

House Engrossed

FILED

KEN BENNETT

SECRETARY OF STATE

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

CHAPTER 51

HOUSE BILL 2297

AN ACT

AMENDING SECTIONS 6-122 AND 6-841.02, ARIZONA REVISED STATUTES; REPEALING TITLE 6, CHAPTER 7, ARTICLE 5, ARIZONA REVISED STATUTES; RELATING TO ESCROW AGENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 6-122, Arizona Revised Statutes, is amended to
3 read:

4 6-122. Superintendent; authority; duties; exemption

5 A. The superintendent has the authority and responsibility for the
6 discharge of all duties imposed by law on the department.

7 B. The superintendent shall:

8 1. Examine or cause to be examined each financial institution
9 annually, except financial institution holding companies, banks, savings and
10 loan associations, credit unions and consumer lenders, and more frequently if
11 the superintendent considers it necessary.

12 2. Examine or cause to be examined each bank, credit union and savings
13 and loan association at the superintendent's discretion but at least once in
14 every twenty-four month period.

15 3. Examine or cause to be examined the business and affairs of any
16 enterprise and any consumer lender for the purpose of administering and
17 enforcing this title at the superintendent's discretion but at least once in
18 a five year period.

19 4. Examine or cause to be examined financial institution holding
20 companies as frequently as the superintendent considers necessary to
21 administer and enforce this title.

22 5. Notwithstanding paragraph 3, examine or cause to be examined the
23 accounts held in trust by each escrow agent at least once in every two year
24 period in accordance with section 20-1593 and examine or cause to be examined
25 each escrow agent at least once in every four year period or more frequently
26 if the superintendent considers it necessary.

27 6. Notwithstanding paragraph 3, examine or cause to be examined each
28 premium finance company at least once in every three year period and more
29 frequently if the superintendent considers it necessary.

30 7. Publish a consumer information brochure that includes:

31 (a) The finance charges permitted by this state.

32 (b) The types of insurance that may be offered but that are not
33 required by law to be purchased with the granting of a loan.

34 (c) Interest rate limitations on all lenders including amounts that
35 may not be charged to borrowers.

36 (d) Consumer rights and means of recourse from unfair practitioners.

37 ~~8. Conduct a survey in January and July of each calendar year of each~~
38 ~~escrow agent that is regulated by the department. The superintendent shall~~
39 ~~compile the results of each survey and make those results available to the~~
40 ~~public. The survey shall be in substantially the following format:~~

41 ~~"Please rate the performance of the department of financial~~
42 ~~institutions as one of the following: excellent, very good, good, fair, poor.~~

43 ~~Please describe any problems that you believe should be addressed by~~
44 ~~the department."~~

1 C. Notwithstanding subsection B, paragraph 5 of this section, an
2 escrow agent shall be examined within twelve months when an escrow agent's
3 license is transferred or assigned pursuant to section 6-813 or when control
4 of the license is otherwise acquired.

5 D. Subsection B, paragraph 3 of this section does not apply to motor
6 vehicle dealers, sales finance companies or persons licensed under chapter 12
7 of this title.

8 Sec. 2. Section 6-841.02, Arizona Revised Statutes, is amended to
9 read:

10 6-841.02. Liability of title insurer; closing protection
11 letter; definition

12 A. A real property escrow agent that is a title insurance agent shall
13 disclose to the buyer and seller of a residential dwelling that the title
14 insurer may SHALL offer ON REQUEST a closing protection letter that provides
15 protection for the loss of escrow monies due to fraud or dishonesty of the
16 escrow agent. This disclosure requirement applies only to transactions
17 involving a buyer and seller of a residential dwelling and shall be made when
18 the buyer or seller employs the escrow agent.

19 B. If an escrow agent LICENSED PURSUANT TO THIS CHAPTER does not make
20 the disclosure prescribed by this section, the title insurer shall reimburse
21 the buyer or seller, as applicable, for any escrow monies that are lost and
22 ~~that are not recovered from the Arizona escrow recovery fund established by~~
23 ~~section 6-847.01.~~ The title insurer's obligation pursuant to this subsection
24 shall be ~~to the extent of that~~ AS SET FORTH IN THE title insurer's standard
25 closing protection letter ~~for a buyer or seller, as applicable.~~

26 C. For THE purposes of this section, "residential dwelling" means an
27 owner occupied structure or an investment property that is designed for
28 residential use by four or fewer families.

29 Sec. 3. Repeal; transfer of fund monies

30 A. Title 6, chapter 7, article 5, Arizona Revised Statutes, is
31 repealed.

32 B. Any monies remaining in the Arizona escrow recovery fund on the
33 effective date of this act are transferred to the state general fund.

APPROVED BY THE GOVERNOR APRIL 12, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 12, 2011.

Passed the House March 9, 20 11

Passed the Senate April 5, 20 11

by the following vote: 47 Ayes,

by the following vote: 38 Ayes,

12 Nays, 1 Not Voting

0 Nays, 2 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

Cheryl Laube
Chief Clerk of the House

Charmian Bellinger
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

6 day of April, 20 11

at 10:30 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 12th day of

April

at 10:30 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 12th day of April, 20 11

at 4:01 o'clock P. M.

[Signature]
Secretary of State

H.B. 2297