

LEGISLATIVE BILL 774

Approved by the Governor May 15, 1995

Introduced by Beutler, 28

AN ACT relating to real estate closing agents; to amend section 76-2,122, Revised Statutes Supplement, 1994; to change requirements; to exempt transactions from requirements; and to repeal the original section. Be it enacted by the people of the State of Nebraska,

Section 1. Section 76-2,122, Revised Statutes Supplement, 1994, is amended to read:

76-2,122. (1) To act as a real estate closing agent, a person shall: ~~(a)(i)~~ ~~Be be~~ (a) licensed or regulated by one or more regulating entities or ~~(ii)~~ be (b) employed by a person or entity regulated by one or more regulating entities, unless employing such person to act as a real estate closing agent is otherwise prohibited by statute, rule, or regulation. ~~and~~

(2) A person acting as a real estate closing agent shall:

~~(b)~~ (a) Have received good funds which are available for disbursement at the time of closing a real estate transaction, except that up to five hundred dollars need not be available for disbursement from good funds;

(b) Except as provided in section 81-885.21, deposit all funds received on behalf of another person in a trust account controlled by the real estate closing agent in a federally insured financial institution, except that up to five hundred dollars may be paid by one party directly to another party without first being deposited in a trust account controlled by the real estate closing agent; and

(c) Except as provided in section 81-885.21, disburse closing funds only from the real estate closing agent's trust account in a federally insured financial institution in the form of good funds or in the form of a check drawn from the real estate closing agent's trust account.

(3) The following real estate transactions are exempt from this section:

(a) Transactions with a political subdivision which is exercising its power of condemnation or eminent domain;

(b) Lease or rental transactions; and

(c) Real estate transactions in which the closing occurs within one business day following another real estate closing and in which one party is a principal to both transactions, but only to the extent that the funds disbursed in the subsequent transaction are drawn upon funds properly received by a real estate closing agent in the prior transaction which were deposited in that real estate closing agent's trust account in a federally insured financial institution or as otherwise provided in section 81-885.21.

(4) ~~(2)~~ The Attorney General or any county attorney may act to enjoin the performance of real estate closings which violate this section.

(5) ~~(3)~~ A person acting as a real estate closing agent in violation of this section shall be guilty of a Class V misdemeanor.

Sec. 2. Original section 76-2,122, Revised Statutes Supplement, 1994, is repealed.