

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 208**

Introduced by Lindstrom, 18.

Read first time January 10, 2017

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to the Nebraska Real Estate License Act; to  
2 amend section 81-885.21, Reissue Revised Statutes of Nebraska; to  
3 change provisions relating to broker trust accounts; and to repeal  
4 the original section.

5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-885.21, Reissue Revised Statutes of Nebraska,  
2 is amended to read:

3 81-885.21 (1) Each broker other than an inactive broker shall  
4 maintain in a federally insured financial institution ~~bank, savings bank,~~  
5 ~~building and loan association, or savings and loan association~~ a  
6 separate, insured checking or share draft account in this state in his or  
7 her name or the name under which he or she does business which shall be  
8 designated a trust account in which all downpayments, earnest money  
9 deposits, or other trust funds received by him or her, his or her  
10 associate brokers, or his or her salespersons on behalf of his or her  
11 principal or any other person shall be deposited and remain until the  
12 transaction is closed or otherwise terminated unless all parties having  
13 an interest in the funds have agreed otherwise in writing. Until July 1,  
14 2017, such trust account may be either an interest-bearing or a non-  
15 interest-bearing account. Any broker using an interest-bearing account  
16 shall comply with subsection (7) of this section. On and after July 1,  
17 2017, such trust account shall be a non-interest-bearing account.

18 (2) Each broker shall notify the commission of the name of the  
19 federally insured financial institution ~~bank, savings bank, building and~~  
20 ~~loan association, or savings and loan association~~ in which the trust  
21 account is maintained and also the name of the account on forms provided  
22 therefor.

23 (3) Each broker shall authorize the commission to examine such trust  
24 account by a duly authorized representative of the commission. Such  
25 examination shall be made annually or at such time as the commission may  
26 direct.

27 (4) A broker may maintain more than one trust account in his or her  
28 name or the name under which he or she does business if the commission is  
29 advised of such account as required in subsection (2) of this section.

30 (5) In the event a branch office maintains a separate trust account,  
31 a separate bookkeeping system shall be maintained in the branch office.

1           (6) A broker shall not be entitled to any part of the earnest money  
2 or other money paid to him or her or the entity under which he or she  
3 does business in connection with any real estate transaction as part or  
4 all of his or her compensation or consideration until the transaction has  
5 been consummated or terminated.

6           (7) If the trust account is an interest-bearing account, as  
7 authorized under subsection (1) of this section, the interest from the  
8 interest-bearing account may be distributed or otherwise accrue only to  
9 nonprofit organizations that promote housing in Nebraska and that are  
10 exempt from the payment of federal income taxes. A broker may use an  
11 interest-bearing account for a transaction only if the use of such  
12 account for purposes of promoting housing in Nebraska has been approved  
13 by all parties whose money will be deposited into such account. The  
14 commission may further define policies and procedures for the processing  
15 of and distributions from interest-bearing trust accounts by rule and  
16 regulation.

17           Sec. 2. Original section 81-885.21, Reissue Revised Statutes of  
18 Nebraska, is repealed.