
SENATE COMMITTEE AMENDMENTS

2024 Regular Session

Substitute for Original Senate Bill No. 322 by Senator Edmonds as proposed by Senate Committee on Commerce, Consumer Protection and International Affairs.

This document reflects the content of a substitute bill but is not in a bill form; page numbers in this document DO NOT correspond to page numbers in the substitute bill itself.

To enact R.S. 51:1429, relative to unfair and deceptive trade practices; to provide relative to real estate services and service agreement; to provide for the recording of real estate service agreements; to provide for penalties; to provide relative to terms, conditions, and procedures; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 51:1429 is hereby enacted to read as follows:

§1429. Unfair or deceptive trade practice or act; real estate service agreements for residential property; recordation on immovable title prohibited

A. For the purposes of this Section, the following terms shall have the following meanings:

(1) "Real estate service agreement" means an agreement that does all of the following:

(a) Grants a right to a person or their designee to act as a real estate broker or real estate salesperson for the sale of the residential immovable property identified in the real estate service agreement.

(b) Provides for compensation to one or more owners of the residential immovable property identified in the real estate service agreement.

(2) "Residential immovable property" means immovable property consisting of one but not more than four residential dwelling units, which are buildings or structures, each of which are occupied or intended for occupancy as single-family residences.

B. No person shall do any of the following:

(1) Secure any obligation in a real estate service agreement by obtaining a security interest, lien, or mortgage, against residential immovable property.

(2) Record a real estate service agreement, or a notice, extract, or memorandum thereof, in the mortgage or conveyance records.

C. Any violation of the provisions of Subsection B of this Section shall be a deceptive and unfair trade practice and shall subject the violator to any action and penalty provided for in this Chapter, excluding private rights of action as provided in R.S. 511409 and 1409.1.

D. Any obligation arising out of a real estate service agreement shall not constitute a real right and is not effective or enforceable against a third person, whether or not the agreement under which it arises is recorded.

E. Any mortgage purporting to secure or purporting to create an encumbrance of any nature upon immovable property as security for obligations arising from a real estate service agreement is absolutely null.

F. If a real estate service agreement, or a notice, extract, or memorandum thereof, in the mortgage or conveyance records, is recorded, it shall not provide actual or constructive notice against an otherwise bona fide purchaser or creditor.

G. Notwithstanding any provision of law to the contrary, an interested person may petition the court for a writ of mandamus ordering the clerk of court to cancel a security interest, lien, mortgage, or to remove a real estate service agreement, or a notice, extract, or memorandum thereof, from any public record, without giving notice to any party to the real estate service agreement or any of their successors or assigns.

H. The remedies and rights provided under this Section shall not preclude any right or remedy otherwise authorized by law.

I. Nothing in this Section authorizes or shall be construed to authorize a real estate salesperson or real estate broker to record a lien or privilege against an owner's residential immovable property to secure payment of a commission or other compensation.

J. This Section shall not apply to any of the following:

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 51:1429)