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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Synopsis of House Committee Amendments

(This synopsis does not address amendments that may have been adopted on the House Floor.)

S.B. 101 of the 136th General Assembly

House Judiciary

Reid J. Fleeson, Attorney

Unfair service agreements

Classifies a service agreement concerning residential real estate that meets both of the following as an “unfair service agreement”:

- The service subject to the agreement is not to be performed within one year after the date the parties enter into the agreement; and
- The agreement has any of the following characteristics: (1) purports to run with the land or to be binding on future owners of interest in the residential real estate; (2) allows for the assignment of the right to provide service subject to the agreement without notice to and consent of the owner of the residential real estate; (3) purports to create a lien, encumbrance, or other security interest in the residential real estate.

Prohibits a service provider from entering into, amending, or renewing an unfair service agreements on and after the bill’s effective date.

Declares an unfair service agreement that is entered into, amended, or renewed after the bill’s effective date void and unenforceable.

Provides that a service provider that enters into an unfair service agreement in violation of the bill commits an unfair or deceptive act or practice under the Consumer Sales Practices Act.

Specifies that certain provisions of the bill concerning unfair service agreements are not to be construed to interfere with any provision of the Lien law concerning mechanics’ liens.

Prohibits a person from recording or causing to be recorded, or a county recorder from accepting for recording, an unfair service agreement or a notice or memorandum of an unfair service agreement.

Provides that an unfair service agreement or a notice or memorandum of an unfair service agreement in violation of the bill does not provide actual or constructive notice against an otherwise bonafide purchaser of residential real estate or any other individual or entity that might obtain an interest in the real estate.

Imposes a second-degree misdemeanor on a person who violates the prohibition against recording or causing to be recorded an unfair service agreement or a notice or memorandum of an unfair service agreement.

Permits any party with an interest in residential real estate that is the subject of an unfair service agreement or notice or memorandum of an unfair service agreement that is recorded in violation of the bill to commence a civil action in a court of competent jurisdiction in the county in which the agreement, notice, or memorandum is recorded.

Requires a court that determines that the recorded instrument is an unfair service agreement or a notice or memorandum of an unfair service agreement to issue an order declaring the instrument to be unenforceable and award actual economic damages, court costs, and reasonable attorney's fees to any party with an interest in the real estate.

Allows any party with an interest in residential real estate in an unfair service agreement or notice or memorandum is declared unenforceable to obtain a certified copy of the judgement declaring the agreement, notice, or memorandum to be unenforceable and present it to the county recorder's office for recording within the chain of title.

Exempts certain contracts, agreements, and services, such as, for example, insurance contracts and an option to purchase or right of refusal, from the bill's unfair service agreement provisions.

Recording memorandum of trust or other instrument

Removes the requirement that a memorandum of trust or other instrument be recorded when any interest in real property is conveyed to the trustee of a disclosed trust.