

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 1763

By: Coleman of the Senate

and

6 Bashore of the House

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9 COMMITTEE SUBSTITUTE

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

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:

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

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

6 As used in this act:

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

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

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

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

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

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

22 A. A service agreement is unfair under this act if any part of
23 the service subject to the agreement is not to be performed within
24 one (1) year after the time it is entered into or automatically

1 renews after a one-year agreement timeframe and has any of the
2 following characteristics:

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

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

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

10 B. This act does not apply to:

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

14 2. An insurance contract;

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

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

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

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

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

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

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

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

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

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

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

15 B. A county clerk's office shall refuse to accept for
16 recordation an unfair service agreement.

17 C. In the event that a county clerk does accidentally record an
18 unfair service agreement, the county clerk shall incur no liability
19 for doing so.

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

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

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

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

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

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

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