

2001 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB55)

Received: 06/15/2001

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Senate Democratic Caucus

By/Representing: Keckhaver

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: Real Estate - miscellaneous
Occupational Reg. - prof lic
Public Defender

Extra Copies: rlr,mdk,pjk

Submit via email: NO

Requester's email:

Pre Topic:

SDC:.....Keckhaver - CN2715,

Topic:

Trust accounts used for closing transactions; funding for state public defender

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 06/16/2001	wjackson 06/16/2001		_____			
/1	kunkemd 06/19/2001	wjackson 06/19/2001	kfollet 06/17/2001	_____	lrb_docadmin 06/17/2001		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/2			jfrantze	_____	lrb_docadmin		
			06/19/2001	_____	06/19/2001		

FE Sent For:

<END>

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/?	mdsida 06/16/2001	wjackson 06/16/2001					
/1		1/2 Wlj 6/19	kfollet 06/17/2001	<i>ck</i> <i>6/19</i> <i>PLW</i>	lrb_docadmin 06/17/2001		

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/?	mdsida	/1 Wlj 6/16	kjl 6/17	kl/pj 6/17			

FE Sent For:

<END>

Agency: Public Defender

caucus number 2715

duplicate flag:

Other reference numbers:

LFB Sum #:

duplicate with:

bill number/amendment number:

LRB draft # 3195

LRB P-draft:

description: Establish interest bearing trust accounts for any closing transaction. Funnel interest payments for legal services for low-income people. Similar to Interest on Lawyer Trust Accounts (IOLA)

other notes

drafting instructions:

more instructions:

GPR: \$0.00

PR: \$0.00

SEG: \$0.00

Other:

FED: \$0.00

TANF: \$0.00

All Funds: \$0.00

GPR-REV: \$0.00

SEG-REV: \$0.00

PR-REV: \$0.00

no fiscal impact: x

unknown impact:

Agency: **Public Defender**

Number of Amendments: 1

*Call me
re d-note for this.
MGD*

CN2715

Subject or Agency	Description	Source / connection	Fiscal effect / positions if known
Public Defender	Establish interest bearing trust accounts for any closing transaction Furnel Interest payments for legal services for low-income people Similar to Interest on Lawyer Trust Accounts - IOLTA	LRB # 3195 <i>no attachments</i>	

PK
max

AMDT TO BUDGET SUB AMDT

MGD & MDK: WJ: _____

Sec form AMENDMENTS — COMPONENTS & ITEMS.

SENATE AMENDMENT
TO ~~SENATE AMENDMENT~~,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2001 SENATE BILL 55

At the locations indicated, amend the substitute amendment (amendment) as follows:

↓ #. Page ³⁸⁵....., line 5: after that line insert ↕

Insert A →

↓ #. Page ³⁹⁵....., line 18: after "accounts" insert "maintained by brokers" ⊙

↓ #. Page ⁴⁰³....., line 6: after that line insert ↕

Insert B →

↓ #. Page ¹¹⁵⁴....., line 17: after that line insert ↕

Insert C →

✓ #. Page ¹¹⁵⁶....., line 6: after that line insert ↕

Insert D →

✓ #. Page ¹⁴²³....., line 11: after that line insert ↕

Insert E →

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Inserts

1 **AN ACT to renumber** 452.13 (1) (b); **to amend** 20.505 (7) (h), 452.05 (1) (a), 452.11
2 (1), 452.12 (6) (a), 452.13 (2) (a), 452.13 (2) (b) (intro.), 452.13 (2) (c), 452.13 (2)
3 (e) (intro.), 452.13 (2) (e) 2., 452.13 (2) (f) 1., 452.13 (3), 452.13 (4), 452.14 (1),
4 452.14 (3) (intro.), 452.14 (3) (b), 452.14 (3) (h), 452.14 (3) (i), 452.14 (3) (jm),
5 452.17 (2), 452.17 (4) (a) (intro.), 452.17 (4) (a) 1., 452.17 (4) (a) 2., 452.20, 452.21
6 and 452.22 (2); and **to create** 20.505 (1) (h), 20.550 (1) (km), 440.08 (2) (a) 66m.,
7 452.01 (3p), 452.035 and 452.13 (1) (c) of the statutes; **relating to:** requiring
8 the registration of real estate closing agents, regulating funds received by such
9 agents, making appropriations, and providing a penalty.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be prepared for a subsequent version of this draft.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

802 x

1 SECTION 1. 20.505 (1) (h) of the statutes is created to read:

2 20.505 (1) (h) *Interest on real estate trust accounts; closing agents.* All moneys
3 received from interest on real estate trust accounts maintained by closing agents
4 under s. 452.13 for the purpose of transferring the moneys received to the
5 appropriation account under s. 20.550 (1) (km). "

6 SECTION 2. 20.505 (7) (h) of the statutes is amended to read:

7 20.505 (7) (h) *Interest on real estate trust accounts; brokers.* All moneys
8 received from interest on real estate trust accounts maintained by brokers under s.
9 452.13 for grants under s. 16.351.

10 SECTION 3. 20.550 (1) (km) of the statutes is created to read:

11 20.550 (1) (km) *Interest on real estate trust accounts; closing agents.* All moneys
12 transferred under s. 20.505 (1) (h), for program administration costs of the office of
13 the state public defender, including the costs of interpreters and of discovery
14 materials and excluding the costs under pars. (e) and (fb). "

15 SECTION 4. 440.08 (2) (a) 66m. of the statutes is created to read:

16 440.08 (2) (a) 66m. Real estate closing agent: January 1 of each odd-numbered
17 year; \$56. "

18 SECTION 5. 452.01 (3p) of the statutes is created to read:

19 452.01 (3p) "Closing agent" means any person who coordinates the closing of
20 a conveyance of real estate by ensuring that title to the real estate is transferred to
21 the buyer and that the purchase price is transferred to the seller, except that "closing
22 agent" does not include any of the following:

23 (a) A receiver, trustee, administrator, executor, guardian, or other person
24 appointed by or acting under the judgment or order of any court.

25 (b) A public officer while performing his or her official duties.

1 (c) A depository institution.

2 (d) An employee of a person specified in pars. (a) to (c) when the employee is
3 engaged in the specific performance as such an employee.

4 (e) An attorney licensed to practice in this state while acting within the scope
5 of his or her attorney's license.

6 SECTION 6. ^{3608cm} 452.035 of the statutes is created to read:

7 **452.035 Closing agents.** No person, including an escrow agent, as defined in
8 s. 138.052 (5m) (a) or 707.49 (1) (d), may engage in the business or occupation of, or
9 advertise or hold himself or herself out as, a closing agent unless the person is
10 registered as a closing agent by the department. The department shall issue a
11 certificate of registration as a closing agent to a person who submits an application
12 to the department on a form provided by the department, pays the fee specified in
13 s. 440.05 (1), and submits evidence satisfactory to the department that he or she is
14 competent to act as a closing agent. Renewal applications shall be submitted to the
15 department on a form provided by the department on or before the applicable
16 renewal date specified under s. 440.08 (2) (a) and shall include the applicable
17 renewal fee specified under s. 440.08 (2) (a).

18 SECTION 7. ^{3608cr} 452.05 (1) (a) of the statutes is amended to read:

19 452.05 (1) (a) Grant and issue licenses to brokers and salespersons and
20 registrations to time-share salespersons and closing agents.

