

As Engrossed: 2/27/91 3/5/91 3/13/91

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**

A BILL ACT 1110 OF 1991
HOUSE BILL 1762

4 **By: Representatives M. Wilson and Thurman**

5

6

7

For An Act To Be Entitled

8 "THE DISBURSEMENT OF FUNDS AS PART OF REAL ESTATE CLOSING

9 AND SETTLEMENT SERVICES ACT."

10

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

12

13 SECTION 1. Chapter 12 of Title 18, Arkansas Code Annotated is amended
14 by adding a new subchapter as follows:

15 "18-12-701. TITLE.

16 This act shall be known and may be cited as 'THE DISBURSEMENT OF FUNDS
17 AS PART OF REAL ESTATE CLOSING AND SETTLEMENT SERVICES ACT'.

18

19 18-12-702. DEFINITIONS.

20 As used in this subchapter, unless the context otherwise requires:

21 (1) 'closing and settlement services' means those services which
22 benefit the parties to the sale, lease, encumbrance, mortgage or creation of a
23 secured interest in and to real property, and the receipt and disbursement of
24 money in connection with any sale, lease, encumbrance, mortgage or deed of
25 trust.

26 (2) 'financial institution' means an entity that is authorized under
27 the laws of this state, another state, or the United States of America to make
28 loans and receive deposits and has its deposits insured by the Federal Deposit
29 Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or
30 the National Credit Union Share Insurance Fund.

31 (3) 'available for immediate withdrawal as a matter of right' means
32 the following:

33 (A) for any item or draft, when the item or draft has been
34 submitted for collection and payment received;

35 (B) for any deposited item or draft, when final settlement has
36 occurred.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

18-12-703. CLOSING AND SETTLEMENT SERVICES DISBURSEMENT OF FUNDS.

(a) No person, firm, partnership, corporation or other entity that provides closing and settlement services for a real estate transaction shall disburse funds as a part of such services until those funds have been received and are available for immediate withdrawal as a matter of right from the financial institution in which the funds have been deposited. Provided, however, the person, firm, partnership, corporation or other entity providing closing and settlement services may advance funds, not to exceed five hundred dollars (\$500), on behalf of interested parties for the transaction, to pay incidental fees and charges pertaining to the closing and settlement of the transaction.

(b) Any person, firm, partnership, corporation or other entity who knowingly and willfully violates the provisions of this subchapter shall be guilty of a Class A misdemeanor.

(c) In addition to the criminal penalty imposed hereunder, the *Prosecuting Attorneys* of this state shall have the authority to file a petition in chancery court in any county in which a violation of the provisions of this subchapter occurred, for civil enforcement of the provisions of this subchapter by seeking an injunction prohibiting any person, firm, partnership, corporation or other entity from disbursing funds in violation of this subchapter."

SECTION 2. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.

3-11-91 3-12-91 3-13-91 3-14-91 3-15-91 3-16-91 3-17-91 3-18-91 3-19-91 3-20-91 3-21-91 3-22-91 3-23-91 3-24-91 3-25-91 3-26-91 3-27-91 3-28-91 3-29-91 3-30-91 3-31-91

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34

/s/ M. Wilson et al

APPROVED: 4/9/91