



Testimony of Matthew Netto, AARP Rhode Island
In Support of House Bill 5185
House Judiciary Committee

February 4, 2025

Chairman Craven and Members of the House Judiciary Committee:

AARP is a nonpartisan, social mission organization with 38 million members nationwide and nearly 125,000 members here in Rhode Island. We advocate on behalf of issues that impact older adults, and we appreciate the opportunity to offer our support for prohibiting unfair service agreements as House Bill 5185 from Chairwoman Donovan is intended to do.

The practice of submitting unfair service agreements also known as Non-Title Recorded Agreements for Personal Services (NTRAPS) for inclusion in property records characterized as liens, covenants, encumbrances, or security interests in exchange for money has recently emerged throughout the country. These agreements obligate the current homeowner to use the other party's services in the future, and further attempt to bind successor owners by purporting to create a real property interest. Failure to comply with these agreements may give rise to a lien against the property to secure liquidated damages.

AARP, along with other national stakeholders, including the American Land Title Association (ALTA), National Association of Realtors® (NAR), created a national legislative task force in 2022 to address this issue. Key to our collaboration was the development of a model bill that has been used to prohibit this business practice in 30 states as of October 2024. The bill before you today is based on this model legislation.

Entering an unfair service agreement has long-term consequences for homeowners and any family members who may inherit the home after the homeowner dies.

- These unfair service agreements can be binding for up to 40 years and force the homeowner to use a specific listing agent to sell the property.
- Down the road, if the homeowner transfers the property to a family member without paying the real estate company, refinances the home or wants to sell their home using another real estate agent, they could owe the company tens of thousands of dollars.
- To get out of the unfair service agreement early, homeowners must pay a significant fee—often up to 3 percent of the home's value, which is determined by the real estate company. This could leave the homeowner on the hook for thousands of dollars.

Older Rhode Islanders have spent a lifetime building equity in their homes. Their house is often their greatest asset. Without adequate protections against unfair service agreements, they could lose a

significant portion of the equity they've worked so hard for. AARP Rhode Island's 2024 Vital Voices survey showed that 85% of older Rhode Islanders feel it is very important to them to remain in their home as they age. Bad actors in the real estate industry recognize this and look to take advantage of it by targeting cash-strapped homeowners, offering them an upfront cash sum in exchange for future rights to list their home for sale.

Older adults can be especially vulnerable and need extra safeguards in order to be protected from such an unfair, deceptive, and abusive practice. Furthermore, failing to disclose or misleading consumers about the way that these agreements for future services will slow or prevent a consumer from refinancing or tapping into their home equity – denying them either the opportunity to save money or to access much-needed capital.

This bill would make it illegal for any person to record or cause to be recorded an unfair service agreement or notice or memorandum thereof in this state. Any person who records or causes to be recorded an unfair service agreement or notice or memorandum thereof in this state shall be guilty of a misdemeanor. The bill defines a service agreement unfair if any part of the service subject to the agreement is not to be performed within one year after the time it is entered into and has any of the following characteristics:

- (1) The service agreement purports to run with the land or to be binding on future owners of interests in the real property; or
- (2) The service agreement allows for assignment of the right to provide service without notice to and consent of the owner of residential real estate; or
- (3) The service agreement purports to create a lien, encumbrance, or other real property security interest.

This bill does not apply to:

- (1) A home warranty or similar product that covers the cost of maintenance of a major home system (for example, plumbing, HVAC or electrical wiring) for a fixed period; or
- (2) An insurance contract; or
- (3) An option or right of refusal to purchase the residential real estate; or
- (4) A declaration created in the formation of a common interest community or an amendment thereto; or
- (5) A maintenance or repair agreement entered by a homeowners' association in a common interest community; or
- (6) A mortgage loan or a commitment to make or receive a mortgage loan; or
- (7) A security agreement under the UCC relating to the sale or rental of personal property or fixtures; or

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

(c) This statute does not impair the rights granted by the mechanics lien statute of this state, chapter 28 of title 34.

In conclusion, the proposed provisions in House Bill 5185 would take important steps towards protecting Rhode Island homeowners from the tactics of bad actors in the real estate industry. AARP Rhode Island supports this bill and asks you to recommend passage.

Thank you for your time and consideration. Have a great day!

Sincerely,

A handwritten signature in cursive script that reads "Matt Netto".

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