

CHAPTER 5.062 TEXAS PROPERTY CODE

EXECUTORY CONTRACTS FOR THREE YEARS OR UNDER

Only the following sections apply to an executory contract (lease/contract) if the term is three years or less and the purchaser and seller have not been parties to an executory contract to purchase the property covered by the executory contract for longer than three years:

5.063 Seller must provide a bold/caps notice regarding a **default**; with certified mail; stating the remedy; stating the delinquent amount of Principal and Interest and any charges; stating the period of delinquency; stating the term violated; and, how to cure. A completed Affidavit of Notice should be sent if property is repurchased.

5.064 Seller's Remedies. Seller can enforce remedy of i) rescission; ii) forfeiture; iii) acceleration, only if: **i) Seller notifies Purchaser of intent to enforce remedy; ii) informs Purchaser of right to cure; and, iii) Purchaser fails to cure in 30 days.**

5.065 Purchaser can avoid enforcement of remedy if **cured within 30 days of notice** sent by Seller.

5.073 **Seller cannot:** i) impose **late fees above 8.0%** of monthly payment or actual cost; ii) impose **prepayment penalty**; iii) **forfeit an option to purchase if payment is late**; iv) **increase price, charges, or penalize tenant** for requesting repairs required by Landlord to make under Property Code Chapter 92; and, v) cannot waive or exempt these requirements.

5.083 Lease/contract can be rescinded or cancelled by Purchaser if **not property platted.**

5.085 Fee Simple Title. Property must be **free of liens** and owned in fee simple by Seller for duration of lease/contract, **unless:** i) **Seller places lien to purchase property** prior to lease/contract, **and, if:**

a) Seller notifies Purchaser at least three days before lease/contract executed the following facts:

- 1) name, address, phone number of lienholder;
- 2) loan number and current balance;
- 3) monthly payments and due date; and,
- 4) 14 pt. notice that lienholder may foreclose if Seller does not pay the underlying lien;

b) the lien is attached only to the lease/contract property and the lien amount is not more than the lease/contract amount;

c) the lienholder:

1) does not prohibit the lease/contract; and,

2) agrees to verify status of the lien and accept payment from the Purchaser if Seller defaults on the underlying lien;

d) the following provisions must be contained in the lease/contract:

1) Seller is obligated to provide monthly verification of underlying lien payment and balance;

2) Seller must notify Purchaser within three days of any default, foreclosure, acceleration, or lawsuit regarding underlying lien; and,

3) Seller must agree and warranty that Purchase can make Seller's delinquent payment and deduct 150% from Purchaser's obligation to Seller.

If violated, Purchaser can cancel any lease/contract in violation of Code and get refund of all funds paid, tax money paid, and the value of any improvements on the property.

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