

This rule was filed as 12 NMAC 16.1.4.

**TITLE 12 TRADE, COMMERCE AND BANKING**  
**CHAPTER 16 BANKING**  
**PART 5 LAND TITLE TRUST FUND ACT AND LOW INCOME HOUSING TRUST ACT**

**12.16.5.1 ISSUING AGENCY:** Financial Institutions Division of the Regulation and Licensing Department, P.O. Box 25101, Santa Fe, New Mexico 87504.  
[6/30/98; Recompiled 10/15/01]

**12.16.5.2 SCOPE:** All depository institutions chartered by the state of New Mexico.  
[6/30/98; Recompiled 10/15/01]

**12.16.5.3 STATUTORY AUTHORITY:** Sections 58-18B-5F and 58-28-4I NMSA 1978.  
[6/30/98, 2/14/00; Recompiled 10/15/01]

**12.16.5.4 DURATION:** Permanent.  
[6/30/98; Recompiled 10/15/01]

**12.16.5.5 EFFECTIVE DATE:** June 30, 1998, unless a later date is cited at the end of a section or paragraph.  
[6/30/98, 2/14/00; Recompiled 10/15/01]  
[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

**12.16.5.6 OBJECTIVE:** The objective of this sub-part [now part] is to set procedures for state chartered depository institutions for establishing and operating pooled interest bearing escrow or transaction accounts.  
[6/30/98, 2/14/00; Recompiled 10/15/01]

**12.16.5.7 DEFINITIONS:** [RESERVED]

**12.16.5.8 LAND TITLE TRUST FUND ACT AND LOW INCOME HOUSING TRUST ACT:**

A. The following procedures and forms should be used in establishing and operating pooled interest-bearing escrow or transaction accounts.

(1) Form 5828-1, instructions for financial institutions regarding processing Land Title Trust Fund Act and Low Income Housing Trust Act accounts.

(2) Form 5828-2, account enrollment and agreement between company and financial institution.

(3) Form 5828-3, financial institution report of interest remittance.

B. Form 5828-1, instructions for financial institutions regarding processing Land Title Trust Fund and Low Income Housing Trust Act accounts.

(1) Pursuant to Section 58-28-4A NMSA 1978 every title company that maintains one or more trust accounts or escrow accounts into which customer funds are deposited for use in the purchase, sale or financing of real property located in New Mexico, may maintain one or more pooled interest-bearing transaction accounts and may deposit the customer funds specified in Section 58-28-4A NMSA 1978 into those accounts. Pursuant to Section 58-18B-5A NMSA 1978 every real estate broker who maintains a trust or escrow account as required pursuant to the provisions of Subsection H of Section 61-29-12 NMSA 1978 may maintain a pooled interest-bearing escrow account and may deposit the customer funds specified in Section 58-18B-5A NMSA 1978 into that account.

Pursuant to Section 58-18B-5B NMSA 1978 every escrow closing agent that maintains a trust account or escrow account pursuant to the provisions of Section 58-22-20 NMSA 1978 shall maintain a pooled interest-bearing escrow account and shall deposit the customer funds specified in Section 58-18-5B NMSA 1978 into that account. The interest earned from these programs is forwarded to the land title trust fund (LTTF). The account agreement between the depositor and the financial institution shall expressly provide for the required remittance of interest.

(2) State-chartered depository institutions that maintain trust or escrow accounts for customers may establish and make available pooled interest-bearing transaction accounts.

(3) The interest earned from these programs is forwarded to the land title trust fund (LTTF). The New Mexico mortgage finance authority is trustee for the LTTF. When the account is opened, the name of the account

should be listed on the financial institution's internal records as New Mexico mortgage finance authority, LTTF of (name of company) and the taxpayer ID number (TIN) should be that of the New Mexico mortgage finance authority. Since the internal revenue service matches the TIN with the payee, and they do this by checking to see if the first four letters of the payee's name matches the TIN, your records should reflect the New Mexico mortgage finance authority, LTTF as payee for reporting purposes. The account agreement between the depositor and the financial institution shall expressly provide for the required remittance of interest.

(4) Remittances. Interest accrued on LTTF accounts should be remitted monthly or quarterly from the financial institution in which the account is maintained to the New Mexico mortgage finance authority, trustee, LTTF, either directly or through the company. Any charges the financial institution assesses against the account shall be deducted from the accrued interest of the pooled interest-bearing transaction or escrow account. The principal contained in these accounts are client monies and cannot be used to pay financial institution charges. If the account does not earn enough interest to cover the service charges, it is at the discretion of the bank and company to determine how the fees should be handled. The net amount of the accrued interest should be mailed or wired to the New Mexico mortgage finance authority LTTF at: State Treasurer's Office, NEA Building, Attn: Local Government Investment Pool. P.O. Box 608, Account #7516 (LTTF Account), Santa Fe, NM 87504; or as otherwise directed by the state treasurer's office. Wire instructions: First Security Bank, ABA #107000275, Credit: NM State Treasurer LGIP Acct. # 601-59406-76, on behalf of: NMMFA LTTF STO #7516.

