

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 657 Session of 2023

INTRODUCED BY BULLOCK, CEPHAS, MADDEN, HILL-EVANS, DELLOSO, SMITH-WADE-EL, SANCHEZ, ISAACSON, KENYATTA, KINSEY, KHAN, SCHLOSSBERG, PARKER, D. WILLIAMS, CERRATO, KRAJEWSKI, GREEN AND MULLINS, MARCH 21, 2023

AS REPORTED FROM COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 18, 2024

AN ACT

1 Providing for transparency in realty agreements; requiring and
2 prohibiting certain provisions in realty agreements;
3 PROHIBITING UNFAIR REAL ESTATE SERVICE AGREEMENTS; and <--
4 imposing penalties.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Transparency
9 in Realty Agreements Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Real estate professional." A real estate broker,
15 salesperson, company or other person regularly engaged in the
16 trade or business of buying and selling real property.

17 "Realty agreement." A contract under which a real estate

1 professional agrees to provide realty services connected to the  
2 purchase or sale of residential real property by a homeowner.

3 "Security interest." A mortgage, lien or other encumbrance  
4 on residential real property.

5 Section 3. Realty agreements.

6 (a) Requirements.--A realty agreement between a real estate  
7 professional and a homeowner shall:

8 (1) Include a detailed list of the transactions covered  
9 under the realty agreement.

10 (2) Identify the capacity in which the real estate  
11 professional is involved in the transactions covered under  
12 the realty agreement.

13 (3) Include a statement to be signed by the homeowner  
14 acknowledging that the homeowner understands the nature and  
15 extent of the transactions covered under the realty  
16 agreement.

17 (b) Prohibitions.--A realty agreement between a real estate  
18 professional and a homeowner may not:

19 (1) Provide for a service that will not be performed  
20 within one year of the execution of the realty agreement,  
21 including a one-time payment to the homeowner in exchange for  
22 the exclusive opportunity to list the residential real  
23 property on the realty market for a period in excess of one  
24 year.

25 (2) Provide a service without the notice or consent of  
26 the homeowner.

27 (3) Purport to create a security interest in the  
28 residential real property that is the subject of the realty  
29 agreement.

30 Section 4. Prohibited action.

1 A real estate professional may not record, or cause to be  
2 recorded, a security interest on real property covered under a  
3 realty agreement prior to notifying the homeowner with the  
4 details of the security interest and without the express written  
5 consent of the homeowner or the assignee of the homeowner.

6 Section 5. Cancellation.

7 (a) Authorization.--A homeowner may cancel a realty  
8 agreement at any time.

9 (b) Fees.--Cancellation fees specified in a realty agreement  
10 shall be limited to not more than \$500.

11 (c) Notice.--Notice of cancellation of a realty agreement  
12 must be given in writing.

13 SECTION 6. UNFAIR REAL ESTATE SERVICE AGREEMENTS. <--

14 (A) ENFORCEABILITY.--AN UNFAIR REAL ESTATE SERVICE AGREEMENT  
15 IS VOID AND UNENFORCEABLE AS A MATTER OF LAW.

16 (B) DECEPTIVE ACT.--AN UNFAIR REAL ESTATE SERVICE AGREEMENT  
17 ENTERED INTO WITH A CONSUMER SHALL BE DEEMED A DECEPTIVE ACT  
18 UNDER THE ACT OF DECEMBER 17, 1968 (P.L.1224, NO.387), KNOWN AS  
19 THE UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW.

20 (C) RECORDING PROHIBITED.--

21 (1) A PERSON MAY NOT RECORD OR CAUSE TO BE RECORDED AN  
22 UNFAIR REAL ESTATE SERVICE AGREEMENT OR NOTICE OR MEMORANDUM  
23 OF AN UNFAIR REAL ESTATE SERVICE AGREEMENT IN THIS  
24 COMMONWEALTH.

25 (2) A PERSON WHO VIOLATES PARAGRAPH (1) SHALL BE GUILTY  
26 OF A MISDEMEANOR OF THE THIRD DEGREE.

27 (3) A COUNTY RECORDER OF DEEDS MAY REFUSE TO ACCEPT FOR  
28 RECORDATION AN UNFAIR REAL ESTATE SERVICE AGREEMENT.

29 (4) IF AN UNFAIR REAL ESTATE SERVICE AGREEMENT IS  
30 RECORDED IN THIS COMMONWEALTH, IT SHALL NOT PROVIDE ACTUAL OR

1 CONSTRUCTIVE NOTICE AGAINST AN OTHERWISE BONA FIDE PURCHASER  
2 OR CREDITOR.

3 (D) RECORDING OF COURT ORDER.--IF AN UNFAIR REAL ESTATE  
4 SERVICE AGREEMENT OR A NOTICE OR MEMORANDUM OF AN UNFAIR REAL  
5 ESTATE SERVICE AGREEMENT IS RECORDED IN THIS COMMONWEALTH, A  
6 PARTY WITH AN INTEREST IN THE REAL PROPERTY THAT IS THE SUBJECT  
7 OF THE AGREEMENT MAY APPLY TO THE COURT OF JURISDICTION IN THE  
8 COUNTY WHERE THE RECORDING EXISTS TO RECORD A COURT ORDER  
9 DECLARING THE AGREEMENT UNENFORCEABLE.

