Authentisign ID: 373A96A3-A2DC-F111-91F2-0022482B51B6

# NEW MEXICO ASSOCIATION OF REALTORS® — 2026
# INFORMATION SHEET — EARNEST MONEY DISPUTE

***This form is NOT a disclosure and does NOT provide property-specific information. The general information contained herein is not an exhaustive analysis of the subject matter. Brokers are not experts in the subject matter. If you have additional questions or concerns, you are encouraged to conduct further research and to contact a subject-matter expert.***

**UNLESS ACTING ON THEIR OWN BEHALF, BROKERS ARE NOT A PARTY TO A REAL ESTATE TRANSACTION AND MAY NOT REPRESENT EITHER THE BUYER OR THE SELLER TO SETTLE ANY EARNEST MONEY DISPUTE. PARTIES TO ALL EARNEST MONEY DISPUTES ARE URGED TO CONSULT A LICENSED ATTORNEY TO FULLY UNDERSTAND THEIR RIGHTS AND REMEDIES.**

**1.** Unless otherwise specified, earnest money is funds in the form of cash, wire transfer, check or other negotiable security instrument that is placed in the custody of a Broker or a title company authorized to do business in New Mexico and is deposited into their respective trust account. Earnest money is evidence of the Buyer's good faith intentions to complete a real estate transaction and shall be held by the holder of the funds as a credit to the Buyer until the conclusion of the transaction.

**2.** In the event of any controversy that may arise regarding the distribution of the earnest money, the holder of the earnest money shall not be required to take any action or distribute the earnest money unless the Buyer and the Seller have a written agreement detailing the disbursement of the funds.

**3.** If Buyer and Seller have signed an agreement to mediate, they have agreed to make a good faith effort to resolve their dispute. Mediation is a process in which one or more neutral third-party mediators, who are skilled in negotiating, assist disputing parties to reach an agreement. In agreeing to mediate, both parties retain the right to pursue other legal remedies. If the parties cannot reach an agreement, either party is free to arbitrate or litigate the dispute as if the mediation never took place.

**4.** Both Buyer and Seller, in the interest of time and expense, may agree to submit to arbitration and to jointly share the cost of such arbitration. Both parties acknowledge and agree that the results of arbitration are legally binding to both parties. The results are final and may not be appealed to another jurisdiction.

**5.** In the event of a controversy, the holder of the earnest money may choose to take no action or may choose to file an interpleader action. Interpleader is a legal proceeding whereby the holder of the earnest money names the Buyer and the Seller as defendants and deposits the funds in question with an appropriate court. The court holds the funds and distributes the funds only after a legal determination is made by the court. The prevailing party and the holder of the earnest money are entitled to request recovery of all courts costs and reasonable attorneys' fees related to the dispute from the non-prevailing party.

**6.** Either Buyer or Seller may submit a claim to an appropriate court. In addition to the final judgment, the prevailing party in any such litigation is entitled to request recovery of all court costs and reasonable attorneys' fees from the non-prevailing party.

This form and all New Mexico Association of REALTORS® (NMAR) forms are for the sole use of NMAR members and those New Mexico Real Estate Licensees to whom NMAR has granted prior written authorization. Distribution of NMAR forms to non-NMAR members or unauthorized Real Estate Licensees is strictly prohibited. NMAR makes no warranty of the legal effectiveness or validity of this form and disclaims any liability for damages resulting from its use. By use of this form, the parties agree to the limitations set forth in this paragraph. The parties hereby release NMAR, the Real Estate Brokers, their Agents and employees from any liability arising out of the use of this form. You should consult your attorney with regards to the effectiveness, validity or consequences of any use of this form. The use of this form is not intended to identify the user as a REALTOR®. REALTOR® is a registered collective membership mark which may be used only by Real Estate Licensees who are members of the National Association of REALTORS® and who subscribe to the Association's strict Code of Ethics.



**INITIALS SIGNIFY THAT THE BUYER(S) AND/OR SELLER(S) HAS RECEIVED AND REVIEWED THIS INFORMATION SHEET.** GDF LVF

This copyright protected form was created using Instanet Forms and is licensed for use by Mr. Allen Elmore.