NO. 02-17 · JUNE 2017

COMMUNITY & ECONOMIC DEVELOPMENT
DISCUSSION PAPER

Informal Homeownership Issues:
Tracking Contract for Deed Sales in the Southeast

Ann Carpenter, Abram Lueders, Chris Thayer
Community and Economic Development Department, Federal Reserve Bank of Atlanta

Primary issue:

Contract for deed sales may present certain pitfalls for low-income households seeking stable homeownership in the Southeast. Corporate contracts for deed have been shown to include many undesirable elements, such as high interest rates, inflated purchase prices, and terms that are designed to fail.

Key findings:

Corporate contract for deed sales increased from 2008 to 2013 and have plateaued or declined since that time in four major southeastern cities. A high percentage of these properties are found in majority African-American neighborhoods. A much larger yet unknown number of contracts for deed involve a small-scale seller, such as a private individual or local firm. The terms of these contracts vary, with roughly equal numbers of seemingly low-risk contracts and contracts with extremely high interest rates and unfair forfeiture clauses.

Takeaways for practice:

Consumer protections and access to legal assistance may help protect buyers from poorly structured contracts and unfair contract terms. Better recording of contracts is also necessary to understand the scope of the issue and provide a path to stable homeownership.

FEDERAL RESERVE BANK *of* ATLANTA

The Federal Reserve Bank of Atlanta's Community & Economic Development Discussion Paper Series addresses emerging and critical issues in community development. Our goal is to provide information on topics that will be useful to the many actors involved in community development—governments, nonprofits, financial institutions, and beneficiaries. Find more research, use data tools, and sign up for email updates at **frbatlanta.org/commdev**.

No. 02-17 • June 2017

Informal Homeownership Issues:

Tracking Contract for Deed Sales in the Southeast

Abstract:

Since the Great Recession, homeownership rates have dropped and the wealth divide has widened for low-income and racial and ethnic minority households. Homeownership is a significant contributor to household balance sheets and generator of household wealth, particularly for these populations.

A contract for deed is a seller-financed real estate contract consisting of installment payments. For households that desire the financial and physical security of owning a home, contracts for deed may provide an inexpensive option. However, risks may exist. Unlike the recipient of a mortgage, the purchaser of a home under the terms of a contract for deed does not hold title or build equity on the property, despite being responsible for all expenses. In addition, corporate sellers of contracts for deed have been shown to include many undesirable elements, such as high interest rates and inflated purchase prices.

Based on our analysis, corporate contract for deed sales increased from 2008 to 2013 and have plateaued or declined since that time in four major southeastern cities. These properties tended to be located in majority-African-American neighborhoods with less access to financial services. However, a much larger yet unknown number of contracts for deed involve a small-scale seller, such as a private individual or local firm. The terms of these contracts vary, with roughly equal numbers of seemingly low-risk contracts and contracts with extremely high interest rates and unfair forfeiture clauses.

JEL classification: K12, K25, R21, R31

Key words: contract for deed, land contract, informal homeownership, household wealth

About the Authors:

Ann Carpenter is a senior community and economic development adviser at the Federal Reserve Bank of Atlanta, specializing in housing and neighborhood revitalization. Her recent work includes studies on declines in low-cost rented housing and the effects of heirs' properties in the Southeast. Prior to joining the Atlanta Fed, Carpenter was a senior research associate at the Georgia Tech Research Institute. Carpenter earned a bachelor's degree in architecture from the University of Michigan and master's and doctorate degrees in city and regional planning from Georgia Tech. She is a member of the American Institute of Certified Planners (AICP), the American Planning Association (APA), and the Urban Land Institute (ULI). She is a graduate of the Atlanta ULI Center for Leadership class of 2017.

Abram Lueders is a former intern with the Federal Reserve Bank of Atlanta's Community and Economic Development (CED) group and a graduate of Georgia Tech's School of City and Regional Planning. During his time at Georgia Tech, Lueders completed his master's research on Jane Jacobs's theories of urban design and authored a paper on concentrated poverty in the Southeast for the Federal Reserve Bank of Atlanta. He currently lives in Memphis and works as a staff planner for the Downtown Memphis Commission.

Chris Thayer is an intern with the Federal Reserve Bank of Atlanta's Community and Economic Development (CED) group. She attended Otterbein University in Columbus, Ohio, and earned a bachelor of arts in English, a bachelor of science in business administration, and a minor in psychology, graduating magna cum laude with distinction and honors. After graduating, she worked for Seterus, IBM's mortgage servicing branch, and discovered a passion for and interest in the power of housing on citizens' quality of life. That passion led her to Atlanta's Georgia Tech and the pursuit of dual master's degrees in public policy and city and regional planning, gaining the skills needed to effect meaningful improvements in our neighbors' health, environment, and happiness through sound housing policy.

Acknowledgments: The authors thank Jessica Dill, Kris Gerardi, Karen Leone de Nie, and Sarah Bolling Mancini for their thoughtful feedback. The views expressed here are the authors' and not necessarily those of the Federal Reserve Bank of Atlanta or the Federal Reserve System. Any remaining errors are the authors' responsibility.

Comments to the authors are welcome at ann.carpenter@atl.frb.org.

Introduction

Homeownership is the cornerstone of the American dream and, despite its risks, it remains a significant generator of wealth for most households (Herbert, McCue, & Sanchez-Moyano, 2016). However, homeownership remains out of reach for many households. For example, access to the financial and legal services for formal homeownership and mortgage financing are not uniformly available to all families in the United States (Way, 2009). For low-income and ethnic and racial minority households, the land contract or contract for deed provides an uneasy alternative in the form of installation payments to a seller. This article examines the postrecession contract for deed market in the Southeast, including the recent trend in corporate investor-owned distressed properties sold as-is and the prevalence of such transactions in poor and African-American communities. These "toxic transactions," according to the National Consumer Law Center (Battle, Mancini, Saunders, & Williamson, 2016), have inhibited households from building home equity wealth and have further damaged the very neighborhoods that were hit hardest by subprime lending and the foreclosure crisis.

Unlike the recipient of a mortgage, the purchaser of a home under the terms of a contract for deed does not hold title or build equity on the property, despite being responsible for all expenses. The deed is not transferred to the buyer until the last payment has been made. If the buyer misses a payment, that individual risks eviction and forfeiture of the property back to the seller. Currently, many potential homeowners are unable to qualify for a mortgage due to tight credit standards. Contract for deed sales act as a form of shadow banking for borrowers who are considered risky (Perlberg, 2016). Potential home buyers with poor credit or no credit or without savings for a down payment may seek contracts for deed as one of only a few possible alternatives for homeownership. In fact, nonprofits have offered responsible contract for deed financing as a tool for helping prospective buyers who cannot quality for a traditional mortgage (Wascalus, 2013). Distrust of the financial system also leads many toward this path, particularly after the foreclosure crisis occurred.

