

AMENDMENTS TO HOUSE BILL NO. 657

Sponsor: REPRESENTATIVE STURLA

Printer's No. 596

1 Amend Bill, page 1, line 2, by inserting after "agreements;"
2 prohibiting unfair real estate service agreements;

3 Amend Bill, page 3, by inserting between lines 11 and 12

4 Section 6. Unfair real estate service agreements.

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

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

11 (c) Recording prohibited.--

12 (1) A person may not record or cause to be recorded an
13 unfair real estate service agreement or notice or memorandum
14 of an unfair real estate service agreement in this
15 Commonwealth.

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

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

20 (4) If an unfair real estate service agreement is
21 recorded in this Commonwealth, it shall not provide actual or
22 constructive notice against an otherwise bona fide purchaser
23 or creditor.

24 (d) Recording of court order.--If an unfair real estate
25 service agreement or a notice or memorandum of an unfair real
26 estate service agreement is recorded in this Commonwealth, a
27 party with an interest in the real property that is the subject
28 of the agreement may apply to the court of jurisdiction in the
29 county where the recording exists to record a court order
30 declaring the agreement unenforceable.

31 (e) Right of recovery.--

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

1 (i) Preliminary and other equitable or declaratory
2 relief as may be appropriate.

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

6 (iii) Actual damages suffered by the consumer, as
7 follows:

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

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

14 (iv) Reasonable attorney fees and other litigation
15 costs reasonably incurred.

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

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

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

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

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

29 "Person." A natural person, corporation, corporate
30 fiduciary, partnership, limited partnership, limited liability
31 company, joint venture or association.

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

34 "Real estate service agreement." A contract under which a
35 real estate service provider agrees to provide a real estate
36 service to a consumer.

37 "Real estate service provider." A person providing or who is
38 anticipated to provide a real estate service to a consumer
39 pursuant to a real estate service agreement.

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

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

45 "Unfair real estate service agreement." A real estate
46 service agreement that:

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

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

51 (3) allows for the agreement to be assigned without

1 timely notification to the owner of the property.

2 Amend Bill, page 3, line 12, by striking out "6" and

3 inserting

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5 Amend Bill, page 3, line 26, by striking out "7" and

6 inserting

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