

SB0579/583628/1

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 579
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “**Exclusive Listing Agreements – Limit on Duration**” and substitute “**Service Agreements – Prohibitions**”; strike beginning with “an” in line 3 down through “agreements” in line 6 and substitute “certain service agreements for the maintenance, purchase, or sale of residential property from containing certain provisions; prohibiting the recordation of service agreements prohibited under this Act; and generally relating to residential property and service agreements”; in line 9, strike “10–803” and substitute “14-801 through 14-809 to be under the new subtitle “Subtitle 8. Residential Property Service Agreements””; and strike in their entirety lines 12 through 21, inclusive, and substitute:

“BY repealing and reenacting, with amendments,

Article – Commercial Law

Section 13–301(14)(xxxv)

Annotated Code of Maryland

(2013 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, without amendments,

Article – Commercial Law

Section 13–301(14)(xxxvi)

Annotated Code of Maryland

(2013 Replacement Volume and 2022 Supplement)

BY adding to

Article – Commercial Law

Section 13–301(14)(xxxvii)

Annotated Code of Maryland

(2013 Replacement Volume and 2022 Supplement)”.

AMENDMENT NO. 2

On pages 2 through 4, strike in their entirety the lines beginning with line 1 on page 2 through line 13 on page 4, inclusive, and substitute:

“SUBTITLE 8. RESIDENTIAL PROPERTY SERVICE AGREEMENTS.

14-801.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “RECORD” MEANS THE ACT OF ADDING ANY DOCUMENT OR DATA THAT AFFECTS RESIDENTIAL PROPERTY TO STATE OR LOCAL GOVERNMENT RECORDS.

(C) “RESIDENTIAL PROPERTY” MEANS REAL PROPERTY IMPROVED BY FOUR OR FEWER SINGLE-FAMILY DWELLING UNITS THAT ARE DESIGNED PRINCIPALLY AND ARE INTENDED FOR HUMAN HABITATION.

(D) (1) “SERVICE AGREEMENT” MEANS AN AGREEMENT WHERE A SERVICE PROVIDER AGREES TO PROVIDE AN INDIVIDUAL SERVICES FOR:

(I) THE MAINTENANCE OF RESIDENTIAL PROPERTY THAT THE INDIVIDUAL OWNS; OR

(II) THE PURCHASE OR SALE OF RESIDENTIAL PROPERTY.

(2) “SERVICE AGREEMENT” INCLUDES ANY MEMORANDUM, NOTICE, AGREEMENT, OR SIMILAR DOCUMENT THAT IS USED BY A SERVICE PROVIDER TO CAUSE A SERVICE AGREEMENT TO BE RECORDED.

(E) (1) “SERVICE PROVIDER” MEANS A PERSON THAT PROVIDES SERVICES TO AN INDIVIDUAL THROUGH A SERVICE AGREEMENT FOR:

(I) THE MAINTENANCE OF RESIDENTIAL PROPERTY THAT THE INDIVIDUAL OWNS; OR

(II) THE PURCHASE OR SALE OF RESIDENTIAL PROPERTY.

(2) “SERVICE PROVIDER” INCLUDES ANY PERSON ACTING AS AN AGENT OR DESIGNEE OF A SERVICE PROVIDER.

14-802.

(A) THIS SUBTITLE APPLIES ONLY TO A SERVICE AGREEMENT ENTERED INTO ON OR AFTER JUNE 1, 2023.

(B) THIS SUBTITLE DOES NOT APPLY TO:

(1) A HOME WARRANTY OR SIMILAR PRODUCT THAT COVERS THE COST OF MAINTENANCE OF A MAJOR HOME SYSTEM SUCH AS PLUMBING, ELECTRICAL, OR HEATING, VENTILATING, AND AIR-CONDITIONING;

(2) AN INSURANCE CONTRACT;

(Over)

(3) AN OPTION OR RIGHT OF REFUSAL TO PURCHASE RESIDENTIAL PROPERTY;

(4) A DECLARATION CREATED IN THE FORMATION OF A COMMON INTEREST COMMUNITY, AS DEFINED IN § 1-801 OF THE ENVIRONMENT ARTICLE;

(5) A MAINTENANCE OR REPAIR AGREEMENT ENTERED INTO BY A HOMEOWNERS ASSOCIATION, AS DEFINED IN § 11B-101 OF THIS ARTICLE;

(6) A MORTGAGE LOAN OR A COMMITMENT TO MAKE OR RECEIVE A MORTGAGE LOAN;

(7) AN AGREEMENT RELATING TO THE SALE OR RENTAL OF PERSONAL PROPERTY;

(8) WATER, SEWER, ELECTRICAL, TELEPHONE, CABLE, OR OTHER REGULATED UTILITY PROVIDERS; OR

(9) A MECHANICS LIEN, AS ESTABLISHED UNDER TITLE 9 OF THIS ARTICLE.