In Upton Sinclair's *The Jungle* (1906), the protagonist finds himself in a situation similar to the modern contract for deed. With a salary of $1.57 per day, Jurgis Rudkus puts down $300 and agrees to 100 monthly mortgage payments of $12 on a new home in 1880s Chicago. After signing what he believes to be a mortgage, he learns that he is merely a tenant until his last payment. To the Lithuanian immigrant, the "strange legal jargon" of his contract is confusing. Furthermore, Rudkus eventually learns of several undisclosed expenses: interest of 7 percent is due on the balance and insurance and taxes must be paid. Without sufficient income to cover these expenses, the family is evicted and their savings are lost. Eventually, other tragedies associated with housing instability befall the family. While the tale is fiction and extreme in its portrayal, the practice was and is a reality.

Similar types of transactions are outlined in Beryl Satter's *Family Properties* (2009), which describes an expansive landscape of land contract deals in African-American neighborhoods in Chicago in the 1950s through the 1970s. Rampant speculation and exploitation of African-American consumers led to the creation of the Contract Buyers League (CBL), which advocated for their own legal rights. Contracts for deed were common in response to bank redlining in the mid-20th century. Today, the contract for deed has remained in use in low-income, older neighborhoods with substandard housing stock as well as in rural communities and informal settlements such as the Texas Colonias (Way, 2009). As credit has tightened in the wake of the recent recession, the practice appears to be growing in urban areas. Recently, a number of other sources have published articles[1] on the increase in contract for deed activity, particularly by corporate investors.

Accessible, reliable property records data are difficult to come by, as evidenced by the work of the Texas Contract for Deed Prevalence Project (Ward, Way, & Wood, 2012). Although Texas is one of a few states that require recordation of contracts, through extensive surveying the researchers found that a significant percentage (a moderate estimate of 65 percent in 2012) are not recorded. The practice of unrecorded contract for deed sales amounted to a large percentage (about 11 percent to 32 percent) of residential real estate transactions in six counties in the Texas Colonias.

The Atlanta Fed began investigating contract for deed sales in the Southeast after reports in the *New York Times* that Harbour Portfolio, a firm based in Dallas, Texas, and headed by former Wall Street executives, had purchased 6,700 properties in the Midwest and South, including many in Georgia and Florida (Goldstein & Stevenson, 2016c). A recent study of investor-owned properties showed Harbour to be the largest single buyer of foreclosures, or real estate owned (REO) properties, in Atlanta between 2010 and 2011 (Immergluck, 2013). Another investor, Shelter Growth Capital Partners, later bought many Harbour homes in Georgia and Alabama (Goldstein & Stevenson, 2016d). The large-scale purchase of REO property by investors shifted a sizable number of previously owner-occupied homes to scattered site rentals and other vehicles like contract for deed, with potential consequences for communities. For example, as a group, large corporate owners of single-family rentals have been shown to evict residents at a higher rate than small landlords (Raymond, Duckworth, Miller, Lucas, & Pokharel, 2016). This paper reviews several data sources in order to understand the extent of contract for deed sales in several cities in the Southeast.

Contract for Deed Overview

A contract for deed is essentially a private contract between a buyer and a seller consisting of installment payments. The buyer is required to make a down payment and regular monthly payments directly to the seller until the full price has been paid, typically a period of 15 to 30 years. After the final payment has been made, the property owner transfers the deed to the buyer. The contracts themselves may carry a very high interest rate (with many as high as 10 percent to 12 percent in a sample of Birmingham, Alabama, contracts) as well as certain unfavorable terms for the buyer, such as the forfeiture clause.

The forfeiture clause is a controversial element of many contracts for deed. Any breach of the contract—such as a missed payment—can result in complete forfeiture of the property and the dissolution of the contract. Properties are sold as-is, and contracts may require the purchaser to make

[1] See the *New York Times* (February 20, 2016, April 17, 2016, April 29, 2016, May 10, 2016, December 2, 2016, December 26, 2016, January 2, 2017), *Washington Post, Atlantic*, Bloomberg, *Atlanta Journal-Constitution*, *Detroit News*, National Consumer Law Center, Urban Institute's Urban Wire, and Pew Charitable Trusts' Stateline, among others.

expensive repairs to bring their home up to "habitable condition" within a short time frame. Failure to make necessary repairs within a specified period (in some cases, only a few months) also results in forfeiture of all payments and investments made toward property improvements. In the event of a forfeiture, these investments and any equity built up are lost. Distressed properties are often sold under contract for several times the likely appraised value.

Contract for deed sales may also be subject to clouded title and tax delinquency issues. Buyers may find, even after the final payment is made, large amounts of money must be paid toward obtaining clear title or paying back taxes. Properties may be mortgaged by the seller, which takes the risk of foreclosure and potential eviction out of the hands of the contract holder.

National and Regional Data

There are a number of factors that make it difficult to estimate the extent of recent contract for deed activity. State laws differ regarding whether land contracts have to be publicly recorded. Making things even more complicated, the terminology can be confusing. Terms used interchangeably with contract for deed include land contract, lease contract, sales contract, bond for deed, bond for title, installment contract, agreement for deed, or even "poor man's mortgage."

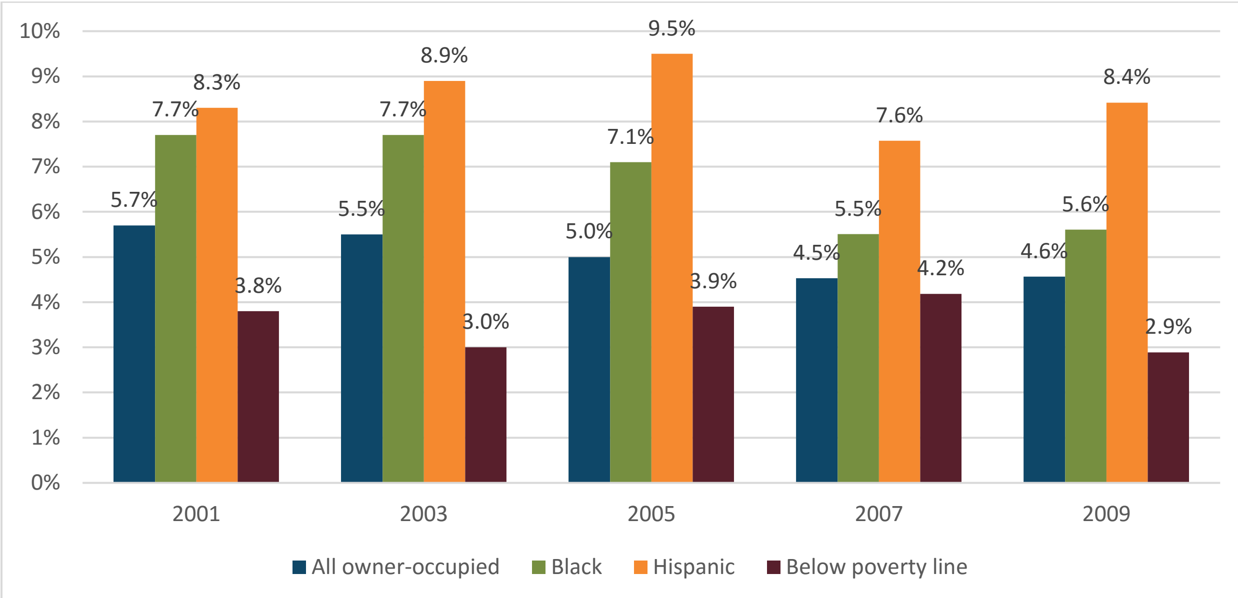
Collection of national survey data on homes purchased with land contracts by the U.S. Census Bureau American Housing Survey (AHS) ended in 2009. Building on 2001 through 2005 data collected by the Minneapolis Fed (Myslajek, 2009), the number of land contracts in the AHS actually declined in ensuing years at the national level and for most demographic groups (see table 1 and figure 1). Due to the restructuring of the AHS survey and the elimination of certain survey questions, national data were only collected from 2001 to 2009 in the mortgage characteristics of owner-occupied units' portion of the survey. Thus, these data do not capture the potential increase in contract for deed activity following the foreclosure crisis.

