

2024 Regular Session

SENATE BILL NO. 506 (Substitute of Senate Bill No. 322 by Senator Edmonds)

BY SENATOR EDMONDS

REAL ESTATE. Provides for real estate service agreements. (gov sig)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

AN ACT

To enact R.S. 51:1429, relative to unfair and deceptive trade practices; to provide relative to real estate services and service agreement; 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. 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) "Real estate service agreement" means an agreement that does all of the following:

(a) Grants a right to a person or their designee to act as a real estate broker or real estate salesperson for the sale of the residential immovable property identified in the real estate service agreement.

1 **(b) Provides for compensation to one or more owners of the residential**
2 **immovable property identified in the real estate service agreement.**

3 **(2) "Residential immovable property" means immovable property**
4 **consisting of one but not more than four residential dwelling units, which are**
5 **buildings or structures, each of which are occupied or intended for occupancy**
6 **as single-family residences.**

7 **B. No person shall do any of the following:**

8 **(1) Secure any obligation in a real estate service agreement by obtaining**
9 **a security interest, lien, or mortgage, against residential immovable property.**

10 **(2) Record a real estate service agreement, or a notice, extract, or**
11 **memorandum thereof, in the mortgage or conveyance records.**

12 **C. Any violation of the provisions of Subsection B of this Section shall be**
13 **a deceptive and unfair trade practice and shall subject the violator to any action**
14 **and penalty provided for in this Chapter, excluding private rights of action as**
15 **provided in R.S. 51:1409 and 1409.1.**

16 **D. Any obligation arising out of a real estate service agreement shall not**
17 **constitute a real right and is not effective or enforceable against a third person,**
18 **whether or not the agreement under which it arises is recorded.**

19 **E. Any mortgage purporting to secure or purporting to create an**
20 **encumbrance of any nature upon immovable property as security for**
21 **obligations arising from a real estate service agreement is absolutely null.**

22 **F. If a real estate service agreement, or a notice, extract, or**
23 **memorandum thereof, in the mortgage or conveyance records, is recorded, it**
24 **shall not provide actual or constructive notice against an otherwise bona fide**
25 **purchaser or creditor.**

26 **G. Notwithstanding any provision of law to the contrary, an interested**
27 **person may petition the court for a writ of mandamus ordering the clerk of**
28 **court to cancel a security interest, lien, mortgage, or to remove a real estate**
29 **service agreement, or a notice, extract, or memorandum thereof, from any**

Proposed law provides that any mortgage purporting to secure or create an encumbrance upon immovable property as security for an obligation arising from a real estate service agreement is absolutely null.

Proposed law provides that the recording of a real estate service agreement, or a notice, extract, or memorandum thereof, in the mortgage or conveyance records shall not provide actual or constructive notice against a bona fide purchaser or creditor.

Proposed law allows an interested person to petition the court for a writ of mandamus ordering the clerk of court to cancel a security interest, lien, mortgage, or to remove a real estate service agreement, or a notice, extract, or memorandum thereof, from any public record, without notice to any party to the real estate service agreement or any of their successors or assigns.

Proposed law shall not authorize a real estate salesperson or real estate broker to record a lien or privilege against an owner's residential immovable property to secure payment of a commission or other compensation.

Proposed law provides for applicability.

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

(Adds R.S. 51:1429)