

## CHAPTER 47

### UNFAIR RESIDENTIAL REAL ESTATE SERVICE AGREEMENTS

H.F. 475

**AN ACT** relating to unfair residential real estate service agreements, providing penalties, and making penalties applicable.

*Be It Enacted by the General Assembly of the State of Iowa:*

#### Section 1. **NEW SECTION. 558B.1 Definitions.**

As used in [this chapter](#), unless the context otherwise requires:

1. *a. "Common interest community"* means real estate described in a declaration with respect to which a person, by virtue of the person's ownership of a unit, is obligated to pay for a share of real estate taxes, insurance premiums, maintenance, or improvement of, or services or other expenses related to, common elements, other units, or other real estate described in the declaration. "*Common interest community*" includes a planned community, a cooperative under [chapter 499A](#), and a horizontal property regime under [chapter 499B](#).

*b. "Common interest community"* does not include any of the following:

(1) A covenant that requires the owners of separate parcels of real estate to share costs or other obligations related to a wall, driveway, well, or other similar structure, unless all such owners consent in writing to the creation of a common interest community.

(2) Real estate described in paragraph "*a*" if all units are owned by a single owner.

2. "*Consumer*" means a natural person being provided a service under a service agreement, or the natural person's legal representative.

3. "*Record*" means presentation of a document to a county recorder in this state for official placement in the public land records.

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.

5. "*Service agreement*" means a contract under which a person agrees to provide a service in connection with the maintenance of, the purchase of, or the sale of, residential real estate.

#### Sec. 2. **NEW SECTION. 558B.2 Unfair service agreements — penalties.**

1. A service agreement shall be considered unfair under [this section](#) if a service that is covered by the service agreement is not required to be completely performed within one year after the date on which the service agreement is executed, and the service agreement has any of the following characteristics:

*a.* The service agreement purports to run with the land or to be binding on future owners of interests in the residential real estate that is the subject of the service agreement.

*b.* The service agreement permits assignment of the right to provide service under the service agreement without requiring notice to, and the consent of, the owner of the residential real estate that is the subject of the service agreement.

*c.* The service agreement purports to create a lien, encumbrance, or other real property security interest on the residential real estate that is the subject of the service agreement.

2. If a service agreement is unfair under [this section](#), the service agreement shall be unenforceable.

3. If a person enters into an unfair service agreement with a consumer, the person commits an unlawful practice under [section 714.16](#).

4. *a.* A person shall not cause an unfair service agreement, or a notice or memorandum of an unfair service agreement, to be recorded.

*b.* A person who causes an unfair service agreement, or a notice or memorandum of an unfair service agreement, to be recorded commits an aggravated misdemeanor.

*c.* A county recorder may refuse to record an unfair service agreement.

*d.* If an unfair service agreement is recorded, the recorded service agreement shall not provide actual or constructive notice against an otherwise bona fide purchaser or creditor, or actual or constructive notice against heirs or other successors-in-interest to the residential real estate that is the subject of the recorded service agreement.

e. If an unfair service agreement or a notice or memorandum of an unfair service agreement is recorded, any person with an interest in the residential real estate that is the subject of the service agreement may apply to a district court in the county in which the service agreement is recorded for a court order declaring the service agreement unenforceable.

f. If an unfair service agreement or a notice or memorandum of an unfair service agreement is recorded, any person with an interest in the residential real estate that is the subject of the recorded service agreement may recover actual damages, costs, and attorney fees as may be proven against the person who caused the unfair service agreement or the notice or memorandum of the unfair service agreement to be recorded.

5. [This section](#) does not apply to any of the following:

a. A home warranty or similar agreement that covers the cost of maintenance for a fixed period of time of a major home system including but not limited to plumbing, electrical, heating, ventilation, or air conditioning.

b. An insurance contract.

c. An option or a right of refusal to purchase residential real estate.

d. A maintenance or repair agreement entered into by the homeowners' association of a common interest community.

e. A mortgage loan, or a commitment to make or to receive a mortgage loan.

f. A security agreement under the uniform commercial code related to the sale or rental of personal property or fixtures.

g. Water, sewer, electrical, telephone, cable, internet, or any other utility service providers.

6. [This section](#) shall not be construed to impair a person's rights established by a mechanics' lien under [chapter 572](#).

Sec. 3. [Section 714.16, subsection 2](#), Code 2023, is amended by adding the following new paragraph:

NEW PARAGRAPH. q. It shall be an unlawful practice for a person to violate [section 558B.2, subsection 3](#).

Approved April 28, 2023