21 SECTION 8. ^{3608dg} 452.11 (1) of the statutes is amended to read:

22 452.11 (1) A nonresident may become a broker, salesperson ~~or~~ time-share
23 salesperson, or closing agent by conforming to all the provisions of this chapter.

24 SECTION 9. ^{3608dm} 452.12 (6) (a) of the statutes is amended to read:

1 452.12 (6) (a) Any licensee, except a time-share salesperson registered under
 2 s. 452.025 or a closing agent registered under s. 452.035, may apply for registration
 3 as an inactive licensee on or before the license renewal date. This paragraph does
 4 not apply after October 31, 1995.

5 SECTION ^{3608 dr}10. 452.13 (1) (b) of the statutes is renumbered 452.01 (3w).

6 SECTION ^{3608 eg}11. 452.13 (1) (c) of the statutes is created to read:

7 452.13 (1) (c) "Closing funds" means any money related to the closing of real
 8 estate conveyance that is received by a closing agent. "Closing funds" does not
 9 include client funds, unless the client funds are transferred to a closing agent.

10 SECTION ^{3608 em}12. 452.13 (2) (a) of the statutes is amended to read:

11 452.13 (2) (a) A broker who holds client funds or a closing agent who holds
 12 closing funds shall establish an interest-bearing common trust account in a
 13 depository institution. The interest-bearing common trust account shall earn
 14 interest at a rate not less than that applicable to individual accounts of the same
 15 type, size, and duration and for which withdrawals or transfers can be made without
 16 delay, subject to any notice period that the depository institution is required to
 17 observe by law or regulation.

18 SECTION ^{3608 er}13. 452.13 (2) (b) (intro.) of the statutes is amended to read:

19 452.13 (2) (b) (intro.) Any broker or closing agent who maintains an
 20 interest-bearing common trust account shall do all of the following:

21 SECTION ^{3608 fg}14. 452.13 (2) (c) of the statutes is amended to read:

22 452.13 (2) (c) A broker or closing agent shall deposit all client funds or closing
 23 funds in the interest-bearing common trust account.

24 SECTION ^{3608 fm}15. 452.13 (2) (e) (intro.) of the statutes is amended to read:

1 452.13 (2) (e) (intro.) For each interest-bearing common trust account, the
2 broker or closing agent shall direct the depository institution to do all of the
3 following:

4 ^{3608fr} SECTION 16. 452.13 (2) (e) 2. of the statutes is amended to read:

5 452.13 (2) (e) 2. When the interest remittance is sent, furnish to the
6 department of administration and to the broker or closing agent maintaining the
7 interest-bearing common trust account a statement that includes the name of the
8 broker or closing agent for whose account the remittance is made, the rate of interest
9 applied, the amount of service charges or fees deducted, if any, and the account
10 balance for the period that the statement covers.

11 ^{3608gg} SECTION 17. 452.13 (2) (f) 1. of the statutes is amended to read:

12 452.13 (2) (f) 1. May not assess a service charge or fee that is due on an
13 interest-bearing common trust account against any broker or closing agent or,
14 except as provided in subd. 3., against any other account, regardless of whether the
15 same broker or closing agent maintains the other account.

16 ^{3608gm} SECTION 18. 452.13 (3) of the statutes is amended to read:

17 452.13 (3) DEPOSIT PROVISIONS. A broker or closing agent who deposits client
18 funds or closing funds in an interest-bearing common trust account in compliance
19 with this section may not be held liable to the owner or beneficial owner of the client
20 funds or closing funds for damages due to compliance with this section. A broker,
21 salesperson, or time-share salesperson who deposits client funds, or a closing agent
22 who deposits closing funds, in an interest-bearing common trust account in
23 compliance with this section is not required to disclose alternative depository
24 arrangements that could be made by the parties or to disclose that a deposit will be
25 made under this section.

1 SECTION 19. 452.13 (4) of the statutes is amended to read:

2 452.13 (4) TRUST ACCOUNT OPTIONAL. This section does not require a broker or
3 closing agent to hold client funds or closing funds or require a person to transfer
4 client funds to a broker or transfer closing funds to a closing agent.

5 SECTION 20. 452.14 (1) of the statutes is amended to read:

6 452.14 (1) The department shall, upon motion of the board or upon its own
7 determination, conduct investigations and, as appropriate, may hold hearings and
8 make findings, if the department receives credible information that a broker,
9 salesperson ~~or~~, time-share salesperson, or closing agent has violated this chapter or
10 any rule promulgated under this chapter.

11 SECTION 21. 452.14 (3) (intro.) of the statutes is amended to read:

12 452.14 (3) (intro.) Disciplinary proceedings shall be conducted by the board
13 according to rules adopted under s. 440.03 (1). The board may revoke, suspend, or
14 limit any broker's, salesperson's ~~or~~, time-share salesperson's, or closing agent's
15 license or registration, or reprimand the holder of the license or registration, if it
16 finds that the holder of the license or registration has:

17 SECTION 22. 452.14 (3) (b) of the statutes is amended to read:

18 452.14 (3) (b) Made any substantial misrepresentation with reference to a
19 transaction injurious to a seller or purchaser in which the broker, salesperson ~~or~~,
20 time-share salesperson, or closing agent acts as agent;

21 SECTION 23. 452.14 (3) (h) of the statutes is amended to read:

22 452.14 (3) (h) Failed, within a reasonable time, to account for or remit any
23 moneys coming into the broker's, salesperson's ~~or~~, time-share salesperson's, or
24 closing agent's possession which belong to another person;

25 SECTION 24. 452.14 (3) (i) of the statutes is amended to read:

1 452.14 (3) (i) Demonstrated incompetency to act as a broker, salesperson or,
2 time-share salesperson, or closing agent in a manner which safeguards the interests
3 of the public;

4 SECTION 25. 452.14 (3) (jm) of the statutes is amended to read:

5 452.14 (3) (jm) Intentionally encouraged or discouraged any person from
6 purchasing or renting real estate in a particular area on the basis of race. If the board
7 finds that any broker, salesperson or, time-share salesperson, or closing agent has
8 violated this paragraph, the board shall, in addition to any temporary penalty
9 imposed under this subsection, apply the penalty provided in s. 452.17 (4);

10 SECTION 26. 452.17 (2) of the statutes is amended to read:

11 452.17 (2) Any person who engages in or follows the business or occupation of,
12 or advertises or holds himself or herself out as or acts temporarily or otherwise as,
13 a time-share salesperson or closing agent in this state without being registered with
14 the department shall be prosecuted by the district attorney in the county where the
15 violation occurs and may be fined not less than \$25 nor more than \$200 or imprisoned
16 not less than 10 days nor more than 6 months or both.

17 SECTION 27. 452.17 (4) (a) (intro.) of the statutes is amended to read:

18 452.17 (4) (a) (intro.) If the board finds that any broker, salesperson or,
19 time-share salesperson, or closing agent has violated s. 452.14 (3) (jm), the board:

20 SECTION 28. 452.17 (4) (a) 1. of the statutes is amended to read:

21 452.17 (4) (a) 1. Shall, for the first offense, suspend the license or registration
22 of the broker, salesperson or, time-share salesperson, or closing agent for not less
23 than 90 days.

24 SECTION 29. 452.17 (4) (a) 2. of the statutes is amended to read:

1 452.17 (4) (a) 2. Shall, for the 2nd offense, revoke the license or registration of
2 the broker, salesperson ~~or~~, time-share salesperson, closing agent.