Table 1: Percent of Owner-Occupied Homes with Land Contracts, 2001 to 2009

Householder characteristics	2001	2003	2005	2007	2009
African-American	7.7%	7.7%	7.1%	5.5%	5.6%
Hispanic	8.3%	8.9%	9.5%	7.6%	8.4%
Below poverty line	3.8%	3.0%	3.9%	4.2%	2.9%
Elderly (65 years or older)	1.9%	2.0%	2.1%	1.9%	1.9%
Manufactured home	5.2%	7.9%	5.0%	4.9%	4.6%
Total, all owner-occupied	5.7%	5.5%	5.0%	4.5%	4.6%

Source: U.S. Census Bureau American Housing Survey 2001–09, table 3-15

Figure 1: Percent of Owner-Occupied Homes with Land Contracts, 2001 to 2009

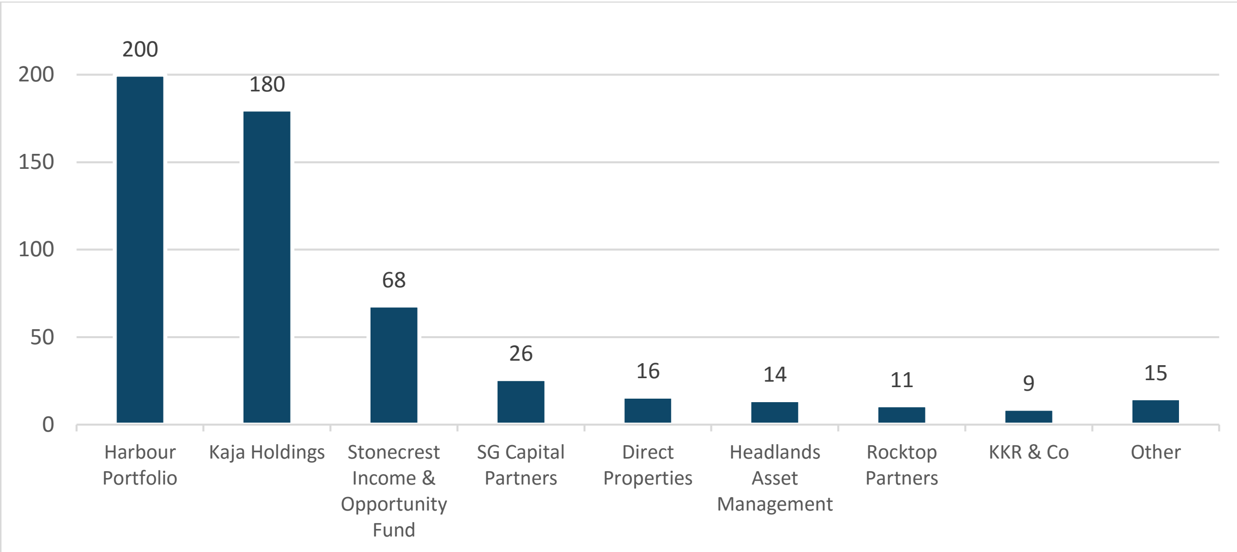


Source: U.S. Census Bureau American Housing Survey 2001–09, table 3-15

Given the limitations of national data on land contracts, parcel-level tax data from CoreLogic were used for further analysis of more recent trends. The data include a large number of variables from deed and mortgage transactions and tax assessor information, collected at the county level. Despite the wealth of information, it was quickly determined that the database lacked specific coding for contract for deed transactions. Therefore, owner name information was used as a primary query field. The names of known entities engaging in the practice of contract for deed sales were used to identify properties held and sold by investors.

Using parcel-level CoreLogic tax data and tax history data from 2008 through 2015, the Atlanta Fed sought to track the number of contract for deed sales in four southeastern cities with relatively large numbers of homes owned by firms identified through previously referenced investigative journalism, conversations with local legal aid groups, and other reporting—a total of 16 individual firms under several aliases and known subsidiaries. The four cities with the highest number of homes owned by these firms include Atlanta, Georgia, Birmingham, Alabama, Jackson, Mississippi, and Jacksonville, Florida. The largest number of properties were held by Harbour Portfolio, Kaja Holdings, and Stonecrest Income and Opportunity Fund (see figure 2). Both Kaja and Stonecrest sell properties as contracts for deed and rent single-family homes; therefore, these numbers may include rentals as well.

Figure 2: Number of Properties by Firm, Atlanta, Birmingham, Jackson, and Jacksonville Metropolitan Areas Combined, 2015[2]



Source: Staff calculations based on 2015 CoreLogic tax data

As previously noted, within the Southeast, Atlanta, Birmingham, Jackson, and Jacksonville had the highest numbers of residential properties owned by these firms in 2015 and were chosen for further analysis. There were noticeable differences among the number of corporate contract for deeds per 10,000 residential properties in the CoreLogic database in each of these cities, with 4.8 contracts for deed for every 10,000 residential properties in Jackson (the highest concentration) and 1.5 contracts for deed for every 10,000 residential properties in Jacksonville (the lowest concentration); see table 2.

[2] The category "Other" includes Apollo Global Management, Bulk REO Network, CC Reo Group, CWAM, 3 White Tigers, and Yasso Inc. Both Kaja and Stonecrest sell properties as contracts for deed and rent single-family homes; these numbers may include rentals as well.

