STATE OF NEW YORK

5886--B

2025-2026 Regular Sessions

IN ASSEMBLY

February 24, 2025

Introduced by M. of A. CRUZ -- read once and referred to the Committee on Consumer Affairs and Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to prohibiting unfair residential real estate service agreements

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as the "prohibition of unfair real estate service agreements act".

§ 2. Legislative intent. In an effort to protect consumers from fraud and abuse by unscrupulous actors, this act prohibits the use of real estate service agreements that are unfair to an owner of residential real estate or to other persons who may become owners of that real estate in the future, and further prohibits the recording of such residential real estate service agreements so that the public records will not be clouded by them and provides remedies for owners who are inconvenienced or damaged by the recording of such agreements.

§ 3. The general business law is amended by adding a new article 36-E to read as follows:

ARTICLE 36-E

PROHIBITION OF UNFAIR REAL ESTATE SERVICE AGREEMENTS

Section 778-aaa. Definitions.
778-bbb. Prohibition against unfair service agreements; recording thereof.
778-ccc. Deceptive acts and practices.
778-ddd. Enforcement; action by the attorney general.
778-eee. Severability.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD05484-04-5

§ 778-aaa. Definitions. As used in this article, the following terms, unless the context requires otherwise, shall have the following meanings:

1. "Person" means a natural person, partnership, association, cooperative, corporation, trust, or other legal entity.

2. "Real estate service agreement" means a written contract under which a person agrees to provide services in connection with the maintenance of or purchase or sale of residential real estate.

3. "Recording" means presenting a document to a recording officer, whether the county clerk of the county or the register of the county, consistent with the real property law.

4. "Residential real estate" means real property located in this state which is used primarily for personal, family, or household purposes and is improved by one to four dwelling units, including condominium units.

5. "Service provider" means an individual or entity that provides services to a person.

6. (a) "Unfair real estate service agreement" means any real estate service agreement that is not to be performed within two years after the time it is entered into and either:

(i) purports to run with the land or to be binding on future owners of interests in the real property; or

(ii) allows for assignment of the right to provide service without notice to and consent of the owner of residential real estate; or

(iii) purports to create a lien, encumbrance, or other real property security interest, other than a mechanics lien properly issued pursuant to the provisions of the lien law.

(b) Notwithstanding the foregoing, an agreement shall not be considered an unfair real estate service agreement if it is a valid:

(i) home warranty or similar product that covers the cost of maintenance of a major home system for a fixed period;

(ii) insurance contract;

(iii) option or right of refusal to purchase the residential real estate;

(iv) declaration created in the formation of a common interest community or an amendment thereto;

(v) maintenance or repair agreement entered by a homeowners' association in a common interest community;

(vi) mortgage loan or a commitment to make or receive a mortgage loan;

(vii) security agreement under the uniform commercial code relating to the sale or rental of personal property or fixtures; or

(viii) contract with a water, sewer, electrical, telephone, cable, or other regulated utility service provider.

§ 778-bbb. Prohibition against unfair service agreements; recording thereof. 1. No unfair real estate service agreement shall be enforceable in the state.

2.(a) No person shall record or cause to be recorded an unfair real estate service agreement or notice or memorandum thereof.

(b) If an unfair real estate service agreement is recorded in this state, it shall not provide actual or constructive notice against an otherwise bona fide purchaser or creditor.

(c) If an unfair service agreement or a notice or memorandum thereof is recorded, any person with an interest in the real property that is the subject of that agreement may apply to a court in the county where the recording exists to record a court order declaring the agreement unenforceable.

§ 778-ccc. Deceptive acts and practices. Any person in this state who enters into or causes a consumer to enter into an unfair real estate service agreement shall be considered to have violated section three hundred forty-nine of this chapter.

§ 778-ddd. Enforcement; action by the attorney general. Where the attorney general shall have reason to believe that there is an alleged violation of this article based upon, among other things, a consumer report of an alleged violation, the attorney general, in the name of the people of the state of New York, shall dispatch a cease and desist letter to the entity at issue, specifying the alleged violation or violations and the remedies to cure such violation or violations within a designated timeline. Where, after receipt of the cease and desist letter and the expiration of such designated timeline, the entity continues to violate the provisions of this article, an application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction by a special proceeding to issue an injunction, and upon notice to the respondent of not less than five days, to enjoin and restrain the continuance of such violation or violations; and if it shall appear to the satisfaction of the court or justice that the respondent has, in fact, violated this article, an injunction may be issued by such court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. Whenever the court shall determine that a violation of this article has occurred, the court may impose a civil penalty of not more than one thousand dollars for each violation. This section shall not be construed to limit any other criminal or civil liability such entity may be subject to under law.

§ 778-eee. Severability. If any provision of this article is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this article, which remaining portions shall continue in full force and effect.

§ 4. This act shall take effect on the ninetieth day after it shall have become a law.