3 SECTION ^{3608 km}30. 452.20 of the statutes is amended to read:

4 **452.20 Limitation on actions for commissions.** No person engaged in the
5 business or acting in the capacity of a broker, salesperson ~~or~~, time-share salesperson,
6 or closing agent within this state may bring or maintain an action in the courts of this
7 state for the collection of a commission or compensation for the performance of any
8 act mentioned in this chapter without alleging and proving that he or she was a duly
9 licensed broker, or salesperson or registered time-share salesperson or closing agent
10 at the time the alleged cause of action arose.

11 SECTION ^{3608 kr}31. 452.21 of the statutes is amended to read:

12 **452.21 Compensation presumed.** In any prosecution for violation of this
13 chapter, proof that a person acted as a broker, agent, salesperson ~~or~~, time-share
14 salesperson, or closing agent is prima facie proof that compensation therefor was
15 received or promised.

16 SECTION ^{3608 Lg}32. 452.22 (2) of the statutes is amended to read:

17 452.22 (2) The certificate of the secretary or his or her designee to the effect that
18 a specified individual or business entity is not or was not on a specified date the
19 holder of a broker's, salesperson's ~~or~~, time-share salesperson's, or closing agent's
20 license or registration, or that a specified license or registration was not in effect on
21 a date specified, or as to the issuance, limitation, suspension, or revocation of any
22 license or registration or the reprimand of any holder thereof, the filing or
23 withdrawal of any application or its existence or nonexistence, is prima facie
24 evidence of the facts therein stated for all purposes in any action or proceedings. //

25 SECTION 33. ~~Effective date.~~

1 (1) This act takes effect on the first day of the 10th month beginning after
2 publication.

3 (END)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

10/21/01 E

^K_(3#) ^(CS) Real estate closing agents ^{Plain} The treatment of sections takes effect on the first day of the 10th month beginning after publication.

1 ~~AN ACT to renumber~~ ⁽¹⁾ ~~(452.13 (1) (b)) to amend 20.505 (1) (h), 452.05 (1) (a), 452.11~~
2 (1), 452.12 (6) (a), ~~452.13 (2) (a), 452.13 (2) (b) (intro.), 452.13 (2) (c), 452.13 (2)~~
3 (e) (intro.), 452.13 (2) (e) 2., 452.13 (2) (f) 1., 452.13 (3), 452.13 (4), 452.14 (1),
4 452.14 (3) (intro.), 452.14 (3) (b), 452.14 (3) (h), 452.14 (3) (i), 452.14 (3) (jm),
5 452.17 (2), 452.17 (4) (a) (intro.), 452.17 (4) (a) 1., 452.17 (4) (a) 2., 452.20, 452.21,
6 and 452.22 (2), ~~and to create~~ 20.505 (1) (h), 20.550 (1) (km), 440.08 (2) (a) 66m.,
7 452.01 (3p), 452.035, ~~and~~ ⁽¹⁾ ~~452.13 (1) (c) of the statutes, relating to: requiring~~
8 ~~the registration of real estate closing agents, regulating funds received by such~~
9 ~~agents, making appropriations, and providing a penalty.~~

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be prepared for a subsequent version of this draft.
For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:



X

SDC:.....Keckhaver – CN2715, Trust accounts used for closing transactions;
funding for state public defender

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

Insert 1/11

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 385, line 5: after that line insert:

3 "SECTION 802x. 20.505 (1) (h) of the statutes is created to read:

4 20.505 (1) (h) *Interest on real estate trust accounts; closing agents.* All moneys
5 received from interest on real estate trust accounts maintained by closing agents
6 under s. 452.13 for the purpose of transferring the moneys received to the
7 appropriation account under s. 20.550 (1) (km)."

8 2. Page 395, line 18: after "accounts" insert "maintained by brokers".

9 3. Page 403, line 6: after that line insert:

(No - These are
not pictures of
donuts!)

① public defender
costs

1 **SECTION 916d.** 20.550 (1) (km) of the statutes is created to read:

2 20.550 (1) (km) *Interest on real estate trust accounts; ~~other accounts~~*. All moneys
3 transferred under s. 20.505 (1) (h), for program administration costs of the office of
4 the state public defender, including the costs of interpreters and of discovery
5 materials and excluding the costs under pars. (e) and (fb).”

6 **4.** Page 1154, line 17: after that line insert:

7 **SECTION 3579c.** 440.08 (2) (a) 66m. of the statutes is created to read:

8 440.08 (2) (a) 66m. Real estate closing agent: January 1 of each odd-numbered
9 year; \$56.”

10 **5.** Page 1156, line 6: after that line insert:

11 **SECTION 3608cg.** 452.01 (3p) of the statutes is created to read:

12 452.01 (3p) “Closing agent” means any person who coordinates the closing of
13 a conveyance of real estate by ensuring that title to the real estate is transferred to
14 the buyer and that the purchase price is transferred to the seller, except that “closing
15 agent” does not include any of the following:

16 (a) A receiver, trustee, administrator, executor, guardian, or other person
17 appointed by or acting under the judgment or order of any court.

18 (b) A public officer while performing his or her official duties.

19 (c) A depository institution.

20 (d) An employee of a person specified in pars. (a) to (c) when the employee is
21 engaged in the specific performance as such an employee.

22 (e) An attorney licensed to practice in this state while acting within the scope
23 of his or her attorney’s license.

24 **SECTION 3608cm.** 452.035 of the statutes is created to read:

1 **452.035 Closing agents.** No person, including an escrow agent, as defined in
2 s. 138.052 (5m) (a) or 707.49 (1) (d), may engage in the business or occupation of, or
3 advertise or hold himself or herself out as, a closing agent unless the person is
4 registered as a closing agent by the department. The department shall issue a
5 certificate of registration as a closing agent to a person who submits an application
6 to the department on a form provided by the department, pays the fee specified in
7 s. 440.05 (1), and submits evidence satisfactory to the department that he or she is
8 competent to act as a closing agent. Renewal applications shall be submitted to the
9 department on a form provided by the department on or before the applicable
10 renewal date specified under s. 440.08 (2) (a) and shall include the applicable
11 renewal fee specified under s. 440.08 (2) (a).

12 **SECTION 3608cr.** 452.05 (1) (a) of the statutes is amended to read:

13 452.05 (1) (a) Grant and issue licenses to brokers and salespersons and
14 registrations to time-share salespersons and closing agents.

15 **SECTION 3608dg.** 452.11 (1) of the statutes is amended to read:

16 452.11 (1) A nonresident may become a broker, salesperson ~~or~~, time-share
17 salesperson, or closing agent by conforming to all the provisions of this chapter.

18 **SECTION 3608dm.** 452.12 (6) (a) of the statutes is amended to read:

19 452.12 (6) (a) Any licensee, except a time-share salesperson registered under
20 s. 452.025 or a closing agent registered under s. 452.035, may apply for registration
21 as an inactive licensee on or before the license renewal date. This paragraph does
22 not apply after October 31, 1995.

23 **SECTION 3608dr.** 452.13 (1) (b) of the statutes is renumbered 452.01 (3w).

24 **SECTION 3608eg.** 452.13 (1) (c) of the statutes is created to read:

1 452.13 (1) (c) “Closing funds” means any money related to the closing of real
2 estate conveyance that is received by a closing agent. “Closing funds” does not
3 include client funds, unless the client funds are transferred to a closing agent.

