

1                                   SENATE BILL 364

2       **45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002**

3                                   INTRODUCED BY

4                                   Mark Boitano

10                                  AN ACT

11       RELATING TO REAL ESTATE TRANSACTIONS; REQUIRING LENDERS TO  
12       MAKE FUNDS AVAILABLE AT THE TIME OF CLOSING OF A REAL ESTATE  
13       TRANSACTION.

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

16               Section 1.   AVAILABLE FUNDS REQUIRED AT CLOSING. --

17               A.   Unless the consideration necessary to complete  
18       a sale of real property has been previously delivered, a  
19       person shall not close on the sale of real property involving  
20       a loan from a financial institution until the lender provides  
21       available funds to a third-party fiduciary in an amount  
22       sufficient to complete the sale and to pay, in accordance with  
23       the conditions and instructions of the parties to the  
24       transaction, all sums required to be paid through and at the  
25       time of the closing.

. 139865. 1

underscored material = new  
[bracketed material] = delete

1                   B. As used in this section, "available funds"  
2 means funds subject to immediate withdrawal by cash or check  
3 in a depository account with a financial institution, held in  
4 the name of and subject to the control of a third-party  
5 fiduciary, not including a person or entity that is a party to  
6 the transaction, cooperating in the closing of a transaction.

7                   - 2 -  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25