

1 **State of Arkansas**

2 **78th General Assembly**

3 **Regular Session, 1991**

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

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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:

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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'.

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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

1 occurred.

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3 18-12-703. CLOSING AND SETTLEMENT SERVICES DISBURSEMENT OF FUNDS.

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

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

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

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

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

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

As Amended 3/27/01 3/5/01 3/13/01

1 hereby repealed.

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4 /s/ M. Wilson et al

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