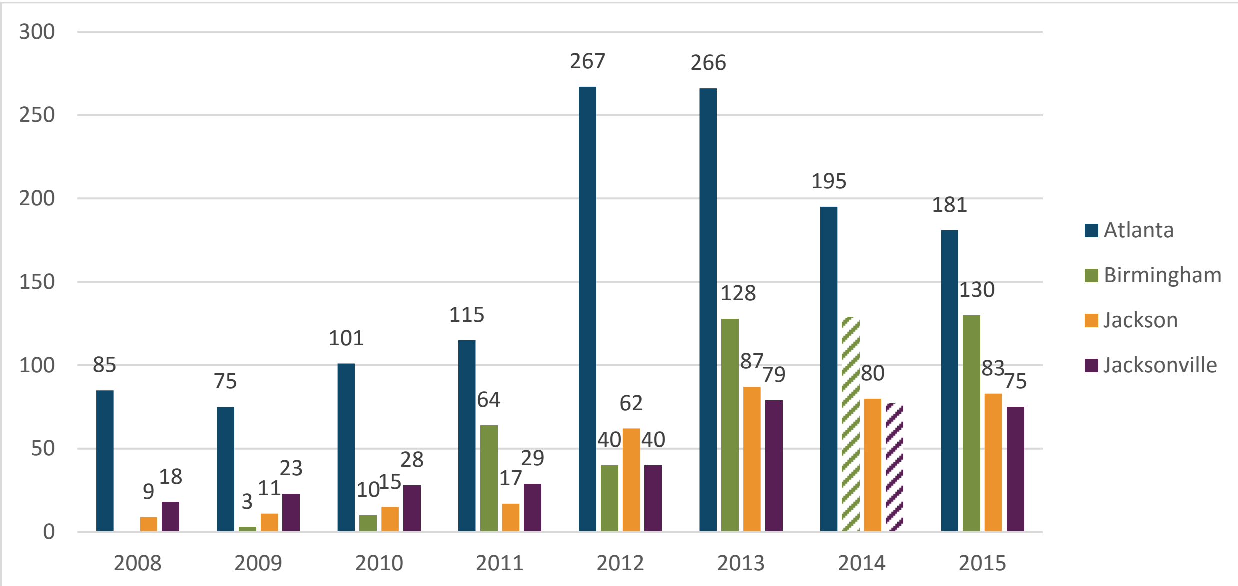
Table 2: Concentration of Corporate Contracts for Deed by Metropolitan Area, 2015

Metropolitan area	Corporate contracts for deed (CFD), 2015	Single-family residential properties in CoreLogic database, 2015	Corporate CFDs/10,000 sq ft residential properties
Atlanta	251	1,497,532	1.7
Birmingham	130	327,937	4.0
Jackson	83	173,674	4.8
Jacksonville	75	505,456	1.5
Total, all four metros	539	2,504,599	2.2

Source: Staff calculations based on 2015 CoreLogic tax data

In all four cities, the number of properties in ownership by a firm known to engage in contract for deed sales peaked in 2012 or 2013. These trends seem to show a steady increase in the years following the housing market crash of 2008 to 2009, particularly from 2010 to 2011, when many bulk real estate owned (REO) sales occurred (see figure 3). Collectively, these firms held the largest number of properties in 2013. As of 2015, many were either divested to other companies or private individuals or ownership was transferred to the name of the contract for deed holder. The latter could indicate the property is under contract or a successful early payoff of the full contract amount occurred. In general, the investment strategy does not appear to be one of large-scale, long-term acquisition. This is interesting in that, ostensibly, the investment portfolio should consist of a stable or growing number of profitable contracts in order to provide a return to investors.

Figure 3: Total Corporate Contracts for Deed in Tax Records by Metropolitan Area, 2009 to 2015

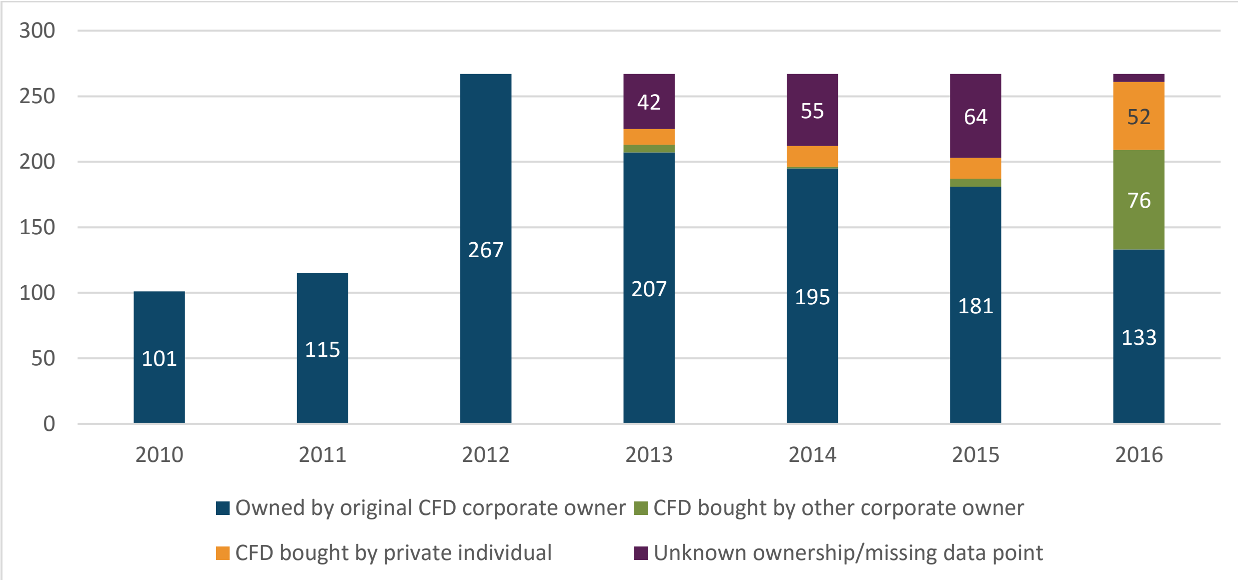


Source: Staff calculations based on 2009–15 CoreLogic tax data (2014 data missing for Birmingham and Jacksonville)

Corporate Contracts for Deed in Atlanta

In order to understand better the declining numbers of properties owned by known corporate sellers, firms in one metropolitan area, Atlanta, were reviewed (see figure 4). The portfolio of properties provided a consistent set of data over time (for some properties, data were missing for certain years). The number of properties follows a pattern over time similar to above, with a peak of 267 properties in Atlanta in 2012. Properties sold by the companies were also identified and added to the chart in order to account for decreases in the number of properties held. As shown in figure 4, a number of properties had unknown ownership (42 in 2013, 55 in 2014, and 64 in 2015) due to missing data points in the tax history database, which was resolved by cross-referencing the data with the current county tax assessors' databases to derive 2016 ownership.

Figure 4: Corporate Contracts for Deed in Metropolitan Atlanta, 2010 to 2016



Source: Staff calculations based on 2010–15 CoreLogic tax data, 2016 county tax assessors' data

As of the latest data available, of the 267 properties owned by known corporate sellers in 2012, 133 (50 percent) are still held by the company and are either vacant or occupied by a contract buyer. Only 52 properties (19 percent) have been purchased by private individuals, either under a land contract or other negotiated sale. Some 28 percent are currently held by other corporate owners, including other known contract for deed sellers. For a small number of properties (6 properties or 2 percent), current data were not available. Overall, the homes largely remain in corporate ownership.

