

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 59th Legislature (2024)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3318

By: Bashore of the House

and

Coleman of the Senate

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10 COMMITTEE SUBSTITUTE

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 301 of Title 16, unless there is
3 created a duplication in numbering, reads as follows:

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

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

9 As used in this act:

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

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

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

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

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

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

1 A. A service agreement is unfair under this act if any part of
2 the service subject to the agreement is not to be performed within
3 one (1) year after the time it is entered into or automatically
4 renews after a one (1) year agreement timeframe and has any of the
5 following characteristics:

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

8 2. Allows for assignment of the right to provide service
9 without notice to and consent of the owner of residential real
10 estate; or

11 3. Purports to create a lien, encumbrance, or other real
12 property security interest.

13 B. This act does not apply to:

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

17 2. An insurance contract;

18 3. An option or right of refusal to purchase the residential
19 real estate;

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

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

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1 6. A mortgage loan or a commitment to make or receive a
2 mortgage loan;

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

5 8. Water, sewer, electrical, telephone, cable, or other
6 regulated utility service providers.

7 C. This act does not impair any lien right granted pursuant to
8 Oklahoma law.

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

12 If a service agreement is deemed unfair under this act it is
13 unenforceable.

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

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

19 2. A county clerk's office shall refuse to accept for
20 recordation an unfair service agreement;

21 3. In the event that a county clerk does accidentally record an
22 unfair service agreement, the county clerk shall incur no liability
23 for doing so; and

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1 4. If an unfair service agreement is recorded in this state, it
2 shall not provide actual or constructive notice against an otherwise
3 bona fide purchaser or creditor.

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

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

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

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

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

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22 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CIVIL, dated
23 02/22/2024 - DO PASS, As Amended and Coauthored.

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