

2024 Regular Session

SENATE BILL NO. 322

BY SENATOR EDMONDS

REAL ESTATE. Provides for agreements to provide real estate services. (gov sig)

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AN ACT

To enact R.S. 37:1455(A)(37) and R.S. 51:1429, relative to unfair and deceptive trade practices; to provide relative to real estate services and service agreements; 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. 37:1455(A)(37) is hereby enacted to read as follows:

§1455. Causes for censure, suspension, or revocation of license, registration, or certification

A. The commission may censure a licensee, registrant, or certificate holder or conditionally or unconditionally suspend or revoke any license, registration, or certificate issued under this Chapter, levy fines or impose civil penalties not to exceed five thousand dollars, or impose continuing education requirements on licensees, registrants, or certificate holders if, in the opinion of the commission, a licensee, registrant, or certificate holder is performing or attempting to perform or has performed or has attempted to perform any of the following acts:

\* \* \*

(37) Offering to or entering into a real estate service agreement with the owner of a residential real estate. For the purposes of this Paragraph, "real estate service agreement" and "residential real estate" shall have the same meaning as the terms defined in R.S. 51:1429.

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Section 2. 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) "Person" means a natural person as defined by Civil Code Article 24.

(2) "Real estate service agreement" means a contract, agreement, or memorandum of understanding between a service provider and an owner of residential real estate to provide current or future services in connection with the maintenance, purchase, or sale of residential real estate if the agreement either expressly or implicitly does or aims to do either of the following:

(a) Run with the land or otherwise purport to bind future heirs, owners, or assigns of the residential real estate identified in the real estate service agreement.

(b) Authorize or purports to authorize the filing of a lien, encumbrance, multiple indebtedness mortgage, or other security interest in the residential real estate that is the subject of the agreement.

(3) "Residential real estate" means immovable property consisting of one or 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.

(4) "Service provider" means a person or legal entity who provides a

1 service related to residential real estate, including but not limited to an agent as  
2 defined in R.S. 37:1431.

3 B.(1) It shall be a deceptive or unfair trade practice in violation of this  
4 Chapter to offer or enter into a real estate service agreement with an owner of  
5 residential real estate and shall subject the violator to any action and penalty  
6 provided for in this Chapter.

7 (2) For the purpose of this Section, a violation shall occur each time a  
8 real estate service agreement is offered to or executed by an owner of residential  
9 real estate.

10 C.(1) A service provider has no right to a refund of consideration paid  
11 to an owner in connection with a real estate service agreement.

12 (2) Any actual costs, damages, or attorney fees that are proved against  
13 the service provider shall not be offset by the consideration paid by the service  
14 provider to the owner of the residential real estate.

15 D. No owner, buyer, heir, or assignee shall be required to record any  
16 document voiding the recording of the real estate service agreement or take  
17 action to void the recording.

18 E.(1) A recording of a real estate service agreement shall not operate as  
19 a lien, encumbrance, multiple indebtedness mortgage, or security interest if  
20 recorded on or after March 1, 2024, or if recorded, at any time if the recording  
21 is adjudged by a court of competent jurisdiction as null, void, or unenforceable.

22 (2) No owner, buyer, heir, or assignee shall be required to record any  
23 document voiding the recording.

24 (3) The recording shall not provide actual or constructive notice to any  
25 person or legal entity identified by name or by reference in the real estate  
26 service agreement.

27 F. This Section shall not apply to the following:

28 (1) A lien for a real estate broker commission on commercial real estate  
29 pursuant to R.S. 9: 2781.1.

1           **(2) A home warranty or other similar product that covers the cost of**  
2           **maintenance of a major housing system, such as plumbing or electrical wiring,**  
3           **for a set period of time from the date a house is sold.**

4           **(3) An insurance contract or policy.**

5           **(4) An option to purchase or right of refusal to purchase real estate.**

6           **(5) A maintenance or repair agreement is entered into by an entity**  
7           **created pursuant to the Louisiana Condominium Act, R.S. 9:1121.101 et seq.,**  
8           **or the Louisiana Homeowners Association Act, R.S. 9:1141.1 et seq.**

9           **(6) An agreement to manage residential real estate.**

10           **(7) A declaration of any covenants, conditions, or restrictions created in**  
11           **accordance with the Louisiana Condominium Act, R.S. 9:1121.101 et seq., or the**  
12           **Louisiana Homeowners Association Act, R.S. 9:1141.1 et seq.**

13           **(8) A privilege established pursuant to R.S. 9:1145 et seq.**

14           **(9) A mortgage loan or commitment to make or receive a mortgage loan.**

15           **(10) A security agreement established Title 10 of the Louisiana Revised**  
16           **Statutes of 1950 relating to the sale or rental of moveable property or**  
17           **component parts.**

18           **(11) Water, sewer, electrical, telephone, cable, or other regulated utility**  
19           **service providers.**

20           Section 2. This Act shall become effective upon signature by the governor or, if not  
21           signed by the governor, upon expiration of the time for bills to become law without signature  
22           by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
23           vetoed by the governor and subsequently approved by the legislature, this Act shall become  
24           effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Michelle Ridge.

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SB 322 Original	DIGEST 2024 Regular Session	Edmonds
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Present law provides relative to the Louisiana Real Estate License Law and provides for the powers and duties of the Louisiana Real Estate Commission (commission), including the duty to discipline a licensee, registrant, or certificate holder or suspend or revoke any license, registration, or certificate issued by the commission for engaging in certain acts.

Proposed law retains present law and adds to the list of acts for which the commission can take disciplinary action, the offering to or entering into a real estate service agreement with the owner of residential real estate.

Proposed law defines certain terms, including "real estate service agreement" and "residential real estate".

Proposed law provides for the deceptive or unfair trade practice of entering into a real estate service agreement with an owner of residential real estate and provides that a violation of proposed law will subject the violator to penalties in accordance with the Unfair Trade Practices and Consumer Protection Law.

Proposed law provides that a service provider has no right to a refund of consideration paid to an owner in connection with a real estate service agreement and provides that any actual costs, damages, or attorney fees that are proved against the service provider will not be offset by the consideration paid by the service provider to the owner of the residential real estate.

Proposed law provides that no owner, buyer, heir, or assignee shall be required to record any document voiding the recording of the real estate service agreement or take action to void the recording.

Proposed law provides that a real estate service agreement does not operate as a lien, encumbrance, multiple indebtedness mortgage, or security interest if recorded on or after March 1, 2024, or if recorded, at any time if the recording is adjudged by a court of competent jurisdiction as null, void, or unenforceable.

Proposed law provides for applicability.

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

(Adds R.S. 37:1455(A)(37) and R.S. 51:1429)