



1 deeds office for official placement in the public land records.

2 (4) "Service provider" means an individual or entity that provides services to a person.

3 (5) "Person" means a natural person, partnership, association, cooperative, corporation,  
4 trust, or other legal entity.

5 **34-50-2. Unfair service agreements.**

6 (a) A service agreement is unfair under this chapter if any part of the service subject to the  
7 agreement is not to be performed within one year after the time it is entered into and has any of the  
8 following characteristics:

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

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

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

15 (b) This chapter does not apply to:

16 (1) A home warranty or similar product that covers the cost of maintenance of a major  
17 home system (for example, plumbing, HVAC or electrical wiring) for a fixed period; or

18 (2) An insurance contract; or

19 (3) An option or right of refusal to purchase the residential real estate; or

20 (4) A declaration created in the formation of a common interest community or an  
21 amendment thereto; or

22 (5) A maintenance or repair agreement entered by a homeowners' association in a common  
23 interest community; or

24 (6) A mortgage loan or a commitment to make or receive a mortgage loan; or

25 (7) A security agreement under the UCC relating to the sale or rental of personal property  
26 or fixtures; or

27 (8) Water, sewer, electrical, telephone, cable, or other regulated utility service providers;

28 or

29 (9) A monitoring services agreement associated with any unit or development qualifying  
30 as low- or moderate-income housing governed by chapter 53 of title 45 ("low and moderate income  
31 housing").

32 (c) This statute does not impair the rights granted by the mechanics lien statute of this state,  
33 chapter 28 of title 34.

34 **34-50-3. Unfair service agreements unenforceable.**

1 If a service agreement is unfair under this chapter it is unenforceable.

2 **34-50-4. Deceptive practices.**

3 If a person enters into an unfair service agreement with a consumer, as defined in this  
4 chapter, that agreement shall per se be deemed a deceptive act under chapter 13.1 of title 6  
5 (“deceptive trade practices”).

6 **34-50-5. Recording prohibited.**

7 (a) No person shall record or cause to be recorded an unfair service agreement or notice or  
8 memorandum thereof in this state.

9 (b) Any person who records or causes to be recorded an unfair service agreement or notice  
10 or memorandum thereof in this state shall be guilty of a misdemeanor.

11 (c) Notwithstanding the recording statute of this state, chapter 13 of title 34, the city or  
12 town clerk in the recorder of deeds office may refuse to accept for recordation an unfair service  
13 agreement as defined herein.

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

16 **34-50-6. Recording of court order.**

17 If an unfair service agreement or a notice or memorandum thereof is recorded in this state,  
18 any person with an interest in the real property that is the subject of that agreement may apply to  
19 the superior court in the county where the recording exists to record a court order declaring the  
20 agreement unenforceable.

21 **34-50-7. Rights of recovery.**

22 If an unfair service agreement or a notice or memorandum thereof is recorded in this state,  
23 any person with an interest in the real property that is the subject of that agreement may recover  
24 such actual damages, costs and attorneys’ fees as may be proven against the service provider who  
25 recorded the agreement.

26 SECTION 3. This act shall take effect upon passage.

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LC000749/SUB A  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO PROPERTY -- PROHIBITION OF UNFAIR SERVICE AGREEMENTS

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1           This act would prohibit the use of service agreements that are unfair to an owner of  
2 residential real estate who enters into such an agreement or to persons who may become owners of  
3 that real estate in the future. The act would also prohibit the recording of such agreements so that  
4 the public records will not be clouded by them, and future owners will not be put to the burden of  
5 bringing suits to remove them from their chains of title and provides remedies for owners who are  
6 inconvenienced or damaged by the recording of such agreements.

7           This act would take effect upon passage.

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LC000749/SUB A  
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