

Effective 5/3/2023

Chapter 30 Residential Property Service Agreements

Part 1 General Provisions

57-30-101 Definitions.

As used in this chapter:

- (1) "Common interest community" means the same as that term is defined in Section 57-25-102.
- (2) "Home warranty service contract" means the same as that term is defined in Section 31A-6a-101.
- (3) "Record" means to submit a document to a county recorder for official placement in a public land record.
- (4)
 - (a) "Residential property service agreement" means, except as provided in Subsection (4)(b), an agreement to provide services in connection with:
 - (i) the purchase or sale of residential real estate; or
 - (ii) the maintenance of residential real estate in preparation for purchase or sale.
 - (b) "Residential property service agreement" does not include:
 - (i) a home warranty service agreement;
 - (ii) an insurance contract;
 - (iii) an agreement for an option to purchase or right of refusal;
 - (iv) a maintenance or repair agreement between an owner of real property within a common interest community and a homeowners' association or other similar organization; or
 - (v) an agreement to provide Internet or utility equipment or services.
- (5) "Residential real estate" means real property located in the state that is:
 - (a) used primarily for a personal, family, or household purpose; and
 - (b) contains fewer than five dwelling units.

Enacted by Chapter 141, 2023 General Session

Part 2 Residential Property Service Agreements

57-30-201 Prohibited residential property service agreements -- Recording -- Damages -- Actual or constructive notice.

- (1)
 - (a) A residential property service agreement entered into after May 3, 2023, may not:
 - (i) allow the services to be provided under the agreement to begin more than one year after the day on which the residential property service agreement is signed by all parties;
 - (ii) indicate that the residential property service agreement:
 - (A) runs with the land;
 - (B) is binding on a future owner of an interest in the residential real estate that is the subject of the residential property service agreement; or
 - (C) creates a lien, encumbrance, or other real property security interest; or

- (iii) allow for the assignment of the right to provide the services without notice to and agreement by the owner of the residential real estate that is the subject of the residential property service agreement.
- (b) A residential property service agreement that violates Subsection (1)(a):
 - (i) is void; and
 - (ii) does not provide actual or constructive notice to a bona fide purchaser or creditor.
- (2)
 - (a) A person may not record or cause to be recorded:
 - (i) a void residential property service agreement; or
 - (ii) a notice or memorandum concerning a void residential property service agreement.
 - (b) If a document is recorded in violation of Subsection (2)(a), a party with an interest in the residential real estate that is the subject of the void residential property service agreement may file a petition with a court of competent jurisdiction to recover actual damages from the person who violated Subsection (2)(a).
 - (c) A document recorded in violation of Subsection (2)(a) may be a violation of Title 38, Chapter 9, Wrongful Lien Act.

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