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AN ACT  
RELATING TO REAL ESTATE TRANSACTIONS; REQUIRING LENDERS TO  
MAKE FUNDS AVAILABLE AT THE TIME OF CLOSING OF A REAL ESTATE  
TRANSACTION; PROVIDING FOR WHEN FUNDS MAY BE DISBURSED.

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

Section 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 to pay, in accordance with the conditions and instructions of the parties to the transaction, all sums required to be paid through and at the time of the closing. The title company may disburse available funds once the deed and mortgage are recorded with the county clerk.

B. As used in this section, "available funds" means funds subject to immediate withdrawal by cash or check in a depository account with a financial institution, held in the name of and subject to the control of a third-party fiduciary conducting the closing, not including a person or

