

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.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_