4 **SECTION 3608em.** 452.13 (2) (a) of the statutes is amended to read:

5 452.13 (2) (a) A broker who holds client funds or a closing agent who holds
6 closing funds shall establish an interest-bearing common trust account in a
7 depository institution. The interest-bearing common trust account shall earn
8 interest at a rate not less than that applicable to individual accounts of the same
9 type, size, and duration and for which withdrawals or transfers can be made without
10 delay, subject to any notice period that the depository institution is required to
11 observe by law or regulation.

12 **SECTION 3608er.** 452.13 (2) (b) (intro.) of the statutes is amended to read:

13 452.13 (2) (b) (intro.) Any broker or closing agent who maintains an
14 interest-bearing common trust account shall do all of the following:

15 **SECTION 3608fg.** 452.13 (2) (c) of the statutes is amended to read:

16 452.13 (2) (c) A broker or closing agent shall deposit all client funds or closing
17 funds in the interest-bearing common trust account.

18 **SECTION 3608fm.** 452.13 (2) (e) (intro.) of the statutes is amended to read:

19 452.13 (2) (e) (intro.) For each interest-bearing common trust account, the
20 broker or closing agent shall direct the depository institution to do all of the
21 following:

22 **SECTION 3608fr.** 452.13 (2) (e) 2. of the statutes is amended to read:

23 452.13 (2) (e) 2. When the interest remittance is sent, furnish to the
24 department of administration and to the broker or closing agent maintaining the
25 interest-bearing common trust account a statement that includes the name of the

1 broker or closing agent for whose account the remittance is made, the rate of interest
2 applied, the amount of service charges or fees deducted, if any, and the account
3 balance for the period that the statement covers.

4 **SECTION 3608gg.** 452.13 (2) (f) 1. of the statutes is amended to read:

5 452.13 (2) (f) 1. May not assess a service charge or fee that is due on an
6 interest-bearing common trust account against any broker or closing agent or,
7 except as provided in subd. 3., against any other account, regardless of whether the
8 same broker or closing agent maintains the other account.

9 **SECTION 3608gm.** 452.13 (3) of the statutes is amended to read:

10 452.13 (3) DEPOSIT PROVISIONS. A broker or closing agent who deposits client
11 funds or closing funds in an interest-bearing common trust account in compliance
12 with this section may not be held liable to the owner or beneficial owner of the client
13 funds or closing funds for damages due to compliance with this section. A broker,
14 salesperson, or time-share salesperson who deposits client funds, or a closing agent
15 who deposits closing funds, in an interest-bearing common trust account in
16 compliance with this section is not required to disclose alternative depository
17 arrangements that could be made by the parties or to disclose that a deposit will be
18 made under this section.

19 **SECTION 3608gr.** 452.13 (4) of the statutes is amended to read:

20 452.13 (4) TRUST ACCOUNT OPTIONAL. This section does not require a broker or
21 closing agent to hold client funds or closing funds or require a person to transfer
22 client funds to a broker or transfer closing funds to a closing agent.

23 **SECTION 3608hg.** 452.14 (1) of the statutes is amended to read:

24 452.14 (1) The department shall, upon motion of the board or upon its own
25 determination, conduct investigations and, as appropriate, may hold hearings and

1 make findings, if the department receives credible information that a broker,
2 salesperson ~~or~~, time-share salesperson, or closing agent has violated this chapter or
3 any rule promulgated under this chapter.

4 **SECTION 3608hm.** 452.14 (3) (intro.) of the statutes is amended to read:

5 452.14 (3) (intro.) Disciplinary proceedings shall be conducted by the board
6 according to rules adopted under s. 440.03 (1). The board may revoke, suspend, or
7 limit any broker's, salesperson's ~~or~~, time-share salesperson's, or closing agent's
8 license or registration, or reprimand the holder of the license or registration, if it
9 finds that the holder of the license or registration has:

10 **SECTION 3608hr.** 452.14 (3) (b) of the statutes is amended to read:

11 452.14 (3) (b) Made any substantial misrepresentation with reference to a
12 transaction injurious to a seller or purchaser in which the broker, salesperson ~~or~~,
13 time-share salesperson, or closing agent acts as agent;

14 **SECTION 3608ig.** 452.14 (3) (h) of the statutes is amended to read:

15 452.14 (3) (h) Failed, within a reasonable time, to account for or remit any
16 moneys coming into the broker's, salesperson's ~~or~~, time-share salesperson's, or
17 closing agent's possession which belong to another person;

18 **SECTION 3608im.** 452.14 (3) (i) of the statutes is amended to read:

19 452.14 (3) (i) Demonstrated incompetency to act as a broker, salesperson ~~or~~,
20 time-share salesperson, or closing agent in a manner which safeguards the interests
21 of the public;

22 **SECTION 3608ir.** 452.14 (3) (jm) of the statutes is amended to read:

23 452.14 (3) (jm) Intentionally encouraged or discouraged any person from
24 purchasing or renting real estate in a particular area on the basis of race. If the board
25 finds that any broker, salesperson ~~or~~, time-share salesperson, or closing agent has

-7-

1 violated this paragraph, the board shall, in addition to any temporary penalty
2 imposed under this subsection, apply the penalty provided in s. 452.17 (4);

3 **SECTION 3608ig.** 452.17 (2) of the statutes is amended to read:

4 452.17 (2) Any person who engages in or follows the business or occupation of,
5 or advertises or holds himself or herself out as or acts temporarily or otherwise as,
6 a time-share salesperson or closing agent in this state without being registered with
7 the department shall be prosecuted by the district attorney in the county where the
8 violation occurs and may be fined not less than \$25 nor more than \$200 or imprisoned
9 not less than 10 days nor more than 6 months or both.

10 **SECTION 3608jm.** 452.17 (4) (a) (intro.) of the statutes is amended to read:

11 452.17 (4) (a) (intro.) If the board finds that any broker, salesperson ~~or~~,
12 time-share salesperson, or closing agent has violated s. 452.14 (3) (jm), the board:

13 **SECTION 3608jr.** 452.17 (4) (a) 1. of the statutes is amended to read:

14 452.17 (4) (a) 1. Shall, for the first offense, suspend the license or registration
15 of the broker, salesperson ~~or~~, time-share salesperson, or closing agent for not less
16 than 90 days.

17 **SECTION 3608kg.** 452.17 (4) (a) 2. of the statutes is amended to read:

18 452.17 (4) (a) 2. Shall, for the 2nd offense, revoke the license or registration of
19 the broker, salesperson ~~or~~, time-share salesperson, closing agent.

20 **SECTION 3608km.** 452.20 of the statutes is amended to read:

21 **452.20 Limitation on actions for commissions.** No person engaged in the
22 business or acting in the capacity of a broker, salesperson ~~or~~, time-share salesperson,
23 or closing agent within this state may bring or maintain an action in the courts of this
24 state for the collection of a commission or compensation for the performance of any
25 act mentioned in this chapter without alleging and proving that he or she was a duly

1 licensed broker, or salesperson or registered time-share salesperson or closing agent
2 at the time the alleged cause of action arose.

3 **SECTION 3608kr.** 452.21 of the statutes is amended to read:

4 **452.21 Compensation presumed.** In any prosecution for violation of this
5 chapter, proof that a person acted as a broker, agent, salesperson ~~or~~, time-share
6 salesperson, or closing agent is prima facie proof that compensation therefor was
7 received or promised.

