



New Mexico Regulation and Licensing Department

Financial Institutions Division

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REGULATORY GUIDANCE

Susana Martinez

GOVERNOR

HOME LOAN PROTECTION ACT

§58-21A-4(N)(7)

Robert “Mike” Unthank

SUPERINTENDENT

Section 58-21A-4(N)(7) prohibits making a home loan with an eighty percent or higher loan-to-value ratio for an owner-occupied residence if the creditor has failed to establish an escrow account for the payment of real estate taxes and property insurance.

Tania Maestas

ACTING GENERAL
COUNSEL

The question has been posed, to the Financial Institutions Division, whether Section 58-21A-4(N)(7) applies to a creditor that originates a second mortgage which would result in the owner-occupied residence being mortgaged at 80% or greater.

12 CFR § 1026.35 (b)(1) requires escrow accounts be established for first-lien higher-priced mortgage loans. No such requirement exists for second mortgages.

Cynthia Richards

DIRECTOR

The confusion, that would result from two escrow accounts, aside, Section 58-21A-4(N)(7) specifically refers to loan-to-value (LTV) ratio, the calculation of which includes only the first mortgage. The term combined loan-to-value (CLTV) is the term that refers to the total indebtedness against real estate. The Financial Institutions Division takes the position that had the State Legislative Branch intended for mortgage creditors to establish escrow accounts on second mortgages, the term combined loan-to-value would have been used rather than the term loan-to-value.

Cynthia Richards

Director

Financial Institutions Division