(5) Financial institutions are responsible for transmitting interest income information to the New Mexico mortgage finance authority and to the depositor. The financial institution should complete form 5828-3, financial institution report of interest remittance. The report includes the name of the depositor for whom the remittance is sent, the account number, the rate and amount of accrued interest, the amount deducted for any fees or service charge, the earning period and the ending account balance. Form 5828-3 should be sent to the New Mexico mortgage finance authority at: New Mexico Mortgage Finance Authority, Trustee, Land Title Trust Fund 344 Fourth Street SW, Albuquerque, NM 87102.

(6) IRS reports. The New Mexico mortgage finance authority LTTF is a backup withholding exempt recipient. The financial institution does not need to send out a request for TIN, IRS form W-9. However, if your data processing procedures require the receipt of a W-9 form, it should list the New Mexico mortgage finance authority LTTF TIN, and the New Mexico mortgage finance authority will sign it. Similarly, the New Mexico mortgage finance authority LTTF is a governmental organization exempt from withholding and reporting, so you do not need to issue form 1099 on New Mexico mortgage finance authority LTTF accounts. If you must prepare form 1099, please send the form 1099 to the New Mexico mortgage finance authority, LTTF, to avoid confusion for the title companies.

### C. Form 5828-2, ACCOUNT ENROLLMENT AND AGREEMENT BETWEEN COMPANY AND FINANCIAL INSTITUTION

To: \_\_\_\_\_  
Name of financial institution

\_\_\_\_\_  
Location of financial institution

I/We \_\_\_\_\_  
Name of company

(hereinafter referred to as "depositor") are participating in the land title trust fund (LTTF) program pursuant to the Land Title Trust Fund Act [58-28-1 to 58-28-8 NMSA 1978] and Low Income Housing Trust Act [58-18B-1 to 58-18B-11 NMSA 1978]. Depositor hereby acknowledges that it retains sole responsibility for determining deposits qualifying for deposit to this account. Depositor hereby instructs you to establish a LTTF negotiable order of withdrawal (NOW) account, sweep account or other interest bearing account in its name as follows: New Mexico mortgage finance authority, LTTF of (company).

The depositor's New Mexico mortgage finance authority, LTTF account is to be established and governed by the financial institution's customary rules and procedures governing NOW accounts, sweep accounts or other interest bearing accounts.

The New Mexico mortgage finance authority, LTTF is a tax-exempt governmental unit. The tax identification number is 85-0252748. No withholding is required. No Form 1099 is required.

Any service charge should be debited to the account in accordance with your normal practice. However, the charges must be deducted from accrued interest only. If the account does not earn enough interest to cover the service charges, it is at the discretion of the bank and company to determine how the fees should be handled.

Please remit all accrued interest (net of service charges, if any) AT LEAST QUARTERLY, no later than the tenth day of the month, directly to the New Mexico mortgage finance authority LTTF account at the state treasurer's office.

Accrued interest can be remitted by check, draft or similar instrument via U.S. mail or by wire transfer to:

State Treasurer  
NEA Building  
Attention: Local Government Investment Pool  
P.O. Box 608  
Santa Fe, NM 87504

New Mexico Mortgage Finance Authority  
Account #7516 (LTTF Account)

or as directed by the state treasurer's office.

Wire instructions:

First Security Bank  
ABA #107000275  
Credit: NM State Treasurer LGIP  
Acct. # 601-59406-76  
On behalf of: NMMFA LTTF STO #7516.

Also submit the financial institution report of interest remittance directly to:  
New Mexico Mortgage Finance Authority, Trustee  
Land Title Trust Fund,  
344 Fourth Street SW  
Albuquerque, NM 87102.

\_\_\_\_\_  
Depositor/account name

\_\_\_\_\_  
Acknowledgment by  
Financial Institution  
Representative/Date

\_\_\_\_\_  
Depositor address

\_\_\_\_\_  
Telephone number

\_\_\_\_\_  
Depositor signature/date

Please send a copy of this completed form to the depositor and the New Mexico mortgage finance authority.

D. FORM 5828-3, FINANCIAL INSTITUTION REPORT OF INTEREST REMITTANCE FOR LAND TITLE TRUST ACCOUNTS

To: Land title trust fund

From: \_\_\_\_\_  
Name of financial institution and contact person

\_\_\_\_\_  
Address  
\_\_\_\_\_

Telephone number

Account holder	Account number	Interest rate	Interest earned	Earning period	Ending Balance
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Total interest	\$ _____
Less service charge	\$ _____
Net remittance	\$ _____

Name of person remitting \_\_\_\_\_

Send this report to:

**Land Title Trust Fund**  
New Mexico Mortgage Finance Authority, trustee  
344 Fourth Street SW  
Albuquerque, NM 87102

Also send a copy of this report to the account depositor.  
[6/30/98, 2/14/00; Recompiled 10/15/01]

**HISTORY OF 12.16.5 NMAC:** [RESERVED]