

116TH CONGRESS
1ST SESSION

S. 571

To provide the Bureau of Consumer Financial Protection with the authority
to regulate land contracts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 2019

Mr. MERKLEY (for himself and Ms. SMITH) introduced the following bill;
which was read twice and referred to the Committee on Banking, Hous-
ing, and Urban Affairs

A BILL

To provide the Bureau of Consumer Financial Protection
with the authority to regulate land contracts, and for
other purposes.

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 “Residential Rent to
5 Own Protection Act”.

6 **SEC. 2. REGULATION OF LAND CONTRACTS.**

7 (a) DEFINITIONS.—In this section:

8 (1) BUREAU.—The term “Bureau” means the
9 Bureau of Consumer Financial Protection.

1 (2) COVERED CONTRACT.—The term “covered
2 contract” means a land contract, contract for deed,
3 agreement for deed, rent to own contract, lease pur-
4 chase, lease option, hybrid lease, or other similar in-
5 strument related to a property located in a State.

6 (3) STATE.—The term “State” means any
7 State of the United States, the District of Columbia,
8 the Commonwealth of Puerto Rico, Guam, American
9 Samoa, the Trust Territory of the Pacific Islands,
10 the United States Virgin Islands, the Commonwealth
11 of the Northern Mariana Islands, and any other ter-
12 ritory or possession of the United States.

13 (b) RENTAL HABITABILITY REQUIREMENT.—

14 (1) IN GENERAL.—Any property that is the
15 subject of a covered contract shall be maintained in
16 a habitable state, as determined by applicable State
17 and local habitability requirements, by the seller of
18 the property at all times until the purchaser of the
19 property—

20 (A) has fully paid the obligations of the
21 purchaser under the covered contract; and

22 (B) obtains title to the property.

23 (2) REFUND REMEDY.—If a property that is
24 the subject of a covered contract does not comply
25 with paragraph (1)—

1 (A) the fair rental value of the property
2 shall be deemed to be zero; and

3 (B) the purchaser of the property shall be
4 entitled to a refund from the seller of all
5 amounts paid pursuant to the covered contract
6 for the period during which the property was
7 not habitable.

8 (c) RELIEF TO SELLER ONLY AVAILABLE THROUGH
9 A JUDICIAL PROCEEDING.—Notwithstanding any other
10 provision of law, the seller in a covered contract may ter-
11 minate the purchaser's right to purchase the property that
12 is the subject of the covered contract or right of possession
13 only upon determination by a court of competent jurisdic-
14 tion that the purchaser is in material breach of the con-
15 tract.

16 (d) PROHIBITION ON EVICTION OR EJECTMENT.—

17 (1) IN GENERAL.—Except as may be ordered in
18 a judicial proceeding, the purchaser in a covered
19 contract may not be evicted or otherwise ejected
20 from the property that is the subject of the covered
21 contract.

22 (2) DAMAGES.—

23 (A) IN GENERAL.—A purchaser with re-
24 spect to a covered contract that is terminated
25 through a judicial proceeding may bring a claim

1 or counterclaim to enforce a violation of para-
2 graph (1) in a civil proceeding.

3 (B) AMOUNT.—If a purchaser described in
4 subparagraph (A) is the prevailing party, the
5 court shall award actual damages and attor-
6 ney’s fees to the purchaser.

7 (e) RECORDING.—Not later than 45 days after the
8 date on which a covered contract is signed, the seller in
9 the covered contract shall record the covered contract in
10 the applicable local governmental office that records land
11 records.

12 (f) STATE LAWS.—Nothing in this section shall be
13 construed to annul, alter, or affect any provision of State
14 law if the protection that the provision of State law pro-
15 vides to purchasers in covered contracts is greater than
16 the protection provided to those purchasers under this sec-
17 tion.

18 (g) APPLICATION.—This section shall not apply to a
19 covered contract if—

20 (1) the seller in the covered contract is a person
21 described in section 501(c)(3) of the Internal Rev-
22 enue Code of 1986 for the 3-year period before the
23 date on which the seller enters into the covered con-
24 tract;

1 (2) the sale price is not higher than the amount
2 the seller paid for the property that is the subject
3 of the covered contract; and

4 (3) no interest is charged.

5 (h) CIVIL PENALTY.—A seller with respect to a cov-
6 ered contract that violates the requirements of this section
7 shall be liable to the purchaser in the covered contract in
8 an amount equal to—

9 (1) the greater of—

10 (A) the actual damage caused to the pur-
11 chaser by reason of the violation; and

12 (B) \$10,000; and

13 (2) the costs of any civil action and attorney's
14 fees.

15 (i) REGULATIONS.—Not later than 1 year after the
16 date of enactment of this Act, the Bureau shall promul-
17 gate regulations to carry out this section.

18 (j) GAO STUDY.—Not later than 1 year after the
19 date of enactment of this Act, the Comptroller General
20 of the United States shall conduct a study and submit to
21 Congress a report on—

22 (1) the size and scope of the covered contract
23 market; and

- 1 (2) the predatory practices occurring within the
- 2 covered contract market.

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