8 **SECTION 3608Lg.** 452.22 (2) of the statutes is amended to read:

9 452.22 (2) The certificate of the secretary or his or her designee to the effect that
10 a specified individual or business entity is not or was not on a specified date the
11 holder of a broker's, salesperson's ~~or~~, time-share salesperson's, or closing agent's
12 license or registration, or that a specified license or registration was not in effect on
13 a date specified, or as to the issuance, limitation, suspension, or revocation of any
14 license or registration or the reprimand of any holder thereof, the filing or
15 withdrawal of any application or its existence or nonexistence, is prima facie
16 evidence of the facts therein stated for all purposes in any action or proceedings.”

17 **6.** Page 1433, line 11: after that line insert:

18 “(3k) REAL ESTATE CLOSING AGENTS. The treatment of sections ^{20.505 (1)(h),} 20.550 (1) (k),
19 440.08 (2) (a) 66m., 452.01 (3p), 452.035, 452.05 (1) (a), 452.11 (1), 452.12 (6) (a),
20 452.13 (1) (b), 452.13 (1) (c), 452.13 (2) (a), 452.13 (2) (b) (intro.), 452.13 (2) (c), 452.13
21 (2) (e) (intro.), 452.13 (2) (e) 2., 452.13 (2) (f) 1., 452.13 (3), 452.13 (4), 452.14 (1),
22 452.14 (3) (intro.), 452.14 (3) (b), 452.14 (3) (h), 452.14 (3) (i), 452.14 (3) (jm), 452.17
23 (2), 452.17 (4) (a) (intro.), 452.17 (4) (a) 1., 452.17 (4) (a) 2., 452.20, 452.21, and 452.22

1 (2)¹ of the statutes takes effect on the first day of the 10th month beginning after
2 publication.”.

3 (END)

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0799/lins
MGD:.....

1 **INSERT 1/1**

2 **1.** Page 246, line 8: after that line insert:

3 “(h) Interest on real estate trust

4 accounts; closing agents PR C -0- -0-”[Ⓢ]

5 **2.** Page ~~247~~⁶³, line ~~10~~⁸: after that line insert:

6 “(ko) Interest on real estate trust

7 accounts; closing agents PR-S C -0- -0-”[Ⓢ]

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0799/2dn

MDK: f:...

WJ

John Keckhaver:

This version is identical to the previous version, except that the renewal fee is \$53, not \$56.

Mark D. Kunkel
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D-NOTE

*RM NOT
GUV*

SDC:.....Keckhaver – CN2715, Trust accounts used for closing transactions;
funding for state public defender

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 246, line 8: after that line insert:

3 “(h) Interest on real estate trust

4 accounts; closing agents PR C -0- -0-”.

5 2. Page 263, line 8: after that line insert:

6 “(ko) Interest on real estate trust

7 accounts; closing agents PR-S C -0- -0-”.

8 3. Page 385, line 5: after that line insert:

9 “SECTION 802x. 20.505 (1) (h) of the statutes is created to read:

1 20.505 (1) (h) *Interest on real estate trust accounts; closing agents.* All moneys
2 received from interest on real estate trust accounts maintained by closing agents
3 under s. 452.13 for the purpose of transferring the moneys received to the
4 appropriation account under s. 20.550 (1) (ko).”.

5 **4.** Page 395, line 18: after “accounts” insert “maintained by brokers”.

6 **5.** Page 403, line 6: after that line insert:

7 “SECTION 916d. 20.550 (1) (ko) of the statutes is created to read:

8 20.550 (1) (ko) *Interest on real estate trust accounts; public defender costs.* All
9 moneys transferred under s. 20.505 (1) (h), for program administration costs of the
10 office of the state public defender, including the costs of interpreters and of discovery
11 materials and excluding the costs under pars. (e) and (fb).”.

12 **6.** Page 1154, line 17: after that line insert:

13 “SECTION 3579c. 440.08 (2) (a) 66m. of the statutes is created to read:

14 440.08 (2) (a) 66m. Real estate closing agent: January 1 of each odd-numbered

15 year; ~~the~~”  \$53

16 **7.** Page 1156, line 6: after that line insert:

17 “SECTION 3608cg. 452.01 (3p) of the statutes is created to read:

18 452.01 (3p) “Closing agent” means any person who coordinates the closing of
19 a conveyance of real estate by ensuring that title to the real estate is transferred to
20 the buyer and that the purchase price is transferred to the seller, except that “closing
21 agent” does not include any of the following:

22 (a) A receiver, trustee, administrator, executor, guardian, or other person
23 appointed by or acting under the judgment or order of any court.

24 (b) A public officer while performing his or her official duties.

1 (c) A depository institution.

2 (d) An employee of a person specified in pars. (a) to (c) when the employee is
3 engaged in the specific performance as such an employee.

4 (e) An attorney licensed to practice in this state while acting within the scope
5 of his or her attorney's license.

6 **SECTION 3608cm.** 452.035 of the statutes is created to read:

7 **452.035 Closing agents.** No person, including an escrow agent, as defined in
8 s. 138.052 (5m) (a) or 707.49 (1) (d), may engage in the business or occupation of, or
9 advertise or hold himself or herself out as, a closing agent unless the person is
10 registered as a closing agent by the department. The department shall issue a
11 certificate of registration as a closing agent to a person who submits an application
12 to the department on a form provided by the department, pays the fee specified in
13 s. 440.05 (1), and submits evidence satisfactory to the department that he or she is
14 competent to act as a closing agent. Renewal applications shall be submitted to the
15 department on a form provided by the department on or before the applicable
16 renewal date specified under s. 440.08 (2) (a) and shall include the applicable
17 renewal fee specified under s. 440.08 (2) (a).

18 **SECTION 3608cr.** 452.05 (1) (a) of the statutes is amended to read:

19 452.05 (1) (a) Grant and issue licenses to brokers and salespersons and
20 registrations to time-share salespersons and closing agents.

21 **SECTION 3608dg.** 452.11 (1) of the statutes is amended to read:

22 452.11 (1) A nonresident may become a broker, salesperson ~~or~~, time-share
23 salesperson, or closing agent by conforming to all the provisions of this chapter.

24 **SECTION 3608dm.** 452.12 (6) (a) of the statutes is amended to read:

1 452.12 (6) (a) Any licensee, except a time-share salesperson registered under
2 s. 452.025 or a closing agent registered under s. 452.035, may apply for registration
3 as an inactive licensee on or before the license renewal date. This paragraph does
4 not apply after October 31, 1995.

5 **SECTION 3608dr.** 452.13 (1) (b) of the statutes is renumbered 452.01 (3w).

6 **SECTION 3608eg.** 452.13 (1) (c) of the statutes is created to read:

7 452.13 (1) (c) “Closing funds” means any money related to the closing of real
8 estate conveyance that is received by a closing agent. “Closing funds” does not
9 include client funds, unless the client funds are transferred to a closing agent.

10 **SECTION 3608em.** 452.13 (2) (a) of the statutes is amended to read:

11 452.13 (2) (a) A broker who holds client funds or a closing agent who holds
12 closing funds shall establish an interest-bearing common trust account in a
13 depository institution. The interest-bearing common trust account shall earn
14 interest at a rate not less than that applicable to individual accounts of the same
15 type, size, and duration and for which withdrawals or transfers can be made without
16 delay, subject to any notice period that the depository institution is required to
17 observe by law or regulation.

