

1 SENATE BILL 259

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

3 INTRODUCED BY

4 Cliff R. Pirtle

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10 AN ACT

11 RELATING TO FINANCIAL INSTITUTIONS; ELIMINATING REQUIREMENTS  
12 FOR SURETY BONDS FOR ESCROW COMPANIES; IMPOSING REQUIREMENTS  
13 FOR FIDELITY BONDS FOR ESCROW COMPANIES.

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

16 SECTION 1. Section 58-22-10 NMSA 1978 (being Laws 1983,  
17 Chapter 135, Section 10, as amended) is amended to read:

18 "58-22-10. [~~SURETY~~] FIDELITY BOND REQUIRED.--

19 A. An escrow company shall obtain a [~~surety~~]  
20 fidelity bond in the minimum amount of [~~one hundred thousand~~  
21 ~~dollars (\$100,000) running to the people of the state of New~~  
22 ~~Mexico~~] one million dollars (\$1,000,000), which bond shall be  
23 executed and acknowledged by a corporation that is licensed by  
24 the superintendent of insurance to transact the business of  
25 fidelity [~~and surety~~] insurance. [~~The bonds shall be in a form~~

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1 ~~acceptable to the director and shall be filed in the director's~~  
2 ~~office.]~~

3 B. The fidelity bond required by this section shall  
4 be for the benefit of:

5 (1) any person damaged by an act or acts of  
6 the escrow company or its directors, officers or employees as a  
7 result of a violation of the provisions of, or any rule  
8 promulgated pursuant to, the Escrow Company Act, the Criminal  
9 Code or other acts made criminal offenses pursuant to state  
10 law;

11 (2) any person damaged by the negligence,  
12 fraud or embezzlement of the escrow company or its directors,  
13 officers or employees; or

14 (3) any person damaged by any other breach of  
15 fiduciary duty by the escrow company or its directors, officers  
16 or employees.

17 C. Every fidelity bond shall be in a form  
18 acceptable to the director and shall be filed in the director's  
19 office.

20 D. Every fidelity bond filed with the director by  
21 an escrow company pursuant to Subsection A of this section  
22 shall contain a provision prohibiting the bond company from  
23 canceling the fidelity bond for failure to pay the premium  
24 unless the bond company files a written notice with the  
25 director at least ten days before canceling the fidelity bond.

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1 Every fidelity bond filed with the director by an escrow  
2 company pursuant to Subsection A of this section shall contain  
3 a provision prohibiting the bond company from canceling the  
4 fidelity bond for any other reason unless the bond company  
5 files a written notice with the director at least thirty days  
6 before canceling the fidelity bond.

7 E. The director shall revoke the certificate of an  
8 escrow company that fails to maintain a bond as required by  
9 this section.

10 F. Upon investigation or examination of an  
11 applicant for licensure as an escrow company or of a licensed  
12 escrow company, the director may determine the necessity for an  
13 applicant or licensee to acquire and maintain suitable  
14 additional insurance in an amount as required by the director,  
15 to protect the escrow company, or the clients of the escrow  
16 company, against burglary, robbery, forgery, theft, fraud,  
17 embezzlement or other similar insurable losses to which the  
18 escrow company or its clients may be exposed.

19 G. The director may revoke the license of an escrow  
20 company that fails to obtain insurance as required by  
21 Subsection F of this section within a reasonable period of  
22 time, not to exceed ninety days from the date the director  
23 provides notice to the applicant or licensee of the imposition  
24 of the additional insurance requirement, or that fails to  
25 maintain insurance as required by Subsection F of this

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1 section."

2 SECTION 2. EFFECTIVE DATE.--The effective date of the  
3 provisions of this act is January 1, 2021.

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