

**TITLE 16        OCCUPATIONAL AND PROFESSIONAL LICENSING**  
**CHAPTER 61    REAL ESTATE BROKERS**  
**PART 26        LAND TITLE TRUST FUND ACT**

**16.61.26.1        ISSUING AGENCY:** New Mexico Real Estate Commission.  
[16.61.26.1 NMAC - N, 1-1-2002]

**16.61.26.2        SCOPE:** The provisions in Part 26 of Chapter 61 apply to all New Mexico associate brokers or qualifying brokers as defined herein.  
[16.61.26.2 NMAC - N, 1-1-2002; A, 1-1-2006]

**16.61.26.3        STATUTORY AUTHORITY:** Part 26 of Chapter 61 is promulgated pursuant to the Land Title Trust Fund Act, NMSA 1978 Section 58-18B-5.  
[16.61.26.3 NMAC - N, 1-1-2002]

**16.61.26.4        DURATION:** Permanent.  
[16.61.26.4 NMAC - N, 1-1-2002]

**16.61.26.5        EFFECTIVE DATE:** 1-1-2002, unless a later date is cited at the end of a section.  
[16.61.26.5 NMAC - N, 1-1-2002]

**16.61.26.6        OBJECTIVE:** The objective of Part 26 of Chapter 61 is to set Land Title Trust Fund Act policies and procedures used to establish and operate pooled interest-bearing escrow accounts.  
[16.61.26.6 NMAC - N, 1-1-2002]

**16.61.26.7        DEFINITIONS:** Refer to 16 NMAC 1.1.7.  
[16.61.26.7 NMAC - N, 1-1-2002]

**16.61.26.8        TRUST ACCOUNTS, ESCROW ACCOUNTS, SPECIAL ACCOUNTS, POOLED INTEREST-BEARING ACCOUNTS, AND DISPOSITION OF EARNED INTEREST ON CERTAIN ACCOUNTS:**

A.        Every real estate qualifying broker who maintains a trust or escrow account as required pursuant to the provisions of Subsection H of 61-29-12 NMSA 1978 may maintain a pooled interest-bearing escrow account and may deposit all customer funds into that account except for:

(1)       funds required to be deposited into a property management trust account under an express property management agreement; or

(2)       funds required to be deposited into an interest-bearing account under an express agreement between the parties to a transaction and under which agreement provisions are made for the payment of interest to be earned on the funds deposited.

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

(1)       Form 5828-1 instructions for financial institutions regarding processing land title trust fund act and low income housing trust fund 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.

[16.61.26.8 NMAC - N, 1-1-2002; A, 1-1-2006]

**HISTORY of 16.61.26 NMAC:** [RESERVED]