

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 657 Session of 2023

INTRODUCED BY BULLOCK, CEPHAS, MADDEN, HILL-EVANS, DELLOSO, SMITH-WADE-EL, SANCHEZ, ISAACSON, KENYATTA, KINSEY, KHAN, SCHLOSSBERG, PARKER, D. WILLIAMS, CERRATO, KRAJEWSKI, GREEN, MULLINS AND HANBIDGE, MARCH 21, 2023

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MARCH 27, 2024

AN ACT

1 Providing for transparency in realty agreements; ~~requiring and~~ <--
2 ~~prohibiting certain provisions in realty agreements;~~
3 prohibiting unfair real estate service agreements; and
4 imposing penalties.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the ~~Transparency~~ <--
9 ~~in Realty~~ UNFAIR REAL ESTATE SERVICE Agreements Act. <--

10 ~~Section 2. Definitions.~~ <--

11 ~~The following words and phrases when used in this act shall~~
12 ~~have the meanings given to them in this section unless the~~
13 ~~context clearly indicates otherwise:~~

14 ~~"Real estate professional." A real estate broker,~~
15 ~~salesperson, company or other person regularly engaged in the~~
16 ~~trade or business of buying and selling real property.~~

17 ~~"Realty agreement." A contract under which a real estate~~

1 ~~professional agrees to provide realty services connected to the~~
2 ~~purchase or sale of residential real property by a homeowner.~~

3 ~~"Security interest." A mortgage, lien or other encumbrance~~
4 ~~on residential real property.~~

5 ~~Section 3. Realty agreements.~~

6 ~~(a) Requirements. A realty agreement between a real estate~~
7 ~~professional and a homeowner shall:~~

8 ~~(1) Include a detailed list of the transactions covered~~
9 ~~under the realty agreement.~~

10 ~~(2) Identify the capacity in which the real estate~~
11 ~~professional is involved in the transactions covered under~~
12 ~~the realty agreement.~~

13 ~~(3) Include a statement to be signed by the homeowner~~
14 ~~acknowledging that the homeowner understands the nature and~~
15 ~~extent of the transactions covered under the realty~~
16 ~~agreement.~~

17 ~~(b) Prohibitions. A realty agreement between a real estate~~
18 ~~professional and a homeowner may not:~~

19 ~~(1) Provide for a service that will not be performed~~
20 ~~within one year of the execution of the realty agreement,~~
21 ~~including a one time payment to the homeowner in exchange for~~
22 ~~the exclusive opportunity to list the residential real~~
23 ~~property on the realty market for a period in excess of one~~
24 ~~year.~~

25 ~~(2) Provide a service without the notice or consent of~~
26 ~~the homeowner.~~

27 ~~(3) Purport to create a security interest in the~~
28 ~~residential real property that is the subject of the realty~~
29 ~~agreement.~~

30 ~~Section 4. Prohibited action.~~

1 ~~A real estate professional may not record, or cause to be~~
2 ~~recorded, a security interest on real property covered under a~~
3 ~~realty agreement prior to notifying the homeowner with the~~
4 ~~details of the security interest and without the express written~~
5 ~~consent of the homeowner or the assignee of the homeowner.~~

6 ~~Section 5. Cancellation.~~

7 ~~(a) Authorization. A homeowner may cancel a realty~~
8 ~~agreement at any time.~~

9 ~~(b) Fees. Cancellation fees specified in a realty agreement~~
10 ~~shall be limited to not more than \$500.~~

11 ~~(c) Notice. Notice of cancellation of a realty agreement~~
12 ~~must be given in writing.~~

13 Section 6 2. Unfair real estate service agreements. <--

14 (a) Enforceability.--An unfair real estate service agreement
15 is void and unenforceable as a matter of law.

16 (b) Deceptive act.--An unfair real estate service agreement
17 entered into with a consumer shall be deemed a deceptive act
18 under the act of December 17, 1968 (P.L.1224, No.387), known as
19 the Unfair Trade Practices and Consumer Protection Law.

20 (c) Recording prohibited.--

21 (1) A person may not record or cause to be recorded an
22 unfair real estate service agreement or notice or memorandum
23 of an unfair real estate service agreement in this
24 Commonwealth.

