

SB 26 - AS AMENDED BY THE HOUSE

03/20/2025 0906s
5Jun2025... 1976h

2025 SESSION

25-1070
07/05

SENATE BILL **26**

AN ACT allowing the department of justice to authorize the preclosing use of a portion of a deposit held in escrow for the payment of certain construction customizations, upgrades, or change orders.

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

AMENDED ANALYSIS

This bill allows the department of justice to authorize the preclosing use of a portion of a deposit held in escrow for the payment of certain construction customizations, upgrades, or change orders.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT allowing the department of justice to authorize the preclosing use of a portion of a deposit held in escrow for the payment of certain construction customizations, upgrades, or change orders.

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

1 1 Trade and Commerce; Land Sales Full Disclosure Act; Escrow of Deposits. Amend RSA 356-
2 A:9-a to read as follows:

3 356-A:9-a Escrow of Deposits. Any deposit made in regard to any disposition of a lot, parcel,
4 unit or interest in subdivided lands shall be held in escrow until settlement or closing. Such escrow
5 funds shall be deposited in a separate account designated for this purpose; provided, however, if such
6 funds are being held by a real estate broker or attorney licensed under the laws of this state, they
7 may be placed in that broker's or attorney's regular escrow account and need not be placed in a
8 separate designated account. Such escrow funds shall not be subject to attachment by the creditors
9 of either the purchaser or the subdivider. ***Notwithstanding the foregoing requirement that the***
10 ***deposit be held in escrow, the department of justice's consumer protection and antitrust***
11 ***bureau may authorize the preclosing use of a portion of a deposit designated pursuant to a***
12 ***purchase and sales agreement for the payment of any of the following, on such terms as the***
13 ***bureau might reasonably impose:***

14 (a) *Customizations,*

15 (b) *Upgrades,*

16 (c) *Change orders,*

17 (d) *Similar items, and*

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

19 2 Trade and Commerce; Condominium Act; Escrow of Deposits. Amend RSA 356-B:57 to read as
20 follows:

21 356-B:57 Escrow of Deposits. Any deposit made in regard to any disposition of any interest in a
22 unit shall either be held in escrow until settlement or closing or shall be delivered to the person
23 providing construction financing, who shall either hold said deposit in escrow or shall apply said
24 deposit to the construction of the condominium; provided, however, that any deposit made under a
25 nonbinding reservation agreement shall be placed in escrow. Subject to the foregoing, such escrow
26 funds shall be deposited in a separate account designated for this purpose; provided, however, if such
27 funds are being held by a real estate broker or attorney licensed under the laws of this state, they
28 may be placed in that broker's or attorney's regular escrow account and need not be placed in a
29 separate designated account. Such escrow funds shall not be subject to attachment by the creditors

1 of either the purchaser or the declarant. *Notwithstanding the foregoing requirement that the*
2 *deposit be held in escrow, the department of justice's consumer protection and antitrust*
3 *bureau may authorize the preclosing use of a portion of a deposit designated pursuant to a*
4 *purchase and sales agreement for the payment of any of the following, on such terms as the*
5 *bureau might reasonably impose:*

6 (a) *Customizations,*

7 (b) *Upgrades,*

8 (c) *Change orders,*

9 (d) *Similar items, and*

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

11 3 Effective Date. This act shall take effect upon its passage.

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LBA
25-1070
4/7/25

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.

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

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

AGENCIES CONTACTED:

Department of Justice