

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

BY SENATOR EDMONDS

1 AN ACT

2 To enact R.S. 51:1429, relative to unfair and deceptive trade practices; to provide relative
3 to real estate services and service agreements; to provide for the recording of real
4 estate service agreements; to provide for penalties; to provide relative to terms,
5 conditions, and procedures; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 51:1429 is hereby enacted to read as follows:

8 **§1429. Unfair or deceptive trade practice or act; real estate service agreements**
9 **for residential property; recordation on immovable title**
10 **prohibited**

11 **A. For the purposes of this Section, the following terms have the**
12 **following meanings:**

13 **(1) "Real estate broker" or "real estate salesperson" has the meanings**
14 **ascribed to them in R.S. 37:1431.**

15 **(2) "Real estate service agreement" means an agreement that does all of**
16 **the following:**

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

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

22 **(3) "Residential immovable property" means immovable property**
23 **consisting of at least one but not more than four residential dwelling units,**
24 **which are buildings or structures, each of which are occupied or intended for**
25 **occupancy as single-family residences.**

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

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

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

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

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

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

15 F. If a real estate service agreement, or a notice, extract, or
16 memorandum thereof, in the mortgage or conveyance records, is recorded, it
17 shall not provide actual or constructive notice against an otherwise bona fide
18 purchaser or creditor.

19 G. Notwithstanding any provision of law to the contrary, an interested
20 person may petition the court for a writ of mandamus ordering the clerk of
21 court to cancel a security interest, lien, mortgage, or to remove a real estate
22 service agreement, or a notice, extract, or memorandum thereof, from any
23 public record.

24 H. The remedies and rights provided pursuant to this Section shall not
25 preclude any right or remedy otherwise authorized by law.

26 I. Nothing in this Section authorizes or shall be construed to authorize
27 a real estate salesperson or real estate broker to record a lien or privilege
28 against an owner's residential immovable property to secure payment of a
29 commission or other compensation.

30 J. This Section shall not apply to any of the following:

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

3 **(2) An option to purchase or right of refusal to purchase real estate.**

4 **(3) An agreement to manage residential real estate.**

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

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____