENT

## Resolution HCD-17-21

### **A RESOLUTION CONDEMNING PREDATORY HOME BUYING PRACTICES ON LOW-INCOME FAMILIES**

WHEREAS, the National Black Caucus of State Legislators (NBCSL) strives for social and economic equality of all persons through the enactment of federal, state, and local laws securing civil rights;

WHEREAS, since the sub-prime housing crisis (2007 to 2009) African-American household wealth has continued to decrease, producing a loss of forty percent of non-home-equity wealth. Additionally, home equity wealth, which dropped 19 percent during the crisis, has declined an additional 13 percent;

WHEREAS, according to figures from recent American housing surveys, while only 5 percent of all owner-occupied households in the U.S. had contracts for deed in 2005, 9.5 percent of Hispanic owner-occupied households and 7.1 percent of Black owner-occupied households across the country used them;

WHEREAS, because most families desire to become homeowners, over three million families have entered into a Contract for Deeds in pursuit of their ambitions of homeownership. A Contract for Deeds, also known as a land sales contract or land installment contract, is a seller finance method to purchase a home where the seller retains the legal title to the property until the homebuyer finishes paying all principal payments and interest owed under the contract;

WHEREAS, Contracts for Deeds are used by low-income home-buyers who are unable to obtain a traditional mortgage or financing because of poor credit ratings, inadequate income or other issues;

WHEREAS, Contracts for Deeds allow the seller to avoid health and safety regulations, and crucial repairs to the property, while transferring the burden of property taxes, property insurance, and repairs to the homebuyer;

WHEREAS, in comparison to renting, the home-buyer must pay more per month for the property under Contracts for Deeds, make a larger upfront payment, and take better care of the premises, because the homebuyer believes he or she will eventually become the homeowner. However, sellers rarely end up transferring the title to the prospective home-buyer;

WHEREAS, a balloon payment often requires the buyer to secure a traditional mortgage to pay off the final amount or risk the contract being cancelled by the seller;

WHEREAS, Contracts for Deeds are often consummated between the home-buyer and the seller without the benefit of a title searches and title insurance, government regulatory protections and standardized legal documents in many states including Texas, Illinois, Michigan, Minnesota, West Virginia, South Dakota, Ohio, South Carolina, and Florida;

WHEREAS, investment firms ("Investors") that acquired land during the recent recession use

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Contracts for Deeds to target vulnerable people—largely low income minorities—who either: (1) are unable to fully comprehend the risk associated with a Contract for Deed; or (2) lack the financial means to satisfy the contract;

WHEREAS, Investors use Contracts for Deeds to "sell" homes requiring major repairs, due to: (1) physical damage; (2) biological contaminants (black mold); (3) structural problems (foundational issues); and (4) missing or improperly functioning building systems to low-income homebuyers;

WHEREAS, the Investors typically include in a 30-year Contract for Deeds provisions that require the homebuyer to: (1) pay an interest rate in excess of nine percent; and (2) bring the property to a habitable condition within four months of the contract. These terms force low-income home-buyers to devote large amounts of money into properties to satisfy the contracted provisions, on top of large monthly payments with exceptionally high interest rates;

WHEREAS, Investors promptly seek to evict the homebuyer for violating the contract once the homebuyers fail to bring the house up to a habitable standard in the brief or afford payments pursuant to the contract. Moreover, investors include in the Contract for Deed a one-sided clause for compulsory binding arbitration to avoid homebuyers' consumer protections from being adjudicated in a court of law;

WHEREAS, the eviction causes the low-income home-buyer to lose rights to the home and all capital spent on the property prior to the eviction. The seller retains the title to the property, income paid pursuant to the contract, and improvements the home-buyer was able to afford. The seller is then able to enter into a new contract for deed with a new prospective home-buyer and continue the cycle of contracting and evicting;

WHEREAS, contracts of deeds have existed for decades, but are now receiving new scrutiny at the federal level from the consumer financial protection bureau; and

WHEREAS, the proliferation and abuse of Contracts for Deeds presents the risk of creating yet another large drain on African-American wealth comparable in impact to the housing finance abuses that brought about the 2007-2009 sub-prime crisis.

THEREFORE BE IT RESOLVED, that the National Black Caucus Of State Legislators condemns the use of Contracts for Deeds to exploit low- income home-buyers;

BE IT FURTHER RESOLVED, that the NBCSL requests the Department of Housing and Urban Development, the Department of Veterans Affairs, and the Rural Housing Service of the Department of Agriculture to enact regulations and safeguards against predatory uses of Contracts for Deeds, and to prohibit the practice of using Contracts for Deeds to unjustly evict low-income families from their homes;

BE IT FURTHER RESOLVED, NBCSL encourages non-profit, community organizations, and banks to host programs on homeownership, especially for first-time home buyers; and

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BE IT FINALLY RESOLVED, that a copy of this resolution be transmitted to the President of the United States, Vice President of the United States, members of the United States House of Representatives and the United States Senate, and other federal and state government officials as appropriate.

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SPONSOR: Representative Brenda Gilmore (TN))

Committee of Jurisdiction: Housing and Community Development Policy Committee

Certified by Committee Co-Chair: Representative Brenda Gilmore (TN)

Ratified in Plenary Session: Ratification Date is December 3, 2016

Ratification is certified by: Senator Catherine Pugh (MD), President