**South Carolina General Assembly**

125th Session, 2023-2024

**H. 4247**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Ligon

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Introduced in the House on April 4, 2023

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Unfair Service Agreements Act

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 4/4/2023 House Introduced and read first time (House Journal‑page 9)

 4/4/2023 House Referred to Committee on **Labor, Commerce and Industry** (House Journal‑page 9)

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**VERSIONS OF THIS BILL**

[04/04/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/4247_20230404.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS by enacting the “unfair service agreements act” BY ADDING ARTICLE 3 TO CHAPTER 1, TITLE 27 SO AS TO DEFINE TERMS, PROVIDE EXCEPTIONS, PROHIBIT THE RECORDING OF UNFAIR SERVICE CONTRACTS, and TO PROVIDE A PENALTY, AMONG OTHER THINGS; and to designate the existing provisions of chapter 1, title 27 as “general Provisions”.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “Unfair Service Agreements Act”.

SECTION 2. Chapter 1, Title 27 of the S.C. Code is amended by adding:

 Article 3

 Unfair Service Agreements

 Section 27‑1‑310. For purposes of this article:

 (1) “Service agreement” means a contract under which a person agrees to provide services in connection with the maintenance of or purchase or sale of residential real estate.

 (2) “Farmland or 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.

 (3) “Recording” means presenting a document to the county register of deeds or clerk of court in those counties in which the office of register of deeds has been abolished for official placement in the public land records.

 (4) “Service provider” means an individual or entity that provides services to another party.

 Section 27‑1‑320. (A) A service agreement is unfair under this article if the service subject to the agreement is not to be performed within one year after the time it is entered into and has any of the following characteristics:

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

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

 (3) the service agreement purports to create a lien, encumbrance, or other real property security interest.

 (B) This article does not apply to:

 (1) a home warranty or other type of similar product that covers the cost of maintenance of a major housing system (for example, plumbing or electrical wiring) for a set period of time from the date a house is sold;

 (2) an insurance contract;

 (3) an option to purchase or right of refusal; or

 (4) a maintenance or repair agreement entered into by a homeowners’ association in a common interest community.

 (C) This article does not apply to mechanics liens under Chapter 5, Title 29.

 Section 27‑1‑330. If a service agreement is unfair pursuant to Section 27‑1‑320, it is unenforceable.

 Section 27‑1‑340. If a person enters into an unfair service agreement with a consumer as defined in Section 27‑1‑320, that agreement is deemed a violation of the South Carolina Unfair Trade Practices Act.

 Section 27‑1‑350. (A) No person may record or cause to be recorded an unfair service agreement or notice or memorandum thereof in this State.

 (B) A person who records or causes to be recorded an unfair service agreement in this State is deemed guilty of a misdemeanor and upon conviction must be fined not more than five thousand dollars or be imprisoned for not more than six months.

 (C) A county register of deeds or clerk of court in those counties in which the office of register of deeds has been abolished is authorized, but is not required, to refuse to accept for recordation an unfair service agreement.

 (D) If an unfair service agreement is recorded in this State, it does not provide actual or constructive notice against an otherwise bona fide purchaser or creditor.

 Section 27‑1‑360. If an unfair service agreement is recorded in this State, any party with an interest in the real property that is the subject of that agreement may apply to a court of competent jurisdiction in the county where the recording exists to record a court order declaring the agreement is null and void and of no effect.

 Section 27‑1‑370. If an unfair service agreement is recorded in this State, any party with an interest in the real property that is the subject of that agreement may recover the actual damages, costs, and attorney’s fees as may be proven against the service provider who recorded the agreement.

SECTION 3. The existing provisions of Chapter 1, Title 27 are designated “General Provisions”.

SECTION 4. This act takes effect upon approval by the Governor.

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