

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 873

Introduced by Ballard, 21.

Read first time January 03, 2024

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to real estate; to amend section 76-2,122,
- 2 Reissue Revised Statutes of Nebraska, and section 76-2,121, Revised
- 3 Statutes Cumulative Supplement, 2022; to redefine a term; to change
- 4 provisions relating to requirements of real estate closing agents;
- 5 and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 76-2,121, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 76-2,121 For purposes of sections 76-2,121 to 76-2,123:

4 (1) Federally insured financial institution means ~~shall mean~~ an
5 institution in which the monetary deposits are insured by the Federal
6 Deposit Insurance Corporation or National Credit Union Administration;

7 (2) Good funds means ~~shall mean~~: (a) Lawful money of the United
8 States; (b) wired funds when unconditionally held by the real estate
9 closing agent or employee; (c) cashier's checks, certified checks, bank
10 money orders, or teller's checks issued by a federally insured financial
11 institution and unconditionally held by the real estate closing agent or
12 employee; ~~or~~ (d) United States treasury checks, federal reserve bank
13 checks, federal home loan bank checks, State of Nebraska warrants, and
14 warrants of a city of the metropolitan or primary class; or (e) real-time
15 or instant payments through the FedNow® Service of the United States
16 Federal Reserve System or through the RTP® network of The Clearing House
17 Payments Company L.L.C.;

18 (3) Real estate closing agent means ~~shall mean~~ a person who collects
19 and disburses funds on behalf of another in closing a real estate
20 transaction but does ~~shall~~ not include a seller or buyer closing a real
21 estate transaction on his or her own behalf or a lender closing a real
22 estate loan transaction; and

23 (4) Regulating entity means ~~shall mean~~ the:

- 24 (a) Department of Insurance;
25 (b) Supreme Court;
26 (c) State Real Estate Commission;
27 (d) Department of Banking and Finance;
28 (e) Federal Deposit Insurance Corporation;
29 (f) Office of the Comptroller of the Currency;
30 (g) Consumer Financial Protection Bureau;
31 (h) Federal Farm Credit Administration; or

1 (i) National Credit Union Administration.

2 Sec. 2. Section 76-2,122, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 76-2,122 (1) To act as a real estate closing agent, a person shall
5 be (a) licensed or regulated by one or more regulating entities or (b)
6 employed by a person or entity regulated by one or more regulating
7 entities, unless employing such person to act as a real estate closing
8 agent is otherwise prohibited by statute, rule, or regulation.

9 (2) A person acting as a real estate closing agent shall:

10 (a) Have received good funds which are available for disbursement at
11 the time of closing a real estate transaction, except that up to five
12 thousand ~~hundred~~ dollars need not be available for disbursement from good
13 funds;

14 (b) Except as provided in section 81-885.21, deposit all funds
15 received on behalf of another person in a trust account controlled by the
16 real estate closing agent in a federally insured financial institution,
17 except that up to five thousand ~~hundred~~ dollars may be paid by one party
18 directly to another party without first being deposited in a trust
19 account controlled by the real estate closing agent; and

20 (c) Except as provided in section 81-885.21, disburse closing funds
21 only from the real estate closing agent's trust account in a federally
22 insured financial institution in the form of good funds or in the form of
23 a check drawn from the real estate closing agent's trust account.

24 (3) The following real estate transactions are exempt from this
25 section:

26 (a) Transactions with a political subdivision which is exercising
27 its power of condemnation or eminent domain;

28 (b) Lease or rental transactions; and

29 (c) Real estate transactions in which the closing occurs within one
30 business day following another real estate closing and in which one party
31 is a principal to both transactions, but only to the extent that the

1 funds disbursed in the subsequent transaction are drawn upon funds
2 properly received by a real estate closing agent in the prior transaction
3 which were deposited in that real estate closing agent's trust account in
4 a federally insured financial institution or as otherwise provided in
5 section 81-885.21.

6 (4) The Attorney General or any county attorney may act to enjoin
7 the performance of real estate closings which violate this section.

8 (5) A person acting as a real estate closing agent in violation of
9 this section shall be guilty of a Class V misdemeanor.

10 Sec. 3. Original section 76-2,122, Reissue Revised Statutes of
11 Nebraska, and section 76-2,121, Revised Statutes Cumulative Supplement,
12 2022, are repealed.