25 (2) A person who violates paragraph (1) shall be guilty
26 of a misdemeanor of the third degree.

27 (3) A county recorder of deeds may refuse to accept for
28 recordation an unfair real estate service agreement.

29 (4) If an unfair real estate service agreement is
30 recorded in this Commonwealth, it shall not provide actual or

1 constructive notice against an otherwise bona fide purchaser
2 or creditor.

3 (d) Recording of court order.--If an unfair real estate
4 service agreement or a notice or memorandum of an unfair real
5 estate service agreement is recorded in this Commonwealth, a
6 party with an interest in the real property that is the subject
7 of the agreement may apply to the court of jurisdiction in the
8 county where the recording exists to record a court order
9 declaring the agreement unenforceable.

10 (e) Right of recovery.--

11 (1) A consumer with an interest in real property that is
12 the subject of an unfair real estate service agreement,
13 whether or not any lien or other notice is filed against the
14 property in the office of the county recorder of deeds, may
15 bring a civil action against the real estate service
16 provider. Relief shall included, but not be limited to:

17 (i) Preliminary and other equitable or declaratory
18 relief as may be appropriate.

19 (ii) An order that the consumer is not required to
20 repay or reimburse any money paid to the consumer by the
21 real estate services provider.

22 (iii) Actual damages suffered by the consumer, as
23 follows:

24 (A) Except as provided under clause (B), damages
25 shall equal the amount of damages suffered by the
26 consumer or \$5,000, whichever amount is greater.

27 (B) If the consumer is 60 years of age or older,
28 damages shall equal the amount of damages suffered by
29 the consumer or \$15,000, whichever amount is greater.

30 (iv) Reasonable attorney fees and other litigation

1 costs reasonably incurred.

2 (2) This section shall not replace or supersede any
3 other remedy at law or equity that the consumer may have.

4 (f) Relationship to other laws.--Nothing in this section
5 shall alter or amend any part of the act of February 19, 1980
6 (P.L.15, No.9), known as the Real Estate Licensing and
7 Registration Act.

8 (g) Definitions.--As used in this section, the following
9 words and phrases shall have the meanings given to them in this
10 subsection unless the context clearly indicates otherwise:

11 "Association." As defined under 15 Pa.C.S. § 102 (relating
12 to definitions).

13 "Consumer." A person who is the recipient or anticipated
14 recipient of a real estate service.

15 "Person." A natural person, corporation, corporate
16 fiduciary, partnership, limited partnership, limited liability
17 company, joint venture or association.

18 "Real estate service." As defined under section 201 of the
19 Real Estate Licensing and Registration Act.

20 "Real estate service agreement." A contract under which a
21 real estate service provider agrees to provide a real estate
22 service to a consumer.

23 "Real estate service provider." A person providing or who is
24 anticipated to provide a real estate service to a consumer
25 pursuant to a real estate service agreement.

26 "Recording." Presenting a document to a county recorder of
27 deeds for official placement in the public land records.

28 "Residential real estate." An interest in real property
29 located within this Commonwealth that consists of not less than
30 one and not more than four residential dwelling units.

1 "Unfair real estate service agreement." A real estate
2 service agreement that:

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

5 (2) purports to create or allow a lien, encumbrance or
6 other security interest in the property; or

7 (3) allows for the agreement to be assigned without
8 timely notification to the owner of the property.

9 Section ~~7~~ 3. Penalties. <--

10 (a) Unenforceability and violation of other State law.--If a
11 violation of section ~~3 or 4~~ 2 occurs, the realty agreement shall <--
12 be deemed unenforceable and the violation shall constitute an
13 unfair method of competition and an unfair or deceptive act or
14 practice under the act of December 17, 1968 (P.L.1224, No.387),
15 known as the Unfair Trade Practices and Consumer Protection Law.

16 (b) Damages.--In addition to the penalties specified under
17 the Unfair Trade Practices and Consumer Protection Law, a real
18 estate professional found to be in violation of this act shall
19 be subject to actual damages incurred by any person with an
20 interest in the residential real property that is the subject of
21 the unenforceable realty agreement, including reasonable costs
22 and attorney fees.

23 Section ~~8~~ 4. Effective date. <--

24 This act shall take effect in 60 days.