The data do not point to the widespread use of contracts for deed by corporate sellers and the practice may be slowing since 2013; however, based on these data, there are several reasons to be cautious. For example, during data collection for this project, an initial list of a half dozen investors grew to at least 38 known aliases. This list continues to grow as portfolios divest their properties, often to related companies. Therefore, searches by owner name are unlikely to capture the full breadth of investor holdings marketed as contracts for deed.

Racial Characteristics of Neighborhoods with Corporate Contracts for Deed

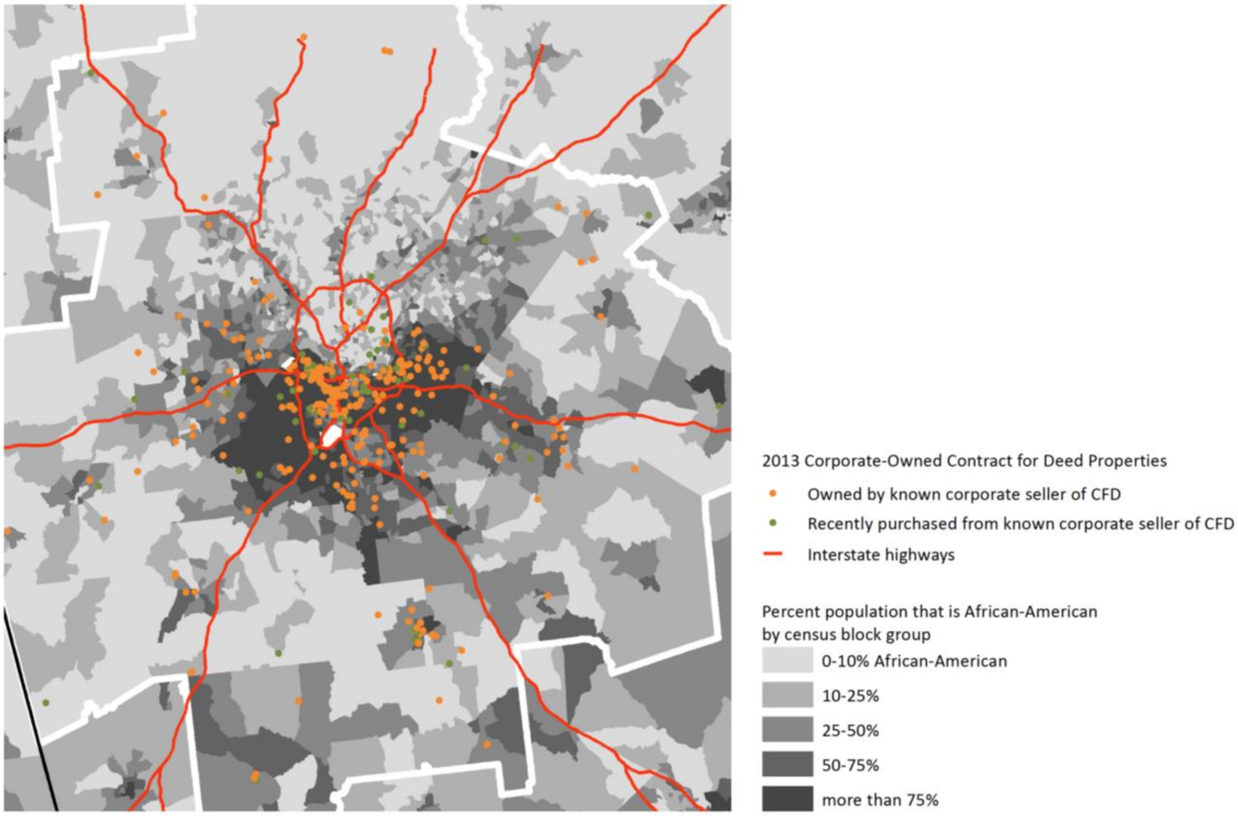
One concern within the legal aid and fair housing communities has been the preponderance of contract for deed sales among vulnerable populations. In all four cities studied, the probability that an investor-owned property sold as contract for deed was in a majority-African-American census block group was significantly higher than random chance, based on peak ownership data in 2013 (see table 3). In the Atlanta metro area, 64 percent of properties owned by known contract for deed sellers were in majority-African-American block groups. These numbers were even higher for Birmingham (71 percent), Jackson (94 percent), and Jacksonville (66 percent of properties). For each metro area, the percent of block groups that are majority-African-American was much lower, indicating a high probability that corporate contract for deed sales affect African-American households. An even stronger pattern was found in Atlanta for Harbour properties at the smaller census block level using 2016 property records, with 84 percent of all properties in the portfolio located in census blocks that were at least 50 percent African-American (Battle et al., 2016). A map of corporate contract for deed properties overlaid with the percentage of African-American residents in the Atlanta metro area is shown in figure 5. This pattern is due in part to the number of REO and nonperforming loans in these areas (and thus available inventory for the portfolio). However, the result has troubling consequences, particularly for African-American buyers. Nationally, African-American and Latino buyers have been the primary parties to seek legal assistance over contracts for deed, and marketing materials from investment firms appear to target them as well (Battle et al., 2016).

Table 3: Racial Characteristics of Block Groups with Corporate Contracts for Deed versus Metropolitan Statistics

	Percentage of CFD properties in majority-African-American block groups	Percent majority-African-American block groups in metro area
Atlanta	64%	28%
Birmingham	71%	33%
Jackson	94%	50%
Jacksonville	66%	18%
Total, all four metros	70%	29%

Sources: 2010–14 U.S. Census American Community Survey, staff calculations based on 2013 CoreLogic tax data

Figure 5: Map of Corporate Contracts for Deed in Metropolitan Atlanta and Percent of the Population That Is African-American

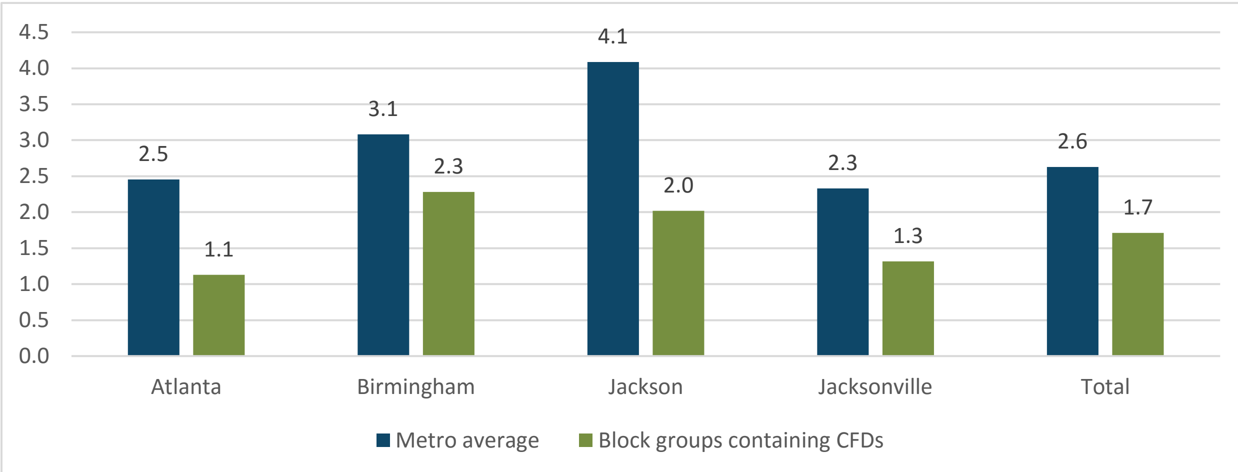


Sources: 2010–14 U.S. Census American Community Survey, staff calculations based on 2013 CoreLogic tax data

