

118TH CONGRESS
2D SESSION

S. 3720

To amend the Consumer Credit Protection Act to provide for additional requirements for land installment contract transactions.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 1, 2024

Ms. SMITH (for herself and Ms. LUMMIS) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Consumer Credit Protection Act to provide for additional requirements for land installment contract transactions.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Preserving Pathways
5 to Homeownership Act of 2024”.

6 **SEC. 2. LAND INSTALLMENT CONTRACTS.**

7 The Consumer Credit Protection Act (15 U.S.C.
8 1601 et seq.) is amended by adding at the end the fol-
9 lowing:

1 **“TITLE X—LAND INSTALLMENT**
2 **CONTRACTS**

3 **“§ 1001. Findings and purposes**

4 “(a) FINDINGS.—Congress finds the following:

5 “(1) Land installment contracts, when used to
6 purchase a home, are a form of consumer credit
7 transaction under the Truth in Lending Act (15
8 U.S.C. 1601 et seq.) in that the contracts create a
9 debt, which is the purchase price, and defer the pay-
10 ment of the debt.

11 “(2) The lack of recordation of land installment
12 contracts in real estate records subjects buyers to
13 the risk of other creditors superseding their interest
14 in the land despite the extensive investment of the
15 buyer in the home.

16 “(3) The frequency of use of land installment
17 contracts varies by region. States differ in treatment
18 of how the contracts are recorded and the use of for-
19 feiture and foreclosure to terminate the contracts.
20 Buyers, therefore, are afforded different protections
21 because of the location of the property they pur-
22 chase, making this an issue that Congress must ad-
23 dress.

24 “(4) Land installment contracts involve inter-
25 state commerce because credit is often extended

1 across State lines by the sellers or to the sellers to
2 finance the acquisition of the home in order to offer
3 it for sale through a land installment contract. Buy-
4 ers entering into land installment contracts are fre-
5 quently solicited over the phone, through the mails,
6 through internet advertisements, and through other
7 electronic communications. Buyers use interstate
8 commerce to enter into the transaction, to make
9 payments on the transaction, and to obtain parts
10 and services required to make repairs to the home
11 as contemplated by the transaction.

12 “(b) PURPOSES.—The purposes of this title are—

13 “(1) to ensure basic consumer protections in
14 land installment contract transactions to ensure that
15 buyers have their interests in the home protected
16 from other creditors or claimants in the real estate
17 market; and

18 “(2) to protect consumers against unfair for-
19 feitures of equity after making payments through a
20 consumer credit transaction.

21 **“§ 1002. Definitions**

22 “In this title:

23 “(1) COVERED LAND INSTALLMENT CONTRACT
24 TRANSACTION.—The term ‘covered land installment
25 contract transaction’ means a sale of residential real

1 property involving a land installment contract, if the
2 residential real property has not been the principal
3 place of residence of the seller during the preceding
4 2 years.

5 “(2) LAND INSTALLMENT CONTRACT.—The
6 term ‘land installment contract’ means an agreement
7 under which—

8 “(A) a seller agrees to sell an interest in
9 real property to a purchaser;

10 “(B) the purchaser agrees to pay the pur-
11 chase price in installments; and

12 “(C) the seller retains title to the real
13 property as security for the obligation of the
14 purchaser under the agreement.

15 “(3) SELLER.—The term ‘seller’ means—

16 “(A) an individual or entity selling an in-
17 terest in residential real property;

18 “(B) any party related to the seller, as de-
19 fined by section 267(b) of the Internal Revenue
20 Code of 1986; and

21 “(C) any assignee or transferee of a seller
22 not described in subparagraph (B).

1 **“§ 1003. Governance of land installment contract**
2 **transactions**

3 “(a) IN GENERAL.—The States shall, not later than
4 2 years after the date of enactment of this title, enhance
5 consumer protection for covered land installment contract
6 transactions by enacting the requirements described in
7 subsections (b) and (c).

8 “(b) RECORDATION.—

9 “(1) IN GENERAL.—The seller in a covered land
10 installment contract transaction shall record the ex-
11 ecutory contract with the office where deeds are re-
12 corded not later than 5 days after the date on which
13 the contract is executed.

14 “(2) STATES.—

15 “(A) IN GENERAL.—The States shall, by
16 law (including regulations) deter noncompliance
17 with the recordation requirement by—

18 “(i) prohibiting the seller from com-
19 pelling performance of the land installment
20 contract or exercising remedies pursuant to
21 the contract if the contract is not recorded
22 in accordance with paragraph (1);

23 “(ii) providing the buyer the right to
24 rescind the land installment contract and
25 receive a refund for any payments made to

1 the seller in connection with the land in-
2 stallment contract transaction;

3 “(iii) providing that any violation of
4 the requirements imposed in compliance
5 with this paragraph shall give rise to liabil-
6 ity in the same manner and by the same
7 means as under paragraphs (1) and (2) of
8 section 140(a) of the Truth in Lending Act
9 (15 U.S.C. 1640(a)); and

10 “(iv) providing authority to enforce
11 compliance with the recordation require-
12 ment to an appropriate enforcement body.

13 “(B) ADDITIONAL PENALTIES FOR NON-
14 COMPLIANCE.—Nothing in subparagraph (A)
15 shall prevent a State from imposing additional
16 penalties for noncompliance if the penalties are
17 greater than the potential harm a purchaser
18 may suffer, or the gain a seller may realize, as
19 a result of the failure of the seller to record a
20 contract in accordance with paragraph (1).

21 “(c) PROTECTION OF PURCHASER’S EQUITY.—If a
22 purchaser defaults, the seller may liquidate the interest
23 of the purchaser in the property pursuant to the residen-
24 tial mortgage foreclosure law of the State, including all
25 notice and curative requirements therein. The seller may

1 not enforce the remedy of rescission or forfeiture and no
2 such remedy within a land installment contract shall be
3 binding on the purchaser.

4 “(d) REGULATIONS.—If the Director of the Bureau
5 of Consumer Financial Protection determines that a State
6 does not have the requirements described in subsections
7 (b) and (c) in effect by law (including regulations) on the
8 date that is 2 years after the date of enactment of this
9 title, the Director shall adopt rules applicable to that State
10 that achieve the purposes of subsection (a) that are con-
11 sistent with the standards adopted in the States that have
12 the requirements of subsections (b) and (c) in effect. The
13 Director may extend the deadline under this subsection
14 for not more than 1 year if a State has shown a good
15 faith effort towards implementation. The Director may
16 promulgate regulations to monitor State compliance with
17 this section.

18 “(e) APPLICABILITY.—The requirements described in
19 subsections (b) and (c) shall only apply to covered land
20 contract transactions entered into after such requirements
21 are in effect by law (including regulations).”.

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