14-803.

A SERVICE AGREEMENT, OR ANY PART OF A SERVICE AGREEMENT, MAY NOT:

(1) BE EFFECTIVE FOR MORE THAN 1 YEAR; OR

(2) (I) PURPORT TO RUN WITH THE LAND OR BIND SUBSEQUENT BONA FIDE PURCHASERS;

(II) PURPORT TO CREATE A LIEN, ENCUMBRANCE, OR SECURITY INTEREST ON THE RESIDENTIAL PROPERTY OF A PARTY TO THE SERVICE AGREEMENT; OR

(III) ALLOW THE SERVICE PROVIDER TO ASSIGN OR TRANSFER THE RIGHT TO PROVIDE SERVICES UNDER THE SERVICE AGREEMENT TO ANOTHER PERSON WITHOUT NOTICE OR THE CONSENT OF A PARTY TO THE SERVICE AGREEMENT.

14-804.

A SERVICE AGREEMENT THAT VIOLATES § 14-803 OF THIS SUBTITLE SHALL BE VOID AND UNENFORCEABLE.

14-805.

(A) A VIOLATION OF § 14-803 OF THIS SUBTITLE BY A SERVICE PROVIDER IS:

(1) AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE; AND

(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THE COMMERCIAL LAW ARTICLE.

(Over)

(B) THIS SECTION DOES NOT PREVENT AN INDIVIDUAL FROM PURSUING ANY OTHER REMEDY PROVIDED BY LAW.

14-806.

(A) A SERVICE PROVIDER MAY NOT SUBMIT A SERVICE AGREEMENT THAT IS IN VIOLATION OF § 14-803 OF THIS SUBTITLE TO THE CLERK OF A CIRCUIT COURT OR A STATE OR LOCAL AGENCY FOR RECORDING.

(B) A SERVICE PROVIDER WHO VIOLATES SUBSECTION (A) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

14-807.

THE CLERK OF A CIRCUIT COURT OR A STATE OR LOCAL AGENCY MAY DENY A REQUEST TO RECORD A SERVICE AGREEMENT IF IT IS DETERMINED THAT THE SERVICE AGREEMENT IS IN VIOLATION OF § 14-803 OF THIS SUBTITLE.

14-808.

A RECORDED SERVICE AGREEMENT THAT IS IN VIOLATION OF § 14-803 OF THIS SUBTITLE MAY NOT PROVIDE ACTUAL OR CONSTRUCTIVE NOTICE OF A LIEN ARISING FROM THE SERVICE AGREEMENT TO A SUBSEQUENT BONA FIDE PURCHASER OF THE RESIDENTIAL PROPERTY.

14-809.

(A) IF A SERVICE AGREEMENT THAT IS IN VIOLATION OF § 14-803 OF THIS SUBTITLE IS RECORDED, ANY PERSON WITH AN INTEREST IN THE RESIDENTIAL PROPERTY THAT IS SUBJECT TO A LIEN ARISING FROM THE SERVICE AGREEMENT MAY BRING AN ACTION AGAINST THE SERVICE PROVIDER IN THE CIRCUIT COURT OF THE COUNTY WHERE THE RESIDENTIAL PROPERTY IS LOCATED TO REQUEST A DETERMINATION THAT THE SERVICE AGREEMENT IS VOID AND UNENFORCEABLE UNDER THIS SUBTITLE.

(B) IF A SERVICE AGREEMENT IS DETERMINED TO BE VOID AND UNENFORCEABLE UNDER SUBSECTION (A) OF THIS SECTION, THE PERSON WHO BROUGHT THE ACTION MAY SEEK:

(1) COMPENSATORY DAMAGES; AND

(2) REASONABLE ATTORNEY'S FEES AND COSTS.

Article – Commercial Law

13–301.

Unfair, abusive, or deceptive trade practices include any:

(14) Violation of a provision of:

(xxxv) Section 11–210 of the Education Article; [or]

(xxxvi) Title 14, Subtitle 44 of this article; or

(XXXVII) SECTION 14-805 OF THE REAL PROPERTY ARTICLE; OR”.