10 (E) RIGHT OF RECOVERY.--

11 (1) A CONSUMER WITH AN INTEREST IN REAL PROPERTY THAT IS  
12 THE SUBJECT OF AN UNFAIR REAL ESTATE SERVICE AGREEMENT,  
13 WHETHER OR NOT ANY LIEN OR OTHER NOTICE IS FILED AGAINST THE  
14 PROPERTY IN THE OFFICE OF THE COUNTY RECORDER OF DEEDS, MAY  
15 BRING A CIVIL ACTION AGAINST THE REAL ESTATE SERVICE  
16 PROVIDER. RELIEF SHALL INCLUDED, BUT NOT BE LIMITED TO:

17 (I) PRELIMINARY AND OTHER EQUITABLE OR DECLARATORY  
18 RELIEF AS MAY BE APPROPRIATE.

19 (II) AN ORDER THAT THE CONSUMER IS NOT REQUIRED TO  
20 REPAY OR REIMBURSE ANY MONEY PAID TO THE CONSUMER BY THE  
21 REAL ESTATE SERVICES PROVIDER.

22 (III) ACTUAL DAMAGES SUFFERED BY THE CONSUMER, AS  
23 FOLLOWS:

24 (A) EXCEPT AS PROVIDED UNDER CLAUSE (B), DAMAGES  
25 SHALL EQUAL THE AMOUNT OF DAMAGES SUFFERED BY THE  
26 CONSUMER OR \$5,000, WHICHEVER AMOUNT IS GREATER.

27 (B) IF THE CONSUMER IS 60 YEARS OF AGE OR OLDER,  
28 DAMAGES SHALL EQUAL THE AMOUNT OF DAMAGES SUFFERED BY  
29 THE CONSUMER OR \$15,000, WHICHEVER AMOUNT IS GREATER.

30 (IV) REASONABLE ATTORNEY FEES AND OTHER LITIGATION

1 COSTS REASONABLY INCURRED.

2 (2) THIS SECTION SHALL NOT REPLACE OR SUPERSEDE ANY  
3 OTHER REMEDY AT LAW OR EQUITY THAT THE CONSUMER MAY HAVE.

4 (F) RELATIONSHIP TO OTHER LAWS.--NOTHING IN THIS SECTION  
5 SHALL ALTER OR AMEND ANY PART OF THE ACT OF FEBRUARY 19, 1980  
6 (P.L.15, NO.9), KNOWN AS THE REAL ESTATE LICENSING AND  
7 REGISTRATION ACT.

8 (G) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
9 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
10 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

11 "ASSOCIATION." AS DEFINED UNDER 15 PA.C.S. § 102 (RELATING  
12 TO DEFINITIONS).

13 "CONSUMER." A PERSON WHO IS THE RECIPIENT OR ANTICIPATED  
14 RECIPIENT OF A REAL ESTATE SERVICE.

15 "PERSON." A NATURAL PERSON, CORPORATION, CORPORATE  
16 FIDUCIARY, PARTNERSHIP, LIMITED PARTNERSHIP, LIMITED LIABILITY  
17 COMPANY, JOINT VENTURE OR ASSOCIATION.

18 "REAL ESTATE SERVICE." AS DEFINED UNDER SECTION 201 OF THE  
19 REAL ESTATE LICENSING AND REGISTRATION ACT.

20 "REAL ESTATE SERVICE AGREEMENT." A CONTRACT UNDER WHICH A  
21 REAL ESTATE SERVICE PROVIDER AGREES TO PROVIDE A REAL ESTATE  
22 SERVICE TO A CONSUMER.

23 "REAL ESTATE SERVICE PROVIDER." A PERSON PROVIDING OR WHO IS  
24 ANTICIPATED TO PROVIDE A REAL ESTATE SERVICE TO A CONSUMER  
25 PURSUANT TO A REAL ESTATE SERVICE AGREEMENT.

26 "RECORDING." PRESENTING A DOCUMENT TO A COUNTY RECORDER OF  
27 DEEDS FOR OFFICIAL PLACEMENT IN THE PUBLIC LAND RECORDS.

28 "RESIDENTIAL REAL ESTATE." AN INTEREST IN REAL PROPERTY  
29 LOCATED WITHIN THIS COMMONWEALTH THAT CONSISTS OF NOT LESS THAN  
30 ONE AND NOT MORE THAN FOUR RESIDENTIAL DWELLING UNITS.

1 "UNFAIR REAL ESTATE SERVICE AGREEMENT." A REAL ESTATE  
2 SERVICE AGREEMENT THAT:

3 (1) PURPORTS TO RUN WITH THE LAND OR TO BE BINDING ON  
4 FUTURE OWNERS OF INTERESTS IN THE REAL PROPERTY;

5 (2) PURPORTS TO CREATE OR ALLOW A LIEN, ENCUMBRANCE OR  
6 OTHER SECURITY INTEREST IN THE PROPERTY; OR

7 (3) ALLOWS FOR THE AGREEMENT TO BE ASSIGNED WITHOUT  
8 TIMELY NOTIFICATION TO THE OWNER OF THE PROPERTY.

9 Section ~~6~~ 7. Penalties.

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10 (a) Unenforceability and violation of other State law.--If a  
11 violation of section 3 or 4 occurs, the realty agreement shall  
12 be deemed unenforceable and the violation shall constitute an  
13 unfair method of competition and an unfair or deceptive act or  
14 practice under the act of December 17, 1968 (P.L.1224, No.387),  
15 known as the Unfair Trade Practices and Consumer Protection Law.

16 (b) Damages.--In addition to the penalties specified under  
17 the Unfair Trade Practices and Consumer Protection Law, a real  
18 estate professional found to be in violation of this act shall  
19 be subject to actual damages incurred by any person with an  
20 interest in the residential real property that is the subject of  
21 the unenforceable realty agreement, including reasonable costs  
22 and attorney fees.

23 Section 7 8. Effective date.

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24 This act shall take effect in 60 days.