Bank Branching in Neighborhoods with Corporate Contracts for Deed

The concentration of corporate contract for deed housing also tends to occur in block groups with fewer bank branches per capita than the metro average. Research has established a link between access to mortgage credit for borrowers with inadequate credit histories and the presence of a bank branch in a low- to moderate-income neighborhood (Ergungor, 2010). Using archived 2013 data from the Federal Reserve Bank of St. Louis's CASSIDI (Competitive Analysis and Structure Source Instrument for Depository Institutions), the number of branches per 10,000 residents was calculated for block groups containing contract for deed homes as well as for the metropolitan averages (see figure 6). The 2013 bank branch data were compared to 2013 property records data, the year of peak corporate ownership. Overall, block groups with contract for deed sales had 0.9 fewer banks per 10,000 persons than the metro average. This figure ranged from 2.1 fewer branches in Jackson to 0.8 fewer branches in Birmingham.

Figure 6: Bank Branches per 10,000 Residents of Block Groups with Corporate Contracts for Deed versus Metropolitan Average

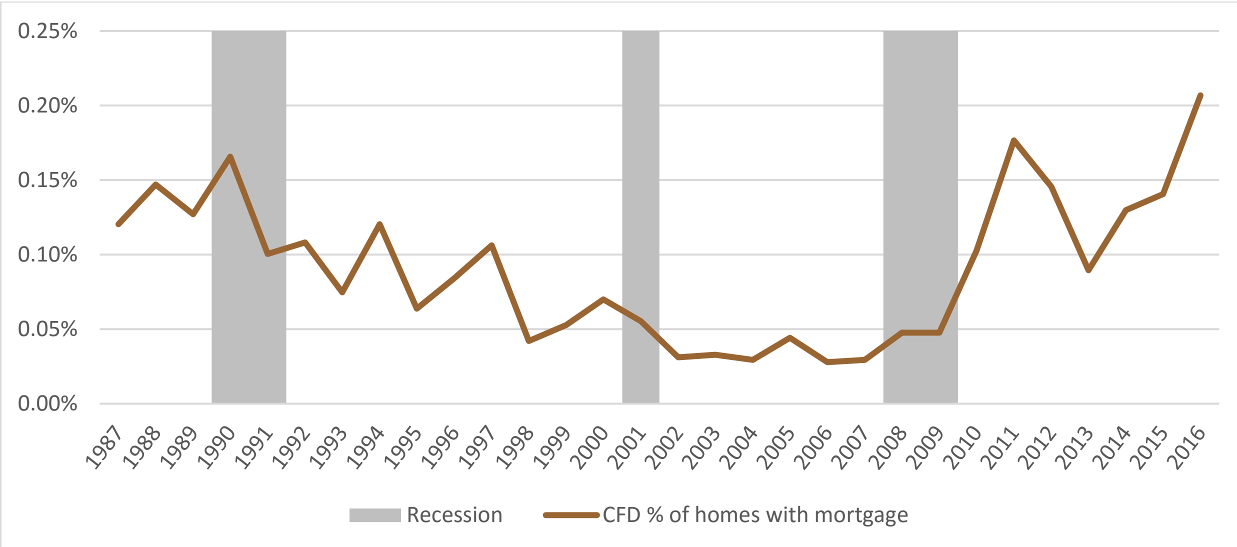


Sources: CASSIDI at the Federal Reserve Bank of St. Louis, staff calculations based on 2013 CoreLogic tax data

Exploration of Contracts for Deed in Jefferson County, Alabama

For one state, full data on recorded contract for deed sales were available. Alabama is the sole state in the Southeast that requires recordation of contracts. In Jefferson County (home to Birmingham), 243 property transactions categorized as "lease sale contracts" between 2008 and 2016 were examined. The 243 properties, or 0.1 percent of all owner-occupied housing units in the county, are much lower than the most recent national figure of 4.6 percent in the 2009 AHS. This also indicates that contracts for deed are likely to be underreported in Jefferson County, as such a deviation from the national average would be a significant outlier. As shown in figure 7, the share of contracts recorded as a percentage of all mortgages and land contracts recorded has varied over time, with a recent upward trend beginning in 2013. This is in line with the assumption that contract for deed activity has increased in the wake of the foreclosure crisis. However, according to a representative in the Jefferson County courts, this uptick also corresponds with growing complications in securing insurance and paying taxes on a property, which has been resolved by more thorough recording practices. Therefore, while the percentage of contracts for deed is still very low due to likely underreporting, the increase from 2013 to 2016 may be somewhat inflated compared to previous years.

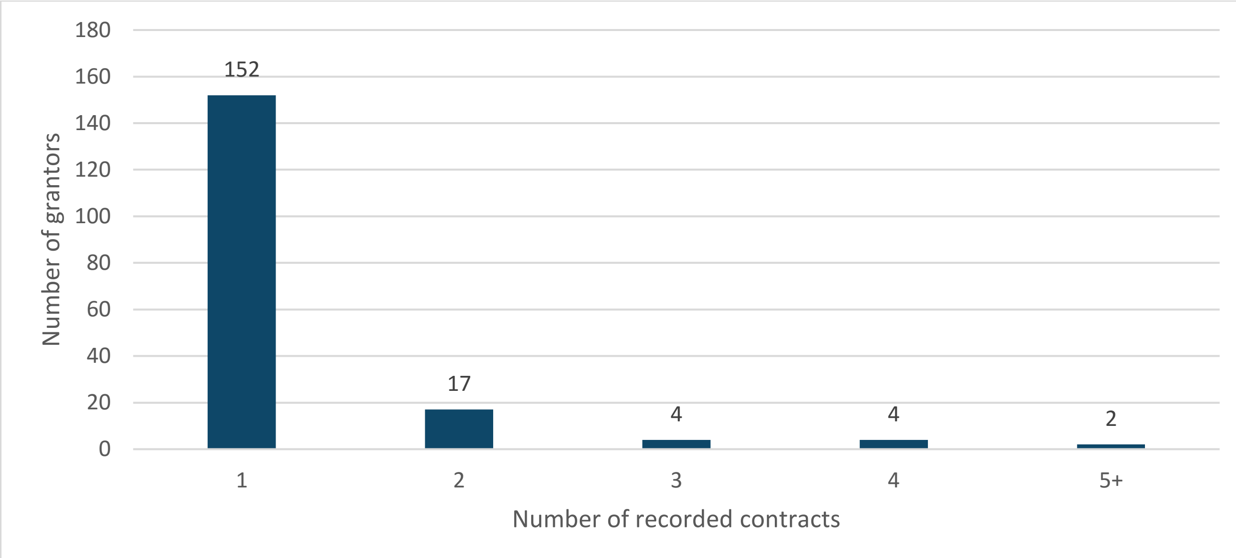
Figure 7: Recorded Lease Sale Contracts as a Percentage of All Homes Purchased with a Mortgage or Lease Sale Contract in Jefferson County, Alabama, 1987 to 2016



