



## RESOLUTION 42-2021

### RESOLUTION OF CALDWELL COUNTY COMMISSIONERS COURT

**WHEREAS**, rapid population growth in urban areas of Texas has led to the increasing subdivision of land in formerly rural areas to provide an ever-increasing number of residential lots for homes; and

**WHEREAS**, when this subdivision is accomplished through a contract in which the seller retains the deed to the property until the purchaser has made all payments, known as an executory contract for the conveyance of property, the purchaser may lose all equity that the buyer has accumulated in the land because of a single missed payment;

**WHEREAS**, previously, state restrictions on the use of executory contracts that would protect purchasers only presumptively apply to the conveyance of residential lots of one acre or less, but residential lots as large as 20 acres are frequently being sold under executory contracts;

**WHEREAS**, in its 87<sup>th</sup> Regular Session, the Texas Legislature enacted H.B. 4374, authorizing the commissioners courts of certain counties to adopt an order requiring certain executory contracts to be subject to statutory provisions regarding executory contracts for the conveyance of certain residential property;

**WHEREAS**, the Caldwell County Commissioners Court has determined that an order authorized by H.B. 4374 would benefit the County and its citizens by implementing statutory consumer protection safeguards relating to the use of executory contracts involving certain residential properties;

### **NOW THEREFORE, BE IT RESOLVED BY THE CALDWELL COUNTY COMMISSIONERS COURT THAT:**

1. The Commissioners Court hereby adopts this Order requiring executory contracts for the conveyance of land used or to be used as a residence located in this county to be subject to subchapter D of the Texas Property Code, regarding Executory Contracts for Conveyance.
2. For the purposes of this Order:
  - a. a lot or tract measuring twenty (20) acres or less is presumed to be used or intended to be used as a residence; and
  - b. an option to purchase real property that includes or is combined or executed concurrently with a residential lease agreement, together with the lease, is considered to be a conveyance of land used or to be used as a residence.
3. If a tract described by Texas Property Code Section 5.0622(c)(2) ceases to be used primarily for agricultural use or for farm, ranch, wildlife management, or timber production use, or any part of the land is used as a residence, an executory contract for the conveyance of the land is included in this Order.
4. Any executory contract to which this order applies may not be used to purchase land for residential purposes unless the conversion authorized by Texas Property Code Section 5.081

is required to occur not later than three (3) years after the date the executory contract is entered into.

5. This Order shall become effective immediately.

**ORDERED** this the 1st day of September 2021.



Hoppy Haden  
Caldwell County Judge



B.J. Westmoreland  
Commissioner, Precinct 1



Barbara Shelton  
Commissioner, Precinct 2



Ed Theriot  
Commissioner, Precinct 3



Joe Ivan Roland  
Commissioner, Precinct 4

ATTEST:



Teresa Rodriguez  
Caldwell County Clerk