18 **SECTION 3608er.** 452.13 (2) (b) (intro.) of the statutes is amended to read:

19 452.13 (2) (b) (intro.) Any broker or closing agent who maintains an
20 interest-bearing common trust account shall do all of the following:

21 **SECTION 3608fg.** 452.13 (2) (c) of the statutes is amended to read:

22 452.13 (2) (c) A broker or closing agent shall deposit all client funds or closing
23 funds in the interest-bearing common trust account.

24 **SECTION 3608fm.** 452.13 (2) (e) (intro.) of the statutes is amended to read:

1 452.13 (2) (e) (intro.) For each interest-bearing common trust account, the
2 broker or closing agent shall direct the depository institution to do all of the
3 following:

4 **SECTION 3608fr.** 452.13 (2) (e) 2. of the statutes is amended to read:

5 452.13 (2) (e) 2. When the interest remittance is sent, furnish to the
6 department of administration and to the broker or closing agent maintaining the
7 interest-bearing common trust account a statement that includes the name of the
8 broker or closing agent for whose account the remittance is made, the rate of interest
9 applied, the amount of service charges or fees deducted, if any, and the account
10 balance for the period that the statement covers.

11 **SECTION 3608gg.** 452.13 (2) (f) 1. of the statutes is amended to read:

12 452.13 (2) (f) 1. May not assess a service charge or fee that is due on an
13 interest-bearing common trust account against any broker or closing agent or,
14 except as provided in subd. 3., against any other account, regardless of whether the
15 same broker or closing agent maintains the other account.

16 **SECTION 3608gm.** 452.13 (3) of the statutes is amended to read:

17 452.13 (3) DEPOSIT PROVISIONS. A broker or closing agent who deposits client
18 funds or closing funds in an interest-bearing common trust account in compliance
19 with this section may not be held liable to the owner or beneficial owner of the client
20 funds or closing funds for damages due to compliance with this section. A broker,
21 salesperson, or time-share salesperson who deposits client funds, or a closing agent
22 who deposits closing funds, in an interest-bearing common trust account in
23 compliance with this section is not required to disclose alternative depository
24 arrangements that could be made by the parties or to disclose that a deposit will be
25 made under this section.

1 **SECTION 3608gr.** 452.13 (4) of the statutes is amended to read:

2 452.13 (4) TRUST ACCOUNT OPTIONAL. This section does not require a broker or
3 closing agent to hold client funds or closing funds or require a person to transfer
4 client funds to a broker or transfer closing funds to a closing agent.

5 **SECTION 3608hg.** 452.14 (1) of the statutes is amended to read:

6 452.14 (1) The department shall, upon motion of the board or upon its own
7 determination, conduct investigations and, as appropriate, may hold hearings and
8 make findings, if the department receives credible information that a broker,
9 salesperson ~~or~~, time-share salesperson, or closing agent has violated this chapter or
10 any rule promulgated under this chapter.

11 **SECTION 3608hm.** 452.14 (3) (intro.) of the statutes is amended to read:

12 452.14 (3) (intro.) Disciplinary proceedings shall be conducted by the board
13 according to rules adopted under s. 440.03 (1). The board may revoke, suspend, or
14 limit any broker's, salesperson's ~~or~~, time-share salesperson's, or closing agent's
15 license or registration, or reprimand the holder of the license or registration, if it
16 finds that the holder of the license or registration has:

17 **SECTION 3608hr.** 452.14 (3) (b) of the statutes is amended to read:

18 452.14 (3) (b) Made any substantial misrepresentation with reference to a
19 transaction injurious to a seller or purchaser in which the broker, salesperson ~~or~~,
20 time-share salesperson, or closing agent acts as agent;

21 **SECTION 3608ig.** 452.14 (3) (h) of the statutes is amended to read:

22 452.14 (3) (h) Failed, within a reasonable time, to account for or remit any
23 moneys coming into the broker's, salesperson's ~~or~~, time-share salesperson's, or
24 closing agent's possession which belong to another person;

25 **SECTION 3608im.** 452.14 (3) (i) of the statutes is amended to read:

1 452.14 (3) (i) Demonstrated incompetency to act as a broker, salesperson or,
2 time-share salesperson, or closing agent in a manner which safeguards the interests
3 of the public;

4 **SECTION 3608ir.** 452.14 (3) (jm) of the statutes is amended to read:

5 452.14 (3) (jm) Intentionally encouraged or discouraged any person from
6 purchasing or renting real estate in a particular area on the basis of race. If the board
7 finds that any broker, salesperson or, time-share salesperson, or closing agent has
8 violated this paragraph, the board shall, in addition to any temporary penalty
9 imposed under this subsection, apply the penalty provided in s. 452.17 (4);

10 **SECTION 3608jg.** 452.17 (2) of the statutes is amended to read:

11 452.17 (2) Any person who engages in or follows the business or occupation of,
12 or advertises or holds himself or herself out as or acts temporarily or otherwise as,
13 a time-share salesperson or closing agent in this state without being registered with
14 the department shall be prosecuted by the district attorney in the county where the
15 violation occurs and may be fined not less than \$25 nor more than \$200 or imprisoned
16 not less than 10 days nor more than 6 months or both.

17 **SECTION 3608jm.** 452.17 (4) (a) (intro.) of the statutes is amended to read:

18 452.17 (4) (a) (intro.) If the board finds that any broker, salesperson or,
19 time-share salesperson, or closing agent has violated s. 452.14 (3) (jm), the board:

20 **SECTION 3608jr.** 452.17 (4) (a) 1. of the statutes is amended to read:

21 452.17 (4) (a) 1. Shall, for the first offense, suspend the license or registration
22 of the broker, salesperson or, time-share salesperson, or closing agent for not less
23 than 90 days.

24 **SECTION 3608kg.** 452.17 (4) (a) 2. of the statutes is amended to read:

1 452.17 (4) (a) 2. Shall, for the 2nd offense, revoke the license or registration of
2 the broker, salesperson ~~or~~, time-share salesperson, closing agent.

3 **SECTION 3608km.** 452.20 of the statutes is amended to read:

4 **452.20 Limitation on actions for commissions.** No person engaged in the
5 business or acting in the capacity of a broker, salesperson ~~or~~, time-share salesperson,
6 or closing agent within this state may bring or maintain an action in the courts of this
7 state for the collection of a commission or compensation for the performance of any
8 act mentioned in this chapter without alleging and proving that he or she was a duly
9 licensed broker, or salesperson or registered time-share salesperson or closing agent
10 at the time the alleged cause of action arose.

11 **SECTION 3608kr.** 452.21 of the statutes is amended to read:

12 **452.21 Compensation presumed.** In any prosecution for violation of this
13 chapter, proof that a person acted as a broker, agent, salesperson ~~or~~, time-share
14 salesperson, or closing agent is prima facie proof that compensation therefor was
15 received or promised.

16 **SECTION 3608Lg.** 452.22 (2) of the statutes is amended to read:

17 **452.22 (2)** The certificate of the secretary or his or her designee to the effect that
18 a specified individual or business entity is not or was not on a specified date the
19 holder of a broker's, salesperson's ~~or~~, time-share salesperson's, or closing agent's
20 license or registration, or that a specified license or registration was not in effect on
21 a date specified, or as to the issuance, limitation, suspension, or revocation of any
22 license or registration or the reprimand of any holder thereof, the filing or
23 withdrawal of any application or its existence or nonexistence, is prima facie
24 evidence of the facts therein stated for all purposes in any action or proceedings.”.

