

Senate Engrossed

**FILED**  
**KEN BENNETT**  
**SECRETARY OF STATE**

State of Arizona  
Senate  
Fifty-first Legislature  
Second Regular Session  
2014

CHAPTER 216

## **SENATE BILL 1047**

AN ACT

AMENDING SECTION 6-841.02, 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 6-841.02, Arizona Revised Statutes, is amended to  
3 read:

4 6-841.02. Liability of title insurer; closing protection  
5 letter; definition

6 A. A real property escrow agent that is a title insurance agent shall  
7 disclose to the buyer and seller of a residential dwelling that the title  
8 insurer shall offer on request a closing protection letter that provides  
9 protection for the loss of escrow monies due to fraud or dishonesty of the  
10 escrow agent. This disclosure requirement applies only to transactions  
11 involving a buyer and seller of a residential dwelling and shall be made when  
12 the buyer or seller employs the escrow agent.

13 B. If an escrow agent licensed pursuant to this chapter does not make  
14 the disclosure prescribed by this section, the title insurer shall reimburse  
15 the buyer or seller, as applicable, for any escrow monies that are lost. The  
16 title insurer's obligation pursuant to this subsection shall be as set forth  
17 in the title insurer's standard closing protection letter.

18 C. A TITLE INSURER MAY ALSO PROVIDE A CLOSING PROTECTION LETTER TO ANY  
19 PERSON THAT IS A PARTY TO A TRANSACTION IN WHICH A TITLE INSURANCE POLICY  
20 WILL BE ISSUED.

21 D. UNDER THE TERMS AND CONDITIONS OF THE CLOSING PROTECTION LETTER AS  
22 ISSUED BY THE TITLE INSURER, A CLOSING PROTECTION LETTER MAY INDEMNIFY A  
23 PERSON INSURED UNDER A TITLE INSURANCE POLICY AGAINST A LOSS THAT RESULTS  
24 FROM THE FOLLOWING ACTIONS OF A POLICY-ISSUING TITLE INSURANCE AGENT OR OTHER  
25 SETTLEMENT SERVICE PROVIDER WHO HAS BEEN APPROVED BY THE TITLE INSURER FOR  
26 SUCH PROTECTION:

27 1. THEFT OR MISAPPROPRIATION OF SETTLEMENT MONIES IN CONNECTION WITH A  
28 TRANSACTION IN WHICH A TITLE INSURANCE POLICY WILL BE ISSUED BY OR ON BEHALF  
29 OF THE TITLE INSURER ISSUING THE CLOSING PROTECTION LETTER, BUT ONLY TO THE  
30 EXTENT THAT THE THEFT RELATES TO THE STATUS OF THE TITLE TO THAT INTEREST IN  
31 LAND OR TO THE VALIDITY, ENFORCEABILITY AND PRIORITY OF THE LIEN OF THE  
32 MORTGAGE ON THAT INTEREST IN LAND.

33 2. AS TO A BUYER OR LENDER, FAILURE TO COMPLY WITH THE WRITTEN CLOSING  
34 INSTRUCTIONS WHEN AGREED TO BY THE SETTLEMENT AGENT, TITLE INSURANCE AGENT OR  
35 EMPLOYEE OF THE TITLE INSURER, BUT ONLY TO THE EXTENT THAT THE FAILURE TO  
36 FOLLOW THE INSTRUCTIONS RELATES TO THE STATUS OF THE TITLE TO THAT INTEREST  
37 IN LAND OR TO THE VALIDITY, ENFORCEABILITY AND PRIORITY OF THE LIEN OF THE  
38 MORTGAGE ON THAT INTEREST IN LAND.

39 E. A TITLE INSURER MUST CHARGE A PARTY RECEIVING A CLOSING PROTECTION  
40 LETTER A FEE. THE TITLE INSURER EARNS THE FEE ON THE CLOSING OF THE  
41 TRANSACTION, AND THE FEE IS NOT SUBJECT TO ANY AGREEMENT REQUIRING A DIVISION  
42 OF FEES OR PREMIUMS COLLECTED ON BEHALF OF THE TITLE INSURER. THE FEE FOR  
43 EACH CLOSING PROTECTION LETTER SHALL NOT EXCEED TWENTY-FIVE DOLLARS FOR THE  
44 PROTECTION OF A PARTY RECEIVING THE BENEFIT OF CLOSING PROTECTION, THE BUYER,  
45 BORROWER OR SELLER AND THE LENDER, IN CONNECTION WITH THE REAL PROPERTY

1 TRANSACTION GIVING RISE TO THE ISSUANCE OF THE CLOSING OR SETTLEMENT  
2 PROTECTION.

3 F. A TITLE INSURER MAY NOT PROVIDE ANY OTHER PROTECTION THAT PURPORTS  
4 TO INDEMNIFY AGAINST IMPROPER ACTS OR OMISSIONS OF A PERSON WITH REGARD TO  
5 SETTLEMENT OR CLOSING SERVICES.

6 ~~G.~~ G. For the purposes of this section, "residential dwelling" means  
7 an owner occupied structure or an investment property that is designed for  
8 residential use by four or fewer families.

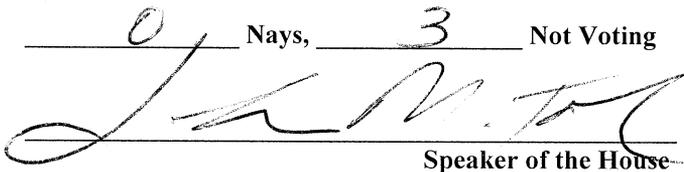
APPROVED BY THE GOVERNOR APRIL 24, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 24, 2014.

Passed the House April 22, 2014,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

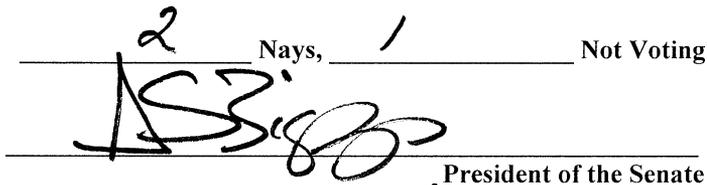
  
Speaker of the House

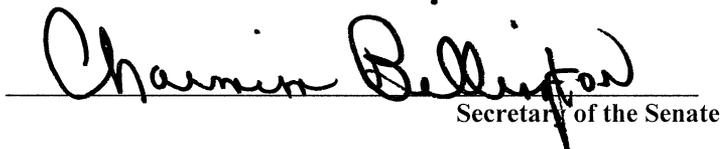
  
Chief Clerk of the House

Passed the Senate February 3, 2014,

by the following vote: 27 Ayes,

2 Nays, 1 Not Voting

  
President of the Senate

  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

23rd day of April, 2014,

at 12:45 o'clock P M.

  
Secretary to the Governor

Approved this 24th day of

April, 2014,

at 2:38 o'clock P M.

  
Governor of Arizona

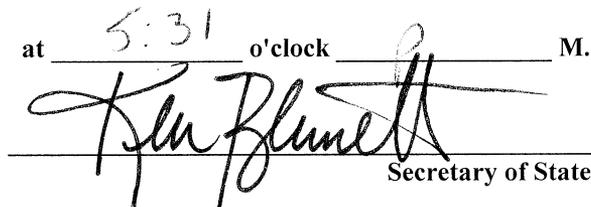
S.B. 1047

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 24th day of April, 2014,

at 5:31 o'clock P M.

  
Secretary of State