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SENATE BILL 137

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Mark Boitano

AN ACT

RELATING TO REAL ESTATE TRANSACTIONS; REMOVING REFINANCING OF
EXISTING LOANS FROM THE REQUIREMENT TO HAVE AVAILABLE FUNDS AT
CLOSING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 48-7-10.1 NMSA 1978 (being Laws 2003,
Chapter 200, Section 1) is amended to read:

"48-7-10.1. AVAILABLE FUNDS REQUIRED AT CLOSING. --

A. Unless the consideration necessary to complete a
sale of real property [~~or the refinancing of an existing loan~~]
has been previously delivered, a person shall not close on the
sale of real property [~~or the refinancing involving a loan from
a financial institution~~] until the lender provides available
funds to a third-party fiduciary conducting the closing in an
amount sufficient to complete the sale [~~or the refinancing~~] and

underscored material = new
[bracketed material] = delete

1 to pay, in accordance with the conditions and instructions of
2 the parties to the transaction, all sums required to be paid
3 through and at the time of the closing. [~~The title company may~~
4 ~~disburse~~] Available funds may be disbursed once the deed and
5 mortgage are recorded with the county clerk.

6 B. As used in this section, "available funds"
7 means funds subject to immediate withdrawal by cash or check
8 in a depository account with a financial institution, held in
9 the name of and subject to the control of a third-party
10 fiduciary conducting the closing, not including a person or
11 entity that is a party to the transaction, cooperating in the
12 closing of a transaction."

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