1 **8.** Page 1433, line 11: after that line insert:

2 “(3k) REAL ESTATE CLOSING AGENTS. The treatment of sections 20.505 (1) (h),
3 20.550 (1) (ko), 440.08 (2) (a) 66m., 452.01 (3p), 452.035, 452.05 (1) (a), 452.11 (1),
4 452.12 (6) (a), 452.13 (1) (b), 452.13 (1) (c), 452.13 (2) (a), 452.13 (2) (b) (intro.), 452.13
5 (2) (c), 452.13 (2) (e) (intro.), 452.13 (2) (e) 2., 452.13 (2) (f) 1., 452.13 (3), 452.13 (4),
6 452.14 (1), 452.14 (3) (intro.), 452.14 (3) (b), 452.14 (3) (h), 452.14 (3) (i), 452.14 (3)
7 (jm), 452.17 (2), 452.17 (4) (a) (intro.), 452.17 (4) (a) 1., 452.17 (4) (a) 2., 452.20,
8 452.21, and 452.22 (2) of the statutes takes effect on the first day of the 10th month
9 beginning after publication.”.

10

(END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb0799/2dn
MDK:wlj:jf

June 19, 2001.

John Keckhaver:

This version is identical to the previous version, except that the renewal fee is \$53, not \$56.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

SDC:.....Keckhaver – CN2715, Trust accounts used for closing transactions;
funding for state public defender

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 246, line 8: after that line insert:

3 “(h) Interest on real estate trust
4 accounts; closing agents PR C -0- -0-”.

5 **2.** Page 263, line 8: after that line insert:

6 “(ko) Interest on real estate trust
7 accounts; closing agents PR-S C -0- -0-”.

8 **3.** Page 385, line 5: after that line insert:

9 **“SECTION 802x. 20.505 (1) (h) of the statutes is created to read:**

1 20.505 (1) (h) *Interest on real estate trust accounts; closing agents.* All moneys
2 received from interest on real estate trust accounts maintained by closing agents
3 under s. 452.13 for the purpose of transferring the moneys received to the
4 appropriation account under s. 20.550 (1) (ko).”.

5 **4.** Page 395, line 18: after “accounts” insert “maintained by brokers”.

6 **5.** Page 403, line 6: after that line insert:

7 “SECTION 916d. 20.550 (1) (ko) of the statutes is created to read:

8 20.550 (1) (ko) *Interest on real estate trust accounts; public defender costs.* All
9 moneys transferred under s. 20.505 (1) (h), for program administration costs of the
10 office of the state public defender, including the costs of interpreters and of discovery
11 materials and excluding the costs under pars. (e) and (fb).”.

12 **6.** Page 1154, line 17: after that line insert:

13 “SECTION 3579c. 440.08 (2) (a) 66m. of the statutes is created to read:

14 440.08 (2) (a) 66m. Real estate closing agent: January 1 of each odd-numbered
15 year; \$53.”.

16 **7.** Page 1156, line 6: after that line insert:

17 “SECTION 3608cg. 452.01 (3p) of the statutes is created to read:

18 452.01 (3p) “Closing agent” means any person who coordinates the closing of
19 a conveyance of real estate by ensuring that title to the real estate is transferred to
20 the buyer and that the purchase price is transferred to the seller, except that “closing
21 agent” does not include any of the following:

22 (a) A receiver, trustee, administrator, executor, guardian, or other person
23 appointed by or acting under the judgment or order of any court.

24 (b) A public officer while performing his or her official duties.

1 (c) A depository institution.

2 (d) An employee of a person specified in pars. (a) to (c) when the employee is
3 engaged in the specific performance as such an employee.

4 (e) An attorney licensed to practice in this state while acting within the scope
5 of his or her attorney's license.

6 **SECTION 3608cm.** 452.035 of the statutes is created to read:

7 **452.035 Closing agents.** No person, including an escrow agent, as defined in
8 s. 138.052 (5m) (a) or 707.49 (1) (d), may engage in the business or occupation of, or
9 advertise or hold himself or herself out as, a closing agent unless the person is
10 registered as a closing agent by the department. The department shall issue a
11 certificate of registration as a closing agent to a person who submits an application
12 to the department on a form provided by the department, pays the fee specified in
13 s. 440.05 (1), and submits evidence satisfactory to the department that he or she is
14 competent to act as a closing agent. Renewal applications shall be submitted to the
15 department on a form provided by the department on or before the applicable
16 renewal date specified under s. 440.08 (2) (a) and shall include the applicable
17 renewal fee specified under s. 440.08 (2) (a).

18 **SECTION 3608cr.** 452.05 (1) (a) of the statutes is amended to read:

19 452.05 (1) (a) Grant and issue licenses to brokers and salespersons and
20 registrations to time-share salespersons and closing agents.

21 **SECTION 3608dg.** 452.11 (1) of the statutes is amended to read:

22 452.11 (1) A nonresident may become a broker, salesperson ~~or~~, time-share
23 salesperson, or closing agent by conforming to all the provisions of this chapter.

24 **SECTION 3608dm.** 452.12 (6) (a) of the statutes is amended to read:

1 452.12 (6) (a) Any licensee, except a time-share salesperson registered under
2 s. 452.025 or a closing agent registered under s. 452.035, may apply for registration
3 as an inactive licensee on or before the license renewal date. This paragraph does
4 not apply after October 31, 1995.

5 **SECTION 3608dr.** 452.13 (1) (b) of the statutes is renumbered 452.01 (3w).

6 **SECTION 3608eg.** 452.13 (1) (c) of the statutes is created to read:

7 452.13 (1) (c) "Closing funds" means any money related to the closing of real
8 estate conveyance that is received by a closing agent. "Closing funds" does not
9 include client funds, unless the client funds are transferred to a closing agent.

10 **SECTION 3608em.** 452.13 (2) (a) of the statutes is amended to read:

11 452.13 (2) (a) A broker who holds client funds or a closing agent who holds
12 closing funds shall establish an interest-bearing common trust account in a
13 depository institution. The interest-bearing common trust account shall earn
14 interest at a rate not less than that applicable to individual accounts of the same
15 type, size, and duration and for which withdrawals or transfers can be made without
16 delay, subject to any notice period that the depository institution is required to
17 observe by law or regulation.

18 **SECTION 3608er.** 452.13 (2) (b) (intro.) of the statutes is amended to read:

19 452.13 (2) (b) (intro.) Any broker or closing agent who maintains an
20 interest-bearing common trust account shall do all of the following:

21 **SECTION 3608fg.** 452.13 (2) (c) of the statutes is amended to read:

22 452.13 (2) (c) A broker or closing agent shall deposit all client funds or closing
23 funds in the interest-bearing common trust account.

24 **SECTION 3608fm.** 452.13 (2) (e) (intro.) of the statutes is amended to read:

1 452.13 (2) (e) (intro.) For each interest-bearing common trust account, the
2 broker or closing agent shall direct the depository institution to do all of the
3 following:

4 **SECTION 3608fr.** 452.13 (2) (e) 2. of the statutes is amended to read:

5 452.13 (2) (e) 2. When the interest remittance is sent, furnish to the
6 department of administration and to the broker or closing agent maintaining the
7 interest-bearing common trust account a statement that includes the name of the
8 broker or closing agent for whose account the remittance is made, the rate of interest
9 applied, the amount of service charges or fees deducted, if any, and the account
10 balance for the period that the statement covers.

