

- SUBJECT:** Prohibiting certain unfair real estate service agreements
- COMMITTEE:** Trade, Workforce & Economic Development — favorable, without amendment
- VOTE:** 8 ayes — Button, K. Bell, Bhojani, Harris Davila, Longoria, Lujan, Luther, Richardson
- 0 nays
- 3 absent — Talarico, Meza, Ordaz
- WITNESSES:** For — Kathy Green, AARP Texas; Aaron Day, Texas Land Title Association (*Registered, but did not testify*: Joshua Sanders, City of Houston; Meredyth Fowler, Texas Mortgage Bankers Association; Seth Juergens, Texas REALTORS)
- Against — (*Registered, but did not testify*: Steven Deline)
- On — Regina Watson, Texas Community Association Advocates (TCAA)
- BACKGROUND:** Concerns have been raised about certain real estate service agreements that offer small cash payments in exchange for long-term, exclusive listing rights and are recorded in property records, thereby limiting a homeowner’s ability to sell, refinance, or access their home equity.
- DIGEST:** HB 4204 would establish that a service agreement was considered unfair if the service it provided was not scheduled to be performed within one year of the contract date, and the agreement:
- purported to run with the land or bind current or future owners of the property;
 - allowed the service provider to assign the agreement without notice to and consent of the property owner; or
 - created or claimed to create a lien, encumbrance, or other real property security interest.

The bill would define “service agreement” as a contract under which a person agreed to provide services in connection with the maintenance, purchase, or sale of residential real estate.

HB 4204 would establish that unfair service agreements would be void and unenforceable and that entering into one with a consumer would constitute a deceptive act actionable under the Deceptive Trade Practices-Consumer Protection Act.

The bill would prohibit the recording of unfair service agreements or any related notices in county property records and authorize county clerks to refuse to record such documents. It also would create a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) offense for recording or attempting to record an unfair service agreement.

Individuals whose property was affected by a recorded unfair agreement would be allowed to seek a court order declaring the agreement void and to recover actual damages, attorney’s fees, and litigation costs from the service provider.

HB 4204 would not apply to certain agreements, including home warranties, insurance contracts, purchase options or rights of first refusal, declarations affecting homeowners’ associations, maintenance agreements by homeowners’ associations, mortgage loan commitments, security agreements for personal property, or services provided by regulated utilities.

The bill would not impair the rights granted by a mechanic’s lien, provide that the recording of an unfair service agreement would not provide actual or constructive notice against an otherwise bona fide purchaser or creditor, and would apply only to agreements entered into on or after the effective date.

The bill would take effect September 1, 2025.