

SB 26 - AS AMENDED BY THE SENATE

03/20/2025 0906s

2025 SESSION

25-1070  
07/05

SENATE BILL **26**

AN ACT relative to the definition of deposits as they pertain to land sales and escrow of deposits.

SPONSORS: Sen. Pearl, Dist 17; Sen. Lang, Dist 2; Sen. Reardon, Dist 15; Sen. Innis, Dist 7; Sen. Murphy, Dist 16; Rep. See, Merr. 26; Rep. C. McGuire, Merr. 27; Rep. Moffett, Merr. 4; Rep. Verville, Rock. 2; Rep. Bryer, Rock. 1

COMMITTEE: Commerce

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AMENDED ANALYSIS

This bill:

I. Defines the meaning of "deposits" as they pertain to land sales.

II. Allows the consumer protection and antitrust bureau to authorize the preclosing use of a security deposit designated pursuant to a purchase and sales agreement for the payment of customizations, upgrades, or change orders.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struckthrough.~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Five*

AN ACT relative to the definition of deposits as they pertain to land sales and escrow of deposits.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 New Paragraph; Trade and Commerce; Land Sales Full Disclosure Act; Definitions. Amend  
2 RSA 356-A:1 by inserting after paragraph XVII the following new paragraph:

3 XVIII. "Deposits" means the deposit of earnest money for a purchase and sales agreement  
4 for the disposition of any sale, contract, assignment, or any other voluntary transfer of a legal or  
5 equitable interest in a lot, parcel, unit, or interest in subdivided lands. Deposit shall be limited to  
6 earnest money and shall not include any change orders, upgrades, or additional funds due to the  
7 seller or seller's agent due to buyer upgrades or selections.

8 2 Trade and Commerce; Land Sales Full Disclosure Act; Escrow of Deposits. Amend RSA 356-  
9 A:9-a to read as follows:

10 356-A:9-a Escrow of Deposits. Any deposit made in regard to any disposition of a lot, parcel,  
11 unit or interest in subdivided lands shall be held in escrow until settlement or closing. Such escrow  
12 funds shall be deposited in a separate account designated for this purpose; provided, however, if such  
13 funds are being held by a real estate broker or attorney licensed under the laws of this state, they  
14 may be placed in that broker's or attorney's regular escrow account and need not be placed in a  
15 separate designated account. Such escrow funds shall not be subject to attachment by the creditors  
16 of either the purchaser or the subdivider. ***Notwithstanding the foregoing requirement that the***  
17 ***deposit be held in escrow, the department of justice's consumer protection and antitrust***  
18 ***bureau may authorize the preclosing use of a portion of a deposit designated pursuant to a***  
19 ***purchase and sales agreement for the payment of any of the following, on such terms as the***  
20 ***bureau might reasonably impose:***

- 21 (a) *Customizations,*
- 22 (b) *Upgrades,*
- 23 (c) *Change orders,*
- 24 (d) *Similar items, and*
- 25 (e) *Any combination of subparagraphs (a) through (d).*

26 3 New Paragraph; Trade and Commerce; Condominium Act; Definitions. Amend RSA 356-B:3  
27 by inserting after paragraph XIII the following new paragraph:

28 XIII-a. "Deposits" means the deposit of earnest money for a purchase and sales agreement  
29 for the disposition of any sale, contract, assignment, or any other voluntary transfer of a legal or  
30 equitable interest in a lot, parcel, unit, or interest in subdivided lands. Deposit shall be limited to

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1 earnest money and shall not include any change orders, upgrades, or additional funds due to the  
2 seller or seller's agent due to buyer upgrades or selections.

3 4 Trade and Commerce; Condominium Act; Escrow of Deposits. Amend RSA 356-B:57 to read as  
4 follows:

5 356-B:57 Escrow of Deposits. Any deposit made in regard to any disposition of any interest in a  
6 unit shall either be held in escrow until settlement or closing or shall be delivered to the person  
7 providing construction financing, who shall either hold said deposit in escrow or shall apply said  
8 deposit to the construction of the condominium; provided, however, that any deposit made under a  
9 nonbinding reservation agreement shall be placed in escrow. Subject to the foregoing, such escrow  
10 funds shall be deposited in a separate account designated for this purpose; provided, however, if such  
11 funds are being held by a real estate broker or attorney licensed under the laws of this state, they  
12 may be placed in that broker's or attorney's regular escrow account and need not be placed in a  
13 separate designated account. Such escrow funds shall not be subject to attachment by the creditors  
14 of either the purchaser or the declarant. ***Notwithstanding the foregoing requirement that the***  
15 ***deposit be held in escrow, the department of justice's consumer protection and antitrust***  
16 ***bureau may authorize the preclosing use of a portion of a deposit designated pursuant to a***  
17 ***purchase and sales agreement for the payment of any of the following, on such terms as the***  
18 ***bureau might reasonably impose:***

19 (a) *Customizations,*

20 (b) *Upgrades,*

21 (c) *Change orders,*

22 (d) *Similar items, and*

23 (e) *Any combination of subparagraphs (a) through (d).*

24 5 Effective Date. This act shall take effect 60 days after its passage.

**SB 26- FISCAL NOTE**  
AS AMENDED BY THE SENATE (AMENDMENT #2025-0906s)

AN ACT relative to the definition of deposits as they pertain to land sales and escrow of deposits.

**FISCAL IMPACT:** This bill does not provide funding, nor does it authorize new positions.

<b>Estimated State Impact</b>				
	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>
<b>Revenue</b>	\$0	\$0	\$0	\$0
<i>Revenue Fund(s)</i>	None			
<b>Expenditures*</b>	\$0	Indeterminable Increase of \$215,000+	Indeterminable Increase of \$217,000+	Indeterminable Increase of \$219,000+
<i>Funding Source(s)</i>	Other			
<b>Appropriations*</b>	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

\*Expenditure = Cost of bill

\*Appropriation = Authorized funding to cover cost of bill

**METHODOLOGY:**

The bill allows the Consumer Protection Bureau in the Department of Justice to approve the preclosing use of a portion of escrow funds for customizations, upgrades, change orders, or similar items.

The Department of Justice (DOJ) states that this bill will increase expenditures by an indeterminable amount due to the increase in time attorneys and paralegals will spend reviewing condominium and land sale applications. The overall fiscal impact is indeterminable because the DOJ is unable to predict the number and extent of requests received. The DOJ notes that an additional paralegal and attorney may be needed to fulfill the requests. However, this bill does not provide funding, nor does it authorize new positions. The estimated total cost of the two positions is shown in the table below.

<b>ESTIMATED FISCAL IMPACT (ROUNDED)</b>			
	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>
Paralegal (1 position)	\$83,000	\$84,000	\$86,000
Assistant Attorney General (1 position)	\$132,000	\$133,000	\$133,000
<b>Total Estimated Cost</b>	<b>\$215,000</b>	<b>\$217,000</b>	<b>\$219,000</b>

**AGENCIES CONTACTED:**

Department of Justice