

**This is an amendment to 13.14.4 NMAC, Section 8, effective 2/1/2022.**

**13.14.4.8 REQUIREMENTS FOR PROVIDING ESCROW SERVICES:** A title insurer or title insurance agency providing escrow services shall:

- A.** only accept funds pursuant to escrow instructions;
- B.** not make changes to escrow instructions without the consent of all parties in the manner specified by the escrow instructions;
- C.** receive and handle all funds pursuant to the requirements of Sections 58-28-1 et seq. and 59A-12-22 NMSA 1978;
  - (1)** an escrow account shall be separate from all operating accounts, and shall be designated as an escrow, trust or custodial account by the financial institution and in the books and records of the title insurer or title insurance agency; and
  - (2)** title insurers and title insurance agencies are prohibited from receiving for their own use any interest from escrow accounts or money accepted for escrow, except that nothing herein shall preclude participation in the Land Title Trust Fund Act pursuant to the Mortgage Loan Company Act, Section 58-28-1 NMSA 1978 et seq.;
- D.** disburse or deliver escrow funds only in accordance with escrow instructions;
- E.** disburse funds only out of an escrow account deposited for that transaction and that are available funds in compliance with Section 59A-30-5.1 NMSA 1978 and Subsection F of Section 59A-30-3 NMSA 1978;
- F.** interplead or hold any funds that are the subject of conflicting demands by the parties to an escrow until the title insurer or title insurance agency receives written instructions signed by all parties to the escrow transaction which resolve the conflict or until a final court order;
- G.** upon completion of an escrow transaction, deliver to each party a written statement of the escrow specifying all receipts and disbursements of funds made by or on behalf of each party to the escrow, whether disbursed to or from the escrow account, including from whom received and to whom made, except that when the transaction involves consumer credit, the most current version of the federal truth in lending regulation, 12. C.F.R. § 1026, shall govern the delivery of documents to the parties;
- H.** act with impartiality toward all parties to an escrow in the disbursement of funds; and
- I.** comply with all escrow audits ordered by OSI and make available to OSI all information requested by the superintendent.

[13.14.4.8 NMAC – Rp, 13.14.4.8 NMAC, 1/1/2021, A, 2/1/2022]