Source: Jefferson County official records search (http://landmarkweb.jccal.org/Landmarkweb/Home/Index)

A large majority of grantors of lease sale contracts recorded between 2008 and 2016 (152 of the 179 unique sellers, or 85 percent) have or had only one property under contract (see figure 8). In contrast, only 11 properties with known corporate sellers (5 percent of all lease sale contracts) appeared in the database. In total, 114 properties were found to be owned by known corporate sellers in the CoreLogic data; thus, the total number of properties with recorded contracts may be as low as 10 percent, indicating a low level of recordation, a high rate of vacancy, or both. Furthermore, the largest grantor of lease sale contracts was another corporate seller previously undiscovered, which granted 16 lease sale contracts from 2008 to 2016. While corporate sellers were present in the data, the large majority were private individuals, including one-off sellers or mom-and-pop operations.

Figure 8: Number of Recorded Lease Sale Contracts by Seller in Jefferson County, Alabama, 2008 to 2016



Source: Jefferson County official records search (http://landmarkweb.jccal.org/Landmarkweb/Home/Index)

In order to understand the terms of contracts in the Jefferson County database, we examined 48 lease-sale contracts recorded in 2016 (see table 4). Of these, five (10 percent) were sold by a previously unidentified corporate contract for deed seller. The rest were sold by private individuals. According to the U.S. Census's 2015 American Community Survey five-year estimates, the median monthly costs for an owner-occupied household with a mortgage in Jefferson County was $1,272 and the median gross rent was $810. Based on Jefferson County records, the median monthly payment for a contract for deed buyer was only $500. Although this monthly payment is relatively affordable, the terms of the 48 contracts ranged quite a bit. Sales prices ranged from $7,000 to almost $300,000 and the median home price was $38,750. A histogram of contract sale amounts is shown in figure 9. Only seven contracts (15 percent) were priced over six figures and four (8 percent) were priced at $10,000 or less. The average down payment was just over $5,000, with nine contracts (19 percent) that did not require a down payment.

Table 4: Details of Recorded Lease Sale Contracts in Jefferson County, Alabama, 2016

	Sale amount	Down payment	Interest rate	Monthly payment	Months
Minimum	$7,000	$0	0.0	$149	18
Maximum	$293,817	$40,000	12.0	$2,000	360
Mean	$59,002	$5,059	4.1	$623	117
Median	$38,750	$1,500	5.0	$500	72

Source: Jefferson County official records search (http://landmarkweb.jccal.org/Landmarkweb/Home/Index)

Figure 9: Histogram of Sale Amounts of Recorded Lease Sale Contracts in Jefferson County, Alabama, 2016

Source: Jefferson County official records search (http://landmarkweb.jccal.org/Landmarkweb/Home/Index)

According to Freddie Mac, in 2016, the U.S. 15-year fixed mortgage rate averaged between 2.72 and 3.55 percent and the 30-year fixed mortgage rate averaged between 3.55 and 4.32 percent. Interest rates among the 48 contracts for deed in the Jefferson County database ranged from 0 percent to 12 percent, with 14 contracts (29 percent) having a 0 percent interest rate. Eleven contracts (23 percent) had interest rates of 6 percent or higher. Two contracts (4 percent) stipulated an adjustable rate at either 1 or 2 percentage points above LIBOR (London Interbank Offered Rate). One contract with an adjustable rate required a balloon payment after two years of around $150,000. One additional sale included a balloon payment after six years of around $50,000.

Detailed data for contracts granted by previously identified corporate sellers in Jefferson County were available for nine contracts recorded from 2012 to 2015. The median sale amount for these contracts was $32,200, the median monthly payment was $297, and all contracts carried 10 percent interest over 30 years, indicating corporate contracts in Jefferson County tend to carry lower monthly payments and higher interest rates than average contracts for deed.

Although the detailed analysis of contracts in Jefferson County included a small number of data points due to underreporting, it indicated that overall contract for deed activity appears to be on the rise. Based on all available data, it is still unclear what share of home financing is comprised of contracts for deed in the four southeastern cities analyzed and whether current trends indicate an increase or decrease in activity. This analysis also revealed that there is a great deal of variation among contracts. Some contracts provide an affordable path to homeownership and present little risk to buyers, particularly those with no down payment and low or zero interest rates. Others clearly demonstrate unfavorable terms in subprime interest rates, balloon payments, and other untenable contract stipulations. Based on contracts initiated in Jefferson County in 2016, the unfavorable contracts described above make up about one-third of recorded contracts and were initiated by both incorporated entities and private individuals.

Responses

Why be concerned with contracts for deed if the data do not necessarily show a large-scale resurgence of predatory practices? It should be noted that the fact that land contracts can be abused does not make them an illegitimate tool. When used responsibly, alternative financing tools like contract for deed can open a pathway to homeownership. Nonprofit organizations, for example, continue to use contracts for deed in neighborhood stabilization and asset-building strategies. Contracts for deed should also be distinguished from lease-purchase agreements, which offer greater protections for the lessee. Responsible lease-purchase programs with proper oversight have been advanced as an accessible path to homeownership for low-income households otherwise locked out of the market (Galante, Reid, & Sanchez-Moyano, 2017; Schaeffing & Immergluck, 2010).

However, contracts for deed have the potential to extend the divide in property ownership—and with that, wealth—by race and class in the United States. For example, the Dallas Fed identified contracts for deed as an obstacle to wealth building in the Texas Colonias (Barton, Perlmeter, Blum, & Marquez, 2015). Over the past 30 years, the average wealth of a white family has grown 84 percent versus only 27 percent for African-American households, with racial disparities in homeownership as a major cause (Asante-Muhammed, Collins, Hoxie, & Nieves, 2016). Given that the racial wealth gap is increasingly large and corporate contracts for deed have been shown to be concentrated in majority African-American neighborhoods, it is critical that interventions attempt to avoid the unprincipled investment strategies and equity-stripping schemes often associated with contracts for deed. The practices highlighted in recent news coverage have also shown the devastating effects on communities when corporate investors have violated property codes, failed to pay property taxes, and generally perpetuated disinvestment in struggling neighborhoods.