11 **SECTION 3608gg.** 452.13 (2) (f) 1. of the statutes is amended to read:

12 452.13 (2) (f) 1. May not assess a service charge or fee that is due on an
13 interest-bearing common trust account against any broker or closing agent or,
14 except as provided in subd. 3., against any other account, regardless of whether the
15 same broker or closing agent maintains the other account.

16 **SECTION 3608gm.** 452.13 (3) of the statutes is amended to read:

17 452.13 (3) DEPOSIT PROVISIONS. A broker or closing agent who deposits client
18 funds or closing funds in an interest-bearing common trust account in compliance
19 with this section may not be held liable to the owner or beneficial owner of the client
20 funds or closing funds for damages due to compliance with this section. A broker,
21 salesperson, or time-share salesperson who deposits client funds, or a closing agent
22 who deposits closing funds, in an interest-bearing common trust account in
23 compliance with this section is not required to disclose alternative depository
24 arrangements that could be made by the parties or to disclose that a deposit will be
25 made under this section.

1 **SECTION 3608gr.** 452.13 (4) of the statutes is amended to read:

2 452.13 (4) TRUST ACCOUNT OPTIONAL. This section does not require a broker or
3 closing agent to hold client funds or closing funds or require a person to transfer
4 client funds to a broker or transfer closing funds to a closing agent.

5 **SECTION 3608hg.** 452.14 (1) of the statutes is amended to read:

6 452.14 (1) The department shall, upon motion of the board or upon its own
7 determination, conduct investigations and, as appropriate, may hold hearings and
8 make findings, if the department receives credible information that a broker,
9 salesperson or, time-share salesperson, or closing agent has violated this chapter or
10 any rule promulgated under this chapter.

11 **SECTION 3608hm.** 452.14 (3) (intro.) of the statutes is amended to read:

12 452.14 (3) (intro.) Disciplinary proceedings shall be conducted by the board
13 according to rules adopted under s. 440.03 (1). The board may revoke, suspend, or
14 limit any broker's, salesperson's or, time-share salesperson's, or closing agent's
15 license or registration, or reprimand the holder of the license or registration, if it
16 finds that the holder of the license or registration has:

17 **SECTION 3608hr.** 452.14 (3) (b) of the statutes is amended to read:

18 452.14 (3) (b) Made any substantial misrepresentation with reference to a
19 transaction injurious to a seller or purchaser in which the broker, salesperson or,
20 time-share salesperson, or closing agent acts as agent;

21 **SECTION 3608ig.** 452.14 (3) (h) of the statutes is amended to read:

22 452.14 (3) (h) Failed, within a reasonable time, to account for or remit any
23 moneys coming into the broker's, salesperson's or, time-share salesperson's, or
24 closing agent's possession which belong to another person;

25 **SECTION 3608im.** 452.14 (3) (i) of the statutes is amended to read:

1 452.14 (3) (i) Demonstrated incompetency to act as a broker, salesperson ~~or~~,
2 time-share salesperson, or closing agent in a manner which safeguards the interests
3 of the public;

4 **SECTION 3608ir.** 452.14 (3) (jm) of the statutes is amended to read:

5 452.14 (3) (jm) Intentionally encouraged or discouraged any person from
6 purchasing or renting real estate in a particular area on the basis of race. If the board
7 finds that any broker, salesperson ~~or~~, time-share salesperson, or closing agent has
8 violated this paragraph, the board shall, in addition to any temporary penalty
9 imposed under this subsection, apply the penalty provided in s. 452.17 (4);

10 **SECTION 3608jg.** 452.17 (2) of the statutes is amended to read:

11 452.17 (2) Any person who engages in or follows the business or occupation of,
12 or advertises or holds himself or herself out as or acts temporarily or otherwise as,
13 a time-share salesperson or closing agent in this state without being registered with
14 the department shall be prosecuted by the district attorney in the county where the
15 violation occurs and may be fined not less than \$25 nor more than \$200 or imprisoned
16 not less than 10 days nor more than 6 months or both.

17 **SECTION 3608jm.** 452.17 (4) (a) (intro.) of the statutes is amended to read:

18 452.17 (4) (a) (intro.) If the board finds that any broker, salesperson ~~or~~,
19 time-share salesperson, or closing agent has violated s. 452.14 (3) (jm), the board:

20 **SECTION 3608jr.** 452.17 (4) (a) 1. of the statutes is amended to read:

21 452.17 (4) (a) 1. Shall, for the first offense, suspend the license or registration
22 of the broker, salesperson ~~or~~, time-share salesperson, or closing agent for not less
23 than 90 days.

24 **SECTION 3608kg.** 452.17 (4) (a) 2. of the statutes is amended to read:

1 452.17 (4) (a) 2. Shall, for the 2nd offense, revoke the license or registration of
2 the broker, salesperson ~~or~~, time-share salesperson, closing agent.

3 **SECTION 3608km.** 452.20 of the statutes is amended to read:

4 **452.20 Limitation on actions for commissions.** No person engaged in the
5 business or acting in the capacity of a broker, salesperson ~~or~~, time-share salesperson,
6 or closing agent within this state may bring or maintain an action in the courts of this
7 state for the collection of a commission or compensation for the performance of any
8 act mentioned in this chapter without alleging and proving that he or she was a duly
9 licensed broker, or salesperson or registered time-share salesperson or closing agent
10 at the time the alleged cause of action arose.

11 **SECTION 3608kr.** 452.21 of the statutes is amended to read:

12 **452.21 Compensation presumed.** In any prosecution for violation of this
13 chapter, proof that a person acted as a broker, agent, salesperson ~~or~~, time-share
14 salesperson, or closing agent is prima facie proof that compensation therefor was
15 received or promised.

16 **SECTION 3608Lg.** 452.22 (2) of the statutes is amended to read:

17 **452.22 (2)** The certificate of the secretary or his or her designee to the effect that
18 a specified individual or business entity is not or was not on a specified date the
19 holder of a broker's, salesperson's ~~or~~, time-share salesperson's, or closing agent's
20 license or registration, or that a specified license or registration was not in effect on
21 a date specified, or as to the issuance, limitation, suspension, or revocation of any
22 license or registration or the reprimand of any holder thereof, the filing or
23 withdrawal of any application or its existence or nonexistence, is prima facie
24 evidence of the facts therein stated for all purposes in any action or proceedings.”.

1 **8.** Page 1433, line 11: after that line insert:

2 “(3k) REAL ESTATE CLOSING AGENTS. The treatment of sections 20.505 (1) (h),
3 20.550 (1) (ko), 440.08 (2) (a) 66m., 452.01 (3p), 452.035, 452.05 (1) (a), 452.11 (1),
4 452.12 (6) (a), 452.13 (1) (b), 452.13 (1) (c), 452.13 (2) (a), 452.13 (2) (b) (intro.), 452.13
5 (2) (c), 452.13 (2) (e) (intro.), 452.13 (2) (e) 2., 452.13 (2) (f) 1., 452.13 (3), 452.13 (4),
6 452.14 (1), 452.14 (3) (intro.), 452.14 (3) (b), 452.14 (3) (h), 452.14 (3) (i), 452.14 (3)
7 (jm), 452.17 (2), 452.17 (4) (a) (intro.), 452.17 (4) (a) 1., 452.17 (4) (a) 2., 452.20,
8 452.21, and 452.22 (2) of the statutes takes effect on the first day of the 10th month
9 beginning after publication.”.

10

(END)