

TITLE 12 TRADE, COMMERCE AND BANKING
CHAPTER 15 FINANCIAL INSTITUTIONS - GENERAL
PART 4 HOME LOAN PROTECTION ACT - HIGH COST LOANS: REPAYMENT ABILITY

12.15.4.1 ISSUING AGENCY: Financial Institutions Division of the Regulation and Licensing Department.
[12.15.4.1 NMAC - N, 01/30/2004]

12.15.4.2 SCOPE: All creditors subject to the Home Loan Protection Act, Sections 58-21A-1 to -14 NMSA 1978 (2003) (“Act”).
[12.15.4.2 NMAC - N, 01/30/2004]

12.15.4.3 STATUTORY AUTHORITY: Section 58-21A-13 NMSA 1978.
[12.15.4.3 NMAC - N, 01/30/2004]

12.15.4.4 DURATION: Permanent.
[12.15.4.4 NMAC - N, 01/30/2004]

12.15.4.5 EFFECTIVE DATE: January 30, 2004, unless a later date is cited at the end of a section.
[12.15.4.5 NMAC - N, 01/30/2004]

12.15.4.6 OBJECTIVE: The objective of this part is to establish the reasonable ability to repay a home loan required by Section 58-21A-4 (C) NMSA 1978.
[12.15.4.6 NMAC - N, 01/30/2004; A, 08/31/09]

12.15.4.7 DEFINITIONS: For purposes of this rule, the definitions set forth in the act and regulations adopted pursuant to the act shall apply unless otherwise noted. **“Reasonably reliable documentation”** means any documentation that is required by a mortgage loan company to satisfy the requirements of a loan product that meets the borrower’s requested terms and qualifications, documents the source of repayment and includes verifiable written documentation obtained from the borrower or a third party. Reasonably reliable documentation may include but may not be limited to verbal verifications.
[12.15.4.7 NMAC - N, 01/30/2004; A, 08/31/09; A, 06/01/10]

12.15.4.8 REASONABLE ABILITY TO REPAY: The documentation of “reasonable ability to repay” in Section 58-21A-4(C) NMSA 1978, will depend upon the totality of facts and circumstances relating to a specific residential mortgage loan transaction and the borrower’s financial condition and circumstances. While the documentation of certain residential mortgage loan transactions may clearly demonstrate the borrower’s reasonable ability to repay, others may require closer scrutiny to determine whether the documentation for a particular residential mortgage loan transaction sufficiently demonstrates ability to repay. The “reasonable ability to repay” standard shall be demonstrated through reasonably reliable documentation.
[12.15.4.8 NMAC - N, 01/30/2004; A, 08/31/09; A, 06/01/10]

12.15.4.9 [RESERVED]
[12.15.4.9 NMAC - N, 01/30/2004; Repealed, 08/31/09]

HISTORY OF 12.15.4 NMAC: [RESERVED]