

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 23-0367.01 Christopher McMichael x4775

SENATE BILL 23-047

SENATE SPONSORSHIP

Van Winkle,

HOUSE SPONSORSHIP

(None),

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS TO THE CLOSING AND SETTLEMENT**
102 **PROCESS FOR REAL ESTATE TRANSACTIONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill modifies the closing and settlement procedure for real estate transactions to ensure that the funds intended to be used at closing have been:

- Received and deposited into a trust account at least one business day before the scheduled closing; and
- Confirmed as deposited and available for immediate

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

disbursement upon the settlement and closing of the real estate transaction.
The bill takes effect September 1, 2024.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) The current settlement and closing process for real estate
5 transactions creates uncertainty as to the timing of funding, is stressful for
6 all parties, creates a greater potential for fraud, and is inefficient; and

7 (b) The closing and settlement process can be improved and
8 should be updated to:

9 (I) Make the process safer, more reliable and efficient, and more
10 predictable; and

11 (II) Protect all parties involved in the transaction.

12 **SECTION 2.** In Colorado Revised Statutes, 38-35-125, **amend**
13 (2); and **add** (1)(a.7) as follows:

14 **38-35-125. Closing and settlement services - disbursement of**
15 **funds - definitions.** (1) As used in this section, unless the context
16 otherwise requires:

17 (a.7) "CONFIRMED AS DEPOSITED" MEANS THAT THE FUNDS FOR A
18 REAL ESTATE TRANSACTION:

19 (I) HAVE BEEN RECEIVED AND DEPOSITED INTO THE TRUST
20 ACCOUNT OF THE PERSON OR ENTITY PROVIDING THE CLOSING AND
21 SETTLEMENT SERVICES; AND

22 (II) ARE AVAILABLE FOR IMMEDIATE DISBURSEMENT BY THE
23 PERSON OR ENTITY PROVIDING THE CLOSING AND SETTLEMENT SERVICES
24 FOR THE PURPOSE OF CONDUCTING A REAL ESTATE TRANSACTION.

1 (2) (a) ~~No~~ A person or entity that provides closing and settlement
2 services for a real estate transaction shall NOT disburse funds as a part of
3 ~~such~~ THE CLOSING AND SETTLEMENT services until those funds have been
4 received, HAVE BEEN CONFIRMED AS DEPOSITED AT LEAST ONE BUSINESS
5 DAY IN ADVANCE OF THE CLOSING DATE, and are ~~either~~: available for
6 immediate withdrawal as a matter of right from the financial institution
7 in which the funds have been deposited. ~~or available for immediate~~
8 ~~withdrawal as a consequence of an agreement of a financial institution in~~
9 ~~which the funds are to be deposited or a financial institution upon which~~
10 ~~the funds are to be drawn. Any such agreement shall be made with or for~~
11 ~~the benefit of the person or entity providing closing and settlement~~
12 ~~services for a real estate transaction.~~

13 (b) Notwithstanding ~~the provisions of~~ SUBSECTION (2)(a) OF this
14 ~~subsection (2)~~ SECTION, the person or entity providing closing and
15 settlement services may advance funds, not to exceed five hundred
16 dollars, on behalf of interested parties ~~for~~ TO the transaction to pay
17 incidental fees for ~~such~~ items SUCH as tax certificates and recording costs
18 or to cover minor changes in the closing adjustments.

19 **SECTION 3. Act subject to petition - effective date -**
20 **applicability.** (1) This act takes effect September 1, 2024; except that,
21 if a referendum petition is filed pursuant to section 1 (3) of article V of
22 the state constitution against this act or an item, section, or part of this act
23 within the ninety-day period after final adjournment of the general
24 assembly, then the act, item, section, or part will not take effect unless
25 approved by the people at the general election to be held in November
26 2024 and, in such case, will take effect on the date of the official
27 declaration of the vote thereon by the governor.

1 (2) This act applies to real estate transactions commencing on or
2 after the applicable effective date of this act.