

Introduced by

Representatives R. Kelsch, Porter

Senator Cook

1 A BILL for an Act to create and enact a new chapter to title 47 of the North Dakota Century
2 Code, relating to good funds for real estate transactions.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new chapter to title 47 of the North Dakota Century Code is created and
5 enacted as follows:

6 **Definitions.**

7 As used in this chapter:

- 8 1. "Closing agent" means a person that closes a real estate transaction in connection
9 with the purchase, sale, or financing of an interest in real estate. The term does not
10 include a lender or an employee of a lender that conducts a settlement or closing of a
11 real estate secured loan provided by the lender in the office of the lender.
- 12 2. "Escrow account" means:
 - 13 a. A checking account established by a closing agent with a bank, savings and loan
14 association, credit union, or savings bank that is chartered under the laws of a
15 state or the United States and which is used exclusively for the deposit and
16 disbursement of funds for a real estate transaction; or
 - 17 b. A trust account maintained by an attorney under the North Dakota Rules of
18 Professional Conduct.
- 19 3. "Good funds" means funds in any one or more of the following forms:
 - 20 a. United States currency.
 - 21 b. Wired funds unconditionally held by and irrevocably credited to the escrow
22 account of the closing agent.

- 1 c. A check that has been presented for payment and for which payment has been
2 received. As used in this subdivision, the term check includes a certified check
3 and a cashier's check.
- 4 d. A check not to exceed three thousand dollars which is drawn on the trust account
5 of a real estate broker licensed under chapter 43-23 or on the trust account
6 maintained by an attorney under the North Dakota Rules of Professional
7 Conduct, if the closing agent has reasonable and prudent grounds to believe that
8 sufficient funds will be available for withdrawal from the trust account on which
9 the check is drawn at the time of disbursement of funds from the closing agent's
10 escrow account.

- 11 4. "Real estate transaction" means a transaction in which a person deposits with a
12 closing agent funds that are to be held until a specified event occurs or the
13 performance of a prescribed condition in connection with the purchase, sale, or
14 financing of an interest in real estate; or a settlement or closing conducted in
15 connection with the purchase, sale, or financing of an interest in real estate. The term
16 does not include a loan financing if the only parties to the loan transaction are the
17 lender and the borrower, and the lender is responsible for disbursing all of the funds to
18 the borrower or to a third party in order to pay fees and charges associated with the
19 loan transaction.

20 **Real estate transaction disbursements.**

21 A closing agent may not make disbursements from an escrow account in connection with a
22 real estate transaction unless funds that are received from any single party to the real estate
23 transaction which in the aggregate are at least ten thousand dollars are good funds.