

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 3318

6 By: Bashore

7 COMMITTEE SUBSTITUTE

8 An Act relating to service agreements; enacting the  
9 Prohibition of Unfair Service Agreements Act;  
10 defining terms; providing for when a service  
11 agreement is unfair; providing for when act does not  
12 apply; providing this act does not impair any lien  
13 right granted pursuant to Oklahoma law; providing  
14 that unfair service agreements are unenforceable;  
15 prohibiting the recording of an unfair service  
16 agreement or notice or memorandum; prohibiting county  
17 clerk from accepting and recording an unfair service  
18 agreement; providing that a county clerk shall incur  
19 no liability for recording an unfair service  
20 agreement; providing that if an unfair service  
21 agreement is recorded it shall not provide actual or  
22 constructive notice; providing method for obtaining a  
23 court order declaring an unfair service agreement  
24 unenforceable; providing for damages; providing for  
codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 301 of Title 16, unless there is  
created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Prohibition of  
Unfair Service Agreements Act".

1 SECTION 2. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 302 of Title 16, unless there is  
3 created a duplication in numbering, reads as follows:

4 As used in this act:

5 1. "Person" means a natural person, partnership, association,  
6 cooperative, corporation, trust, or other legal entity;

7 2. "Recording" means presenting a document to the county  
8 clerk's office for official placement in the public land records;

9 3. "Residential real estate" means real property located in  
10 this state which is used primarily for personal, family, or  
11 household purposes and is improved by one to four dwelling units;

12 4. "Service agreement" means a contract under which a person  
13 agrees to provide services in connection with the maintenance of or  
14 purchase or sale of residential real estate; and

15 5. "Service provider" means an individual or entity that  
16 provides services to a person.

17 SECTION 3. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 303 of Title 16, unless there is  
19 created a duplication in numbering, reads as follows:

20 A. A service agreement is unfair under this act if any part of  
21 the service subject to the agreement is not to be performed within  
22 one (1) year after the time it is entered into or automatically  
23 renews after a one (1) year agreement timeframe and has any of the  
24 following characteristics:

1 1. Purports to run with the land or to be binding on future  
2 owners of interests in the real property;

3 2. Allows for assignment of the right to provide service  
4 without notice to and consent of the owner of residential real  
5 estate; or

6 3. Purports to create a lien, encumbrance, or other real  
7 property security interest.

8 B. This act does not apply to:

9 1. A home warranty or similar product that covers the cost of  
10 maintenance of a major home system, such as plumbing, HVAC or  
11 electrical wiring for a fixed period;

12 2. An insurance contract;

13 3. An option or right of refusal to purchase the residential  
14 real estate;

15 4. A declaration created in the formation of a common-interest  
16 community or an amendment thereto;

17 5. A maintenance or repair agreement entered by an owners'  
18 association in a common-interest community;

19 6. A mortgage loan or a commitment to make or receive a  
20 mortgage loan;

21 7. A security agreement under the Uniform Commercial Code  
22 relating to the sale or rental of personal property or fixtures; or

23 8. Water, sewer, electrical, telephone, cable, or other  
24 regulated utility service providers.

1 C. This act does not impair any lien right granted pursuant to  
2 Oklahoma law.

3 SECTION 4. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 304 of Title 16, unless there is  
5 created a duplication in numbering, reads as follows:

6 If a service agreement is deemed unfair under this act it is  
7 unenforceable.

8 SECTION 5. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 305 of Title 16, unless there is  
10 created a duplication in numbering, reads as follows:

11 1. No person shall record or cause to be recorded an unfair  
12 service agreement or notice or memorandum thereof in this state;

13 2. A county clerk's office shall refuse to accept for  
14 recordation an unfair service agreement;

15 3. In the event that a county clerk does accidentally record an  
16 unfair service agreement, the county clerk shall incur no liability  
17 for doing so; and

18 4. If an unfair service agreement is recorded in this state, it  
19 shall not provide actual or constructive notice against an otherwise  
20 bona fide purchaser or creditor.

21 SECTION 6. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 306 of Title 16, unless there is  
23 created a duplication in numbering, reads as follows:

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1 If an unfair service agreement or a notice or memorandum thereof  
2 is recorded in this state, any person with an interest in the real  
3 property that is the subject of that agreement may apply to a  
4 district court in the county where the recording exists to record a  
5 court order declaring the agreement unenforceable.

6 SECTION 7. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 307 of Title 16, unless there is  
8 created a duplication in numbering, reads as follows:

9 If an unfair service agreement or a notice or memorandum thereof  
10 is recorded in this state, any person with an interest in the real  
11 property that is the subject of that agreement may recover such  
12 actual damages, costs and attorney fees as may be proven against the  
13 service provider who recorded the agreement.

14 SECTION 8. This act shall become effective November 1, 2024.

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