

## LEGISLATIVE BILL 72

Approved by the Governor February 15, 2013

Introduced by McCoy, 39.

FOR AN ACT relating to the Nebraska Real Estate License Act; to amend section 81-885.21, Revised Statutes Cumulative Supplement, 2012; to change the sunset date and procedures for allowing interest-bearing trust accounts; to restrict the use of interest on such accounts; and to repeal the original section.

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

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

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

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

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

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

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

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

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

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