

HOUSE BILL NO. 1316

Introduced by

Representatives Louser, Beadle, Becker, Streyle, Wieland

Senators Krebsbach, J. Lee, Poolman

1 A BILL for an Act to amend and reenact sections 47-34-01 and 47-34-02 of the North Dakota
2 Century Code, relating to good funds for real estate transactions.

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

4 **SECTION 1. AMENDMENT.** Section 47-34-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **47-34-01. 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~~that is drawn on the trust
5 account of a real estate broker licensed under chapter 43-23 or on the trust
6 account 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 e. A cashier's check ~~not to exceed ten thousand dollars in the aggregate that is~~
12 drawn on an existing account at a bank, savings and loan association, credit
13 union, or savings bank chartered under the laws of a state or the United States.
- 14 f. A check drawn on the escrow account of another closing agent, ~~if the closing~~
15 ~~agent in the real estate transaction has reasonable and prudent grounds to~~
16 ~~believe that sufficient funds will be available for withdrawal from the account upon~~
17 ~~which the check is drawn at the time of disbursement of funds from the escrow~~
18 ~~account of the closing agent in the real estate transaction.~~
- 19 4. "Real estate transaction" means a transaction in which a person deposits with a
20 closing agent funds that are to be held until a specified event occurs or the
21 performance of a prescribed condition in connection with the purchase, sale, or
22 financing of an interest in real estate; or a settlement or closing conducted in
23 connection with the purchase, sale, or financing of an interest in real estate. The term
24 does not include a loan financing if the only parties to the loan transaction are the
25 lender and the borrower, and the lender is responsible for disbursing all of the funds to
26 the borrower or to a third party in order to pay fees and charges associated with the
27 loan transaction.

28 **SECTION 2. AMENDMENT.** Section 47-34-02 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **47-34-02. Real estate transaction disbursements.**

2 A closing agent may not make disbursements from an escrow account in connection with a
3 real estate transaction unless funds that are received from ~~any single party to the real estate~~
4 ~~transaction which in the aggregate are at least ten thousand dollars~~ are good funds. In a
5 prominent manner in the closing documents, a closing agent shall disclose the anticipated
6 closing date and all of the dates through which any loan payoffs are calculated.