

SB 164-FN - AS AMENDED BY THE SENATE

03/13/2025 0723s

2025 SESSION

25-0627

06/02

SENATE BILL **164-FN**

AN ACT relative to homeowners and prohibiting certain types of service agreements.

SPONSORS: Sen. Ricciardi, Dist 9; Sen. Pearl, Dist 17

COMMITTEE: Commerce

ANALYSIS

This bill prohibits unfair service agreements in residential real estate transactions, making such agreements unenforceable, preventing their recording, and providing remedies for affected individuals.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to homeowners and prohibiting certain types of service agreements.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Section; Service Agreements in Residential Real Estate Transactions. Amend RSA 356-A
2 by inserting after section 16 the following new section:

3 356-A:16-a Service Agreements in Residential Real Estate Transactions.

4 I. In this section:

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

7 (b) "Residential real estate" means real estate consisting of not less than one nor more
8 than 4 residential dwelling units.

9 (c) "Recording" means presenting a document to a county registrar of deeds for official
10 placement in the public land records.

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

12 (e) "Person" means a natural person, partnership, association, cooperative, corporation,
13 trust, or other legal entity.

14 II. A service agreement is unfair under this section if any part of the service subject to the
15 agreement is not to be performed within 2 years after the agreement is entered into and has any of
16 the following characteristics:

17 (a) The service agreement purports to run with the land or to be binding on future
18 owners of interests in the real property;

19 (b) The service agreement allows for assignment of the right to provide service without
20 notice to and consent of the owner of residential real estate; or

21 (c) The service agreement purports to create a lien, encumbrance, or other real property
22 security interest.

23 III. This section does not apply to:

24 (a) A home warranty or similar product that covers the cost of maintaining a major
25 home system (e.g., plumbing, HVAC, or electrical wiring) for a fixed period;

26 (b) An insurance contract;

27 (c) An option or right of refusal to purchase the residential real estate;

28 (d) A declaration created in the formation of a common interest community or an
29 amendment thereto;

30 (e) A maintenance or repair agreement entered by a homeowners' association in a
31 common interest community;

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1 (f) A mortgage loan or a commitment to make or receive a mortgage loan;

2 (g) A security agreement under the Uniform Commercial Code relating to the sale or
3 rental of personal property or fixtures; or

4 (h) Water, sewer, electrical, telephone, cable, or other regulated utility service providers.

5 IV. This section does not impair the rights granted by the mechanics lien under RSA 447:2.

6 V. Any person who causes or attempts to cause a real estate owner to enter into an unfair
7 service agreement, as defined under this section, shall be deemed to have committed an unfair or
8 deceptive act or practice as defined under RSA 358-A:2.

9 VI.(a) No person shall record or cause an unfair service agreement, or notice or
10 memorandum thereof, to be recorded.

11 (b) A person who records or causes an unfair service agreement, or notice or
12 memorandum thereof, to be recorded shall be guilty of a Class A misdemeanor.

13 (c) Notwithstanding RSA 477:3-a, a county registrar of deeds may refuse to record an
14 unfair service agreement.

15 (d) If an unfair service agreement is recorded, it shall not serve as actual or constructive
16 notice to a bona fide purchaser or creditor.

17 (e) If an unfair service agreement, or a notice or memorandum thereof, is recorded, any
18 person with an interest in the affected real property may apply to a district court in the county
19 where the recording exists to obtain a court order declaring the agreement unenforceable.

20 (f) If an unfair service agreement, or a notice or memorandum thereof, is recorded, any
21 person with an interest in the affected real property may recover proven actual damages, costs, and
22 attorney's fees from the service provider who recorded the agreement.

23 2 Effective Date. This act shall take effect January 1, 2026.

**SB 164-FN- FISCAL NOTE
AS AMENDED BY THE SENATE (AMENDMENT #2025-0723s)**

AN ACT relative to homeowners and prohibiting certain types of service agreements.

FISCAL IMPACT:

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund</i>	None			
Expenditures*	Indeterminable			
<i>Funding Source</i>	General Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source</i>	None			

*Expenditure = Cost of bill *Appropriation = Authorized funding to cover cost of bill

Estimated Political Subdivision Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
County Revenue	\$0	\$0	\$0	\$0
County Expenditures	Indeterminable			
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	Indeterminable			

METHODOLOGY:

This bill adds, deletes, or modifies a criminal penalty, or changes statute to which there is a penalty for violation. Therefore, this bill may have an impact on the judicial and correctional systems, which could affect prosecution, incarceration, probation, and parole costs, for the state, as well as county and local governments. A summary of such costs can be found at: https://gencourt.state.nh.us/lba/Budget/Fiscal_Notes/JudicialCorrectionalCosts.pdf

AGENCIES CONTACTED:

Judicial Branch, Judicial Council, Department of Justice, Department of Corrections, New Hampshire Association of Counties, and New Hampshire Municipal Association