

By: Harless

H.B. No. 4204

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting the use of unfair service agreements;
creating an offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 17, Business & Commerce Code, is amended
by adding Subchapter M to read as follows:

SUBCHAPTER M. UNFAIR SERVICE AGREEMENTS

Sec. 17.971. DEFINITIONS. In this subchapter:

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

(2) "Service agreement" means a contract under which a
person agrees to provide services in connection with:

(A) the maintenance of residential real estate;
or

(B) the purchase or sale of residential real
estate.

(3) "Service provider" means an individual or entity
that provides services to a person.

Sec. 17.972. CHARACTERISTICS OF UNFAIR SERVICE AGREEMENTS.

(a) A service agreement is unfair under this subchapter if any part
of the service subject to the agreement is not to be performed on or
before the first anniversary of the date the agreement is entered
into and:

1 (1) purports to run with the land or bind current
2 owners or successors in title to specified real property located in
3 this state;

4 (2) allows for assignment of the right to provide
5 service without notice to and consent of the owner of residential
6 real estate; or

7 (3) purports to create a lien, encumbrance, or other
8 real property security interest.

9 (b) This section does not apply to:

10 (1) a home warranty or similar guarantee that is
11 designed to guarantee or warrant the repair or service of an
12 appliance, system, or component of a residential property for a
13 fixed period;

14 (2) an insurance contract;

15 (3) an option or right of refusal to purchase the
16 residential real estate;

17 (4) a dedicatory instrument as defined by Section
18 202.001, Property Code, created in the formation of a property
19 owners' association as defined by Section 202.001, Property Code,
20 or an amendment to the dedicatory instrument;

21 (5) an agreement entered into by a property owners'
22 association as defined by Section 202.001, Property Code;

23 (6) a mortgage loan or a commitment to make or receive
24 a mortgage loan;

25 (7) a security agreement under Title 1 relating to the
26 sale or lease of personal property or fixtures; or

27 (8) water, sewer, electrical, telephone, cable, or

1 other regulated utility service providers.

2 (c) This section does not impair the rights granted by
3 Section 53.123, Property Code.

4 (d) A service agreement that is unfair is void and
5 unenforceable.

6 (e) A person that enters into an unfair service agreement
7 with a consumer commits a false, misleading, or deceptive act or
8 practice actionable under Subchapter E.

9 Sec. 17.973. RECORDING PROHIBITED. (a) A person may not
10 file for recording or cause to be filed for recording an unfair
11 service agreement or notice or memorandum thereof.

12 (b) A person commits an offense if the person files for
13 recording or causes to be filed for recording an unfair service
14 agreement or notice or memorandum of an unfair service agreement.

15 (c) An offense under this section is a Class A misdemeanor.

16 (d) Notwithstanding any other law, a county clerk may refuse
17 to record an unfair service agreement.

18 (e) If an unfair service agreement is recorded, it does not
19 provide actual or constructive notice against an otherwise bona
20 fide purchaser or creditor.

21 Sec. 17.974. APPLICATION FOR ISSUANCE OF COURT ORDER. If an
22 unfair service agreement or a notice or memorandum thereof is
23 recorded, any person with an interest in the real property that is
24 the subject of that agreement may file an application with the
25 district court in the county in which the agreement is recorded for
26 the issuance of an order declaring that the agreement is void and
27 unenforceable.

1 Sec. 17.975. DAMAGES. If an unfair service agreement or a
2 notice or memorandum thereof is recorded, any person with an
3 interest in the real property that is the subject of that agreement
4 is entitled to recover from the service provider who recorded the
5 agreement:

6 (1) actual damages; and
7 (2) reasonable attorney's fees and other litigation
8 costs reasonably incurred.

9 SECTION 2. Subchapter M, Chapter 17, Business & Commerce
10 Code, as added by this Act, applies only to a contract entered into
11 on or after the effective date of this Act.

12 SECTION 3. This Act takes effect September 1, 2025.