Several recommendations have been made by legal scholars and advocates in the way of direct interventions for contract buyers and policy and legal reforms to curb unfair practices. Perhaps most urgently, current and potential contract for deed buyers need access to educational materials as well as free or inexpensive legal assistance. These resources are most needed in urban and rural areas with high concentrations of contract for deed activity. While not widely utilized, an example of a specific intervention is the Texas Contract for Deed Initiative, which provides assistance to buyers to convert their contracts into traditional mortgages.

University of Texas law professor Heather K. Way has recommended extension of mortgagor protections at the state level, including the buyer's right to an automatic 45-day right to cure any contract breach, the right to a public foreclosure sale, and a forfeiture prevention clause that includes the right to reclaim at least a portion of the equity invested in the property after the seller recovers his or her own costs (Way, 2009). States such as Oklahoma and Maryland have adopted similar protections for land contracts. Other states, such as Texas and Ohio, provide protections only after the buyer has made a minimum number of payments on the contract (20 percent to 40 percent, for example).

Many states do not require recordation of a contract, including most in the Southeast. Although such requirements are not always observed, the National Consumer Law Center (NCLC) recommends that all states adopt a requirement that the contract be recorded within 90 days (Battle et al., 2016). Failure to do so would render the forfeiture clause invalid and result in a fine. Recording of contracts can be linked with other property data to provide for consistent, reliable data on these properties. Disclosures of interest rates and fees associated with the contract and other appropriate transparency could also be required.

Other recommendations from the NCLC include independent inspection of the home's condition, including estimated cost of repairs, a third-party appraisal to ensure fair market value of the property, standardization of documentation, an assurance that all taxes and liens on the property are resolved prior to sale, the right to prepay without penalty, protection in case of early termination of the contract (by both buyer and seller), prohibition of abusive and unfair practices, translation of documents in the buyer's language, strong enforcement of all policy recommendations, and greater data collection, potentially through the expansion of data collected under the Home Mortgage Disclosure Act (Battle et al., 2016). The need for rigorous data collection was clearly felt in this analysis.

Many of these concerns can be addressed by states. However, the Consumer Financial Protection Bureau (CFPB) is examining the practices of Harbour and other investors (Goldstein & Stevenson, 2016a) and contract for deed sales at large (Goldstein & Stevenson, 2016b). The NCLC noted the CFPB may choose to enact specific regulations under the Truth in Lending Act (TILA) (Battle et al., 2016).

Despite reports of their resurgence, it's very difficult to determine with any certainty whether contracts for deed are becoming a bigger part of the home-financing mix in the Southeast due to the lack of recordation in five of the six states covered by the Atlanta Fed. However, providing safe and sound financing for home buyers and preventing further destabilization of distressed neighborhoods should be priorities. Based on both the data and the experiences of legal advocates, a substantial subset of contracts for deed could pose a threat to the communities and households that can least afford yet another blow. Yet, other sellers, including nonprofit community-based organizations, may provide opportunities for homeownership that would otherwise be impossible. The considerations above are meant to protect buyers from entering into agreements designed to fail.

References

Asante-Muhammed, D., Collins, C., Hoxie, J., & Nieves, E. (2016). *The Ever-Growing Gap: Without Change, African-American and Latino Families Won't Match White Wealth for Centuries*. Washington, DC: Institute for Policy Studies and CFED.

Barton, J., Perlmeter, E.R., Blum, E.S., & Marquez, R.R. (2015). "Las Colonias in the 21st Century: Progress along the Texas-Mexico Border." Federal Reserve Bank of Dallas.

Battle, J.J., Mancini, S., Saunders, M., & Williamson, O. (2016). *Toxic Transactions: How Land Installment Contracts Once Again Threaten Communities of Color*. Boston, MA: National Consumer Law Center.

Ergungor, O.E. (2010). "Bank Branch Presence and Access to Credit in Low- to Moderate-Income Neighborhoods." *Journal of Money, Credit, and Banking* 42(7), 1321–1349.

Galante, C., Reid, C., & Sanchez-Moyano, R. (2017). *Expanding Access to Homeownership through Lease-Purchase*. Washington, DC: J. Ronald Terwilliger Foundation for Housing America's Families.

Goldstein, M., & Stevenson, A. (2016a, December 2). "Consumer Agency Sues for Files on Home Installment Contracts." *New York Times*.

Goldstein, M., & Stevenson, A. (2016b, May 10). "'Contract for Deed' Lending Gets Federal Scrutiny." *New York Times*.

Goldstein, M., & Stevenson, A. (2016c, February 21). "Market for Fixer-Uppers Traps Low-Income Buyers." *New York Times*.

Goldstein, M., & Stevenson, A. (2016d, April 17). "Wall Street Veterans Bet on Low-Income Home Buyers." *New York Times*.

Herbert, C.E., McCue, D.T., & Sanchez-Moyano, R. (2016). *Update on Homeownership Wealth Trajectories through the Housing Boom and Bust.* Cambridge, MA: Harvard Joint Center for Housing Studies.

Immergluck, D. (2013). *The Role of Investors in the Single-Family Market in Distressed Neighborhoods: The Case of Atlanta*. Cambridge, MA: Harvard Joint Center for Housing Studies.

Myslajek, C. (2009). "Risks and Realities of the Contract for Deed." *Community Dividend*. Retrieved from: https://www.minneapolisfed.org/publications/communitydividend/risksandrealitiesofthecontractfordeed

Perlberg, H. (2016). "Apollo's Push into Business That Others Call Predatory." *Bloomberg*. Retrieved from: http://www.bloomberg.com/news/articles/2016-04-07/apollo-s-push-into-a-lending-business-that-others-call-predatory

Raymond, E., Duckworth, R., Miller, B., Lucas, M., & Pokharel, S. (2016). "Corporate Landlords, Institutional Investors, and Displacement: Eviction Rates in Single-Family Rentals." Federal Reserve Bank of Atlanta Community and Economic Development Discussion Paper 2016-4, December.

Satter, B. (2009). *Family Properties: Race, Real Estate, and the Exploitation of Black Urban America*. New York: Metropolitan.

Schaeffing, P., & Immergluck, D. (2010). "Responsible Lease-Purchase: A Review of the Practice and Research Literature on Nonprofit Programs." doi: 10.2139/ssrn.1691194

Sinclair, U. (1906). *The Jungle*. New York: Doubleday.

Ward, P.M., Way, H.K., & Wood, L. (2012). *The Contract for Deed Prevalence Project*. Austin, TX: Texas Department of Housing and Community Affairs.

Wascalus, J. (2013). "Contract for Deed Emerges as a Tool for Affordable Housing Organizations." *Community Dividend*. Retrieved from https://www.minneapolisfed.org/publications/community-dividend/contract-for-deed-emerges-as-a-tool-for-affordable-housing-organizations

Way, H.K. (2009). "Informal Homeownership in the United States and the Law." *Saint Louis University Public Law Review* 29(113), 273–613.