

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 549

Introduced by Lindstrom, 18.

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

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

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

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

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

30 (6) A broker shall not be entitled to any part of the earnest money
31 or other money paid to him or her or the entity under which he or she

1 does business in connection with any real estate transaction as part or
2 all of his or her compensation or consideration until the transaction has
3 been consummated or terminated.

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

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

17 Sec. 3. Since an emergency exists, this act takes effect when
18 passed and approved according to law.