

SENATE FLOOR VERSION

February 19, 2024

SENATE BILL NO. 1763

By: Coleman

An Act relating to unfair service agreements; defining terms; providing conditions for an unfair service agreement; prohibiting certain provisions from being considered an unfair service agreement; exempting certain agreements; providing for violation; prohibiting recording of agreements; providing for rights of recovery; 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 779 of Title 15, 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 a county clerk in this state for official placement in the public land records;

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

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

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

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 779.1 of Title 15, unless there
8 is created a duplication in numbering, reads as follows:

9 A. A service agreement shall be considered unfair under this
10 act if any part of the service subject to the agreement shall not be
11 performed within one (1) year after the time it is entered into and
12 has any of the following:

13 1. The service agreement purports to run with the land or be
14 binding on the future owner of interest in the real property;

15 2. The service agreement allows for assignment of the right to
16 provide service without notice to and consent of the owner of
17 residential real estate; or

18 3. The service agreement purports to create a lien,
19 encumbrance, or other real property security interest.

20 B. This act shall not apply to:

21 1. A home warranty or similar product that covers the cost of
22 maintenance of a major home system for a fixed period;

23 2. An insurance contract;
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1 3. An option or right of refusal to purchase the residential
2 real estate;

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

5 5. A maintenance or repair agreement entered by a homeowners'
6 association in a common interest community;

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

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

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

13 C. This statute does not impair the rights granted by the
14 provisions of Section 141 et seq. of Title 42 of the Oklahoma
15 Statutes.

16 D. If a service agreement is deemed unfair pursuant to
17 subsection A of this section, the service agreement shall be:

18 1. Unenforceable; and

19 2. Considered an unfair or deceptive trade practice as defined
20 in Section 752 of Title 15 of the Oklahoma Statutes.

21 SECTION 3. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 779.2 of Title 15, unless there
23 is created a duplication in numbering, reads as follows:

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

3 B. If an unfair service agreement is recorded in this state,
4 the agreement shall not provide actual or constructive notice
5 against an otherwise reputable purchaser or creditor.

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

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

16 SECTION 4. This act shall become effective November 1, 2024.

17 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
18 February 19, 2024 - DO PASS
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