

Regular Session, 2014

SENATE BILL NO. 426

BY SENATOR LAFLEUR

COMMERCIAL REGULATIONS. Prohibits required use of settlement service providers in residential real estate transactions. (8/1/14)

1 AN ACT

2 To enact R.S. 51:1428, relative to unfair trade practices and consumer protection; to prohibit
3 the required use of settlement service providers in residential real estate transactions;
4 to provide for definitions; to provide for certain terms, conditions, and procedures;
5 and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 51:1428 is hereby enacted to read as follows:

8 **§1428. Unfair or deceptive acts or practices; prohibition against required use**
9 **of settlement service providers in residential real estate**
10 **transactions**

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

13 **(1) "Purchaser" means any person who, using the proceeds of a**
14 **federally related mortgage loan, contracts to acquire residential real estate in**
15 **this state.**

16 **(2) "Residential real estate" means any immovable property in this state**
17 **upon which at least one, but not more than four, buildings or structures are**

1 situated, each of which are occupied or intended for occupancy as single family
2 residences.

3 (3) "Federally related mortgage loan" means any loan defined as a
4 "federally related mortgage loan" under the provisions of 12 U.S.C. 2602(1) of
5 the Real Estate Settlement Procedure Act of 1974.

6 (4) "Settlement services" means any service defined as a "settlement
7 service" under the provisions of 12 U.S.C. 2602(3) of the Real Estate Settlement
8 Procedure Act of 1974, except flood certificates, tax services, appraisals, home
9 inspections and related testing services, and credit reports.

10 (5) "Seller" means any natural or juridical person who contracts to sell
11 residential real estate in this state.

12 B. No contract to sell or purchase residential real estate executed in this
13 state shall contain any provision requiring the purchaser of such residential
14 property, as a condition of such sale, to use a specific provider of settlement
15 services.

16 C. No seller shall deprive, impair, diminish, or otherwise limit the access
17 of a purchaser of residential real estate to any service, discount, rebate, or other
18 economic incentive by making such access contingent on that purchaser's use
19 of a specific provider of settlement services.

20 D. No seller shall impose upon a purchaser of residential real estate an
21 economic disincentive or penalty based on the failure or refusal of such
22 purchaser to use a specific provider of settlement services.

23 E. Any violation of this Section shall be a deceptive and unfair trade
24 practice and shall subject the violator to any and all penalties provided for in
25 this Chapter.

26 F. The provisions of this Section shall not apply to lenders.

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

DIGEST

LaFleur (SB 426)

Proposed law defines "purchaser", "residential real estate", "federally related mortgage loan", "seller", and "settlement services".

Proposed law provides that no contract to sell or purchase residential real estate executed in this state shall contain any provision requiring the purchaser of such residential property, as a condition of such sale, to use a specific provider of settlement services.

Proposed law provides that no seller shall deprive, impair, diminish, or otherwise limit the access of a purchaser of residential real estate to any service, discount, rebate, or other economic incentive by making such access contingent on that purchaser's use of a specific provider of settlement services.

Proposed law provides that no seller shall impose upon a purchaser of residential real estate an economic disincentive or penalty based on the failure or refusal of such purchaser to use a specific provider of settlement services.

Proposed law provides that any violation of proposed law shall be a deceptive and unfair trade practice and shall subject the violator to any and all penalties provided for in law.

Proposed law exempts lenders from provisions of proposed law.

Effective August 1, 2014.

(Adds R.S. 51:1428)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Exempts certain services from the definition of "settlement services".
2. Defines "seller" as any natural or juridical person who contracts to sell residential real estate in this state.
3. Exempts lenders from the provisions of proposed law.