

Committee on Regulated Industries

CS/CS/SB 770 — Residential Loan Alternative Agreements

by Rules Committee; Commerce and Tourism Committee; and Senator Bradley

The bill regulates residential loan alternative agreements for the disposition of residential real property. Under the bill, a “residential loan alternative agreement” means a signed writing between a person and a seller or owner of residential real property which grants an exclusive right to a person to act as a broker; has an effective duration, inclusive of renewals, of more than two years; and requires the person to pay monetary compensation to the seller or owner.

The bill defines “disposition” to mean a transfer or voluntary conveyance of the title or other ownership interest in residential real property. “Residential property” is defined as improved residential property of four or fewer residential dwelling units or unimproved property on which four or fewer units may be built.

The bill prohibits a residential loan alternative agreement from authorizing a person to place a lien or otherwise encumber any residential real property. Nor can a residential loan alternative agreement constitute a lien, an encumbrance, or a security interest in the residential real property.

Under the bill, a court may not enforce a residential loan alternative agreement by a lien or constructive trust in the residential real property or upon the proceeds of the disposition of the residential real property.

The bill provides that a residential loan alternative agreement may not be assigned and becomes void if the listing services do not begin within 90 days after the execution of the agreement by both parties. The bill provides that, as a matter of public policy, a residential loan alternative agreement that does not meet these requirements is unenforceable in law or equity and may not be recorded by the clerk of the circuit court.

Additionally, the bill provides that a violation of the requirements in the bill is an unfair or deceptive trade practice within the meaning of the Florida Deceptive and Unfair Trade Practices Act (FDUTPA), and the violator is subject to the penalties and remedies provided by FDUTPA, which include a civil penalty of no more than \$10,000 for willful violations and reasonable attorney’s fees and costs for the enforcing authority if civil penalties are assessed in any litigation.

If approved by the Governor, or allowed to become law without the Governor’s signature, these provisions take effect July 1, 2023.

Vote: Senate 40-0; House 115-0