

## Unfair Real Estate Agreements Act

[HB 422](#) (K. Hall, Miller, Blackwell, Alston) / [SB 344](#) (Krawiec, Overcash, Lowe)

### *Fighting Back Against Unscrupulous Brokerage Companies*

**Issue:** Several real estate companies have been using a predatory business model to target seniors and financially insecure homeowners. These companies cold call people, even those on the Do Not Call Registry, providing cash payments, typically less than \$1,000, to homeowners in exchange for agreeing to exclusively utilize that company's services to list their property at any time in the next 40 years.

The property owner agrees by signing a contract which includes a memorandum that is filed with the county as a lien on the property's title. The contract purports to be binding on current homeowners and property heirs and the lien complicates the homeowner's ability to refinance, access home equity, or transfer their property. Property owners can terminate agreements early but must pay a penalty equal to 3% of the market value of the property (i.e., the commission the company would have earned for listing the home) and the company gets to determine the home's value pursuant to the contract.

**Problem's Scope:** These types of agreements have resulted in numerous complaints from misled consumers. A search of the 4 largest MLSs in the state for the last 2.5 years reveals that more than 2,000 homeowners have an agreement with one of these firms and they have only listed 86 properties.

**Legislation:** The Unfair Real Estate Agreements Act prohibits the use of Real Estate Service Agreements that are unfair to owners of residential real estate and others who may become owners of real estate in the future, including heirs to the property, by doing the following:

- Prohibits unfair "Right to List" service agreements that exceed one year in duration, and which contain any of the following terms:
  - purport to run with the land/bind successors-in-interest;
  - provide for assignment of the agreement without notice or consent of the homeowner;
  - purport to create a lien, encumbrance, or other security interest.
- Provides that such Unfair Real Estate Service Agreements are unenforceable and may not be recorded, and that a violation of the proposed act is a violation of NC's consumer protection laws.
- Allows the Attorney General or a homeowner who has been damaged by any such an agreement to sue the violating persons or companies.
- Is limited in scope so as not to affect legitimate real estate agreements and liens, such as home warranties, insurance contracts, HOA agreements, utilities agreements, or Mechanic's or Commercial Broker's liens.

**Supporters:** AARP, The NC REALTORS, The NC Department of Justice, and The NC Real Estate Commission.