

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 72
Final Reading

Introduced by McCoy, 39.

Read first time January 10, 2013

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to the Nebraska Real Estate License Act; to amend
2 section 81-885.21, Revised Statutes Cumulative
3 Supplement, 2012; to change the sunset date and
4 procedures for allowing interest-bearing trust accounts;
5 to restrict the use of interest on such accounts; and to
6 repeal the original section.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-885.21, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 81-885.21 (1) Each broker other than an inactive broker
4 shall maintain in a bank, savings bank, building and loan
5 association, or savings and loan association a separate, insured
6 checking account in this state in his or her name or the name under
7 which he or she does business which shall be designated a trust
8 account in which all downpayments, earnest money deposits, or other
9 trust funds received by him or her, his or her associate brokers, or
10 his or her salespersons on behalf of his or her principal or any
11 other person shall be deposited and remain until the transaction is
12 closed or otherwise terminated unless all parties having an interest
13 in the funds have agreed otherwise in writing. Until July 1, 2014,
14 2017, such trust account may be either an interest-bearing or a non-
15 interest-bearing account. Any broker using an interest-bearing
16 account and, if interest-bearing, shall comply with subsection (7) of
17 this section. On and after July 1, ~~2014,~~ 2017, such trust account
18 shall be a non-interest-bearing account.

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

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

1 as the commission may direct.

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

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

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

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

1 Sec. 2. Original section 81-885.21, Revised Statutes
2 Cumulative Supplement, 2012, is repealed.