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FLOOR DEBATE

April 3, 2001 LB 215

SENATOR BEUTLER: Mr. Clerk, I'd withdraw that amendment.

SENATOR CUDABACK: It is withdrawn. Mr. Clerk.

CLERK: Senator Bromm, AM1333. (Legislative Journal page 1348.)

SENATOR CUDABACK: Senator Bromm, you're recognized to open on your amendment, AM1333.

SENATOR BROMM: Thank you, Mr. President. This amendment is to attempt to clarify, as best I can figure out how, the definition of residential real property which is required...in which case it is required to provide this property disclosure statement before the buyer enters into a purchase agreement as set forth in 76-2,120, and the definition that is in that area says that residential real property shall mean real property on which no fewer than one or more than four dwelling units are located. This amendment would insert the following words: Residential real property shall mean real property, and these are the words we are inserting, which is being used primarily for residential purposes, on which no fewer than one or more four dwelling...more than four dwelling units are located. I asked or raised the issue on General File in response to a Nebraska Supreme Court case, Miller v. Harrington, which is a September 29, 2000, case, in which the court, in that case, found that a bar which had been sold and had an apartment dwelling on top of the bar, a one unit apartment, after the sale had occurred the buyer came back and argued that he should have been given a real estate disclosure statement because there was an apartment on top of the bar, and the primary purpose and use of the building was for a bar. And the realtor involved, the seller, no one thought about this being residential property. It was zoned commercial, used commercially, and so on and so forth. So the purpose of this is to attempt to say that the property must be used primarily for residential purposes and there is no fewer than one or more than four dwelling units. And it is my intent in offering this amendment to exempt those properties that might have an apartment that is incidental to or that is simply a convenience or happens to be in appurtenance to the primary purpose of the building, which might be a grocery store, a bar, those kinds of commercial properties that often