

# 17:46B-10.1

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2003                    **CHAPTER:** 234

**NJSA:** 17:46B-10.1    (Real estate transactions)

**BILL NO:** A3176

**SPONSOR(S):** Farragher and Carroll

**DATE INTRODUCED:** January 16, 2003

**COMMITTEE:**            **ASSEMBLY:** Banking and Insurance

**SENATE:** Commerce

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE:**            **ASSEMBLY:** March 13, 2003

**SENATE:** December 11, 2003

**DATE OF APPROVAL:** January 9, 2004

### FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Original version of bill enacted )

[SPONSOR'S STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**                    [ASSEMBLY:](#) [Yes](#)

[SENATE:](#) [Yes](#)

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

### FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or <mailto:refdesk@njstatelib.org>.

**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

P.L. 2003, CHAPTER 234, *approved January 9, 2004*  
Assembly, No. 3176

1 **AN ACT** concerning the disbursement of certain funds by title  
2 insurance producers in real estate transactions and amending  
3 P.L.1997, c.290.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 2 of P.L.1997, c.290 (C.17:46B-10.1) is amended to  
9 read as follows:

10 2. a. Every title insurance producer licensed pursuant to P.L.1987,  
11 c.293 (C.17:22A-1 et seq.) or P.L.2001, c.210 (C.17:22A-26 et seq.),  
12 and every title insurance company shall maintain a separate record of  
13 all receipts and disbursements as a depository for funds representing  
14 closing or settlement proceeds of a real estate transaction, which funds  
15 shall be deposited in a separate trust or escrow account, and which  
16 shall not be commingled with a producer's or company's own funds or  
17 with funds held by a producer or company in any other capacity.

18 b. No title insurance producer or company shall disburse funds  
19 representing closing or settlement proceeds of a real estate transaction  
20 unless those funds shall have been deposited in a separate trust or  
21 escrow account by cash, electronic wire transfer, or certified, cashier's,  
22 teller's or bank check, or other collected funds; provided nevertheless,  
23 that nothing contained herein shall be construed to prohibit a title  
24 insurance producer or company from disbursing against funds  
25 deposited in a separate trust or escrow account other than by cash,  
26 electronic wire transfer, or certified, cashier's, teller's or bank check,  
27 or other collected funds in an amount not to exceed \$1,000. A "bank  
28 check" means a negotiable instrument drawn by a state or federally  
29 chartered bank, savings bank or savings and loan association on itself  
30 or on its account in another state or federally chartered bank, savings  
31 bank or savings and loan association doing business in this State. A  
32 "teller's check" means a draft drawn by a bank on another bank, or  
33 payable at or through a bank. A New Jersey licensed attorney's trust  
34 account check and a trust or escrow account check from a New Jersey  
35 licensed insurance producer shall be considered "collected funds" for  
36 the purposes of this section.

37 c. The Commissioner of Banking and insurance shall promulgate  
38 regulations pursuant to the "Administrative Procedure Act," P.L.1968,  
39 c.410 (C.52:14B-1 et seq.), necessary to effectuate the provisions of  
40 this section.

41 (cf: P.L.1997, c.290, s.2)

42 2. This act shall take effect immediately.

**EXPLANATION** - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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STATEMENT

This bill allows the use of checks written on the trust account of a licensed New Jersey attorney or a trust or escrow account check from a New Jersey licensed title insurance producer to be considered "collected funds" for the purposes of the statute concerning the disbursement of funds by title insurance producers in real estate transactions.

Currently, mortgage lenders are required to deliver a certified, cashiers, tellers or bank check, or arrange for payment in cash or by wire transfer for a mortgage closing. Pursuant to the statute amended by this bill, licensed title insurance producers must deposit loan proceeds in a separate trust or escrow account, and may not disburse those funds unless they were received as "cash, electronic wire transfer, or certified cashier's, teller's or bank check, or other collected funds...." As a result of opinions of the Supreme Court Committee on Professional Ethics, disbursements from an attorney's trust account must also be written against collected funds.

In a typical real estate closing, the seller at the first closing receives an attorney's trust account check or a title producer's escrow or settlement account check, which the seller then wishes to use at the second closing wherein he is buying. This bill thus allows the title insurance company or agent at the second closing to accept the attorney's trust account checks and title producer's trust or escrow checks from the first closing as collected funds.

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Concerns disbursement of certain funds in real estate transactions.

# ASSEMBLY, No. 3176

## STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED JANUARY 16, 2003

**Sponsored by:**

**Assemblywoman CLARE M. FARRAGHER**

**District 12 (Mercer and Monmouth)**

**Assemblyman MICHAEL PATRICK CARROLL**

**District 25 (Morris)**

**SYNOPSIS**

Concerns disbursement of certain funds in real estate transactions.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/14/2003)**

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5 **BE IT ENACTED** by the Senate and General Assembly of the State  
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12 and every title insurance company shall maintain a separate record of  
13 all receipts and disbursements as a depository for funds representing  
14 closing or settlement proceeds of a real estate transaction, which funds  
15 shall be deposited in a separate trust or escrow account, and which  
16 shall not be commingled with a producer's or company's own funds or  
17 with funds held by a producer or company in any other capacity.

18 b. No title insurance producer or company shall disburse funds  
19 representing closing or settlement proceeds of a real estate transaction  
20 unless those funds shall have been deposited in a separate trust or  
21 escrow account by cash, electronic wire transfer, or certified, cashier's,  
22 teller's or bank check, or other collected funds; provided nevertheless,  
23 that nothing contained herein shall be construed to prohibit a title  
24 insurance producer or company from disbursing against funds  
25 deposited in a separate trust or escrow account other than by cash,  
26 electronic wire transfer, or certified, cashier's, teller's or bank check,  
27 or other collected funds in an amount not to exceed \$1,000. A "bank  
28 check" means a negotiable instrument drawn by a state or federally  
29 chartered bank, savings bank or savings and loan association on itself  
30 or on its account in another state or federally chartered bank, savings  
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37 c. The Commissioner of Banking and insurance shall promulgate  
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39 c.410 (C.52:14B-1 et seq.), necessary to effectuate the provisions of  
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7 disbursement of funds by title insurance producers in real estate  
8 transactions.

9 Currently, mortgage lenders are required to deliver a certified,  
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25 checks from the first closing as collected funds.

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 3176**

**STATE OF NEW JERSEY**

DATED: FEBRUARY 3, 2003

The Assembly Banking and Insurance Committee reports favorably  
Assembly Bill No. 3176.

This bill provides that a check written on the trust account of a  
licensed New Jersey attorney or a trust or escrow account check from  
a New Jersey licensed title insurance producer shall be considered  
"collected funds" for the purposes of the disbursement of funds by title  
insurance producers in real estate transactions.

SENATE COMMERCE COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 3176**

**STATE OF NEW JERSEY**

DATED: DECEMBER 4, 2003

The Senate Commerce Committee reports favorably Assembly Bill No. 3176.

This bill provides that a check written on the trust account of a licensed New Jersey attorney or a trust or escrow account check from a New Jersey licensed title insurance producer shall be considered "collected funds" for the purposes of the disbursement of funds by title insurance producers in real estate transactions.