

An Act

ENROLLED HOUSE
BILL NO. 3318

By: Bashore, Menz, and Alonso-
Sandoval of the House

and

Coleman of the Senate

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

SUBJECT: Service agreements

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".

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

As used in this act:

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

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

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

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

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

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

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

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

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

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

B. This act does not apply to:

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

2. An insurance contract;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Passed the House of Representatives the 7th day of March, 2024.

Presiding Officer of the House
of Representatives

Passed the Senate the 22nd day of April, 2024.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____

Approved by the Governor of the State of Oklahoma this _____
day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____