

Real Estate Settlement Procedures Act (RESPA) Regulation X

Escrow Update

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Financial Solutions
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RESPA Purpose

- The Real Estate Settlement Procedures Act was passed by Congress in 1974
- Purposes of RESPA
 - Require advance disclosure of settlement charges in mortgage-related transactions
 - Prohibit certain referral fees and kickbacks
 - Limit the required amount for escrows for insurance and taxes
- Settlement
 - The process of executing legally binding documents.
 - All of the work completed to get to settlement.
- Mortgage Broker
 - Not an employee or exclusive agent
 - Brings borrower and lender together
 - Renders settlement services

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RESPA Coverage: Federally Related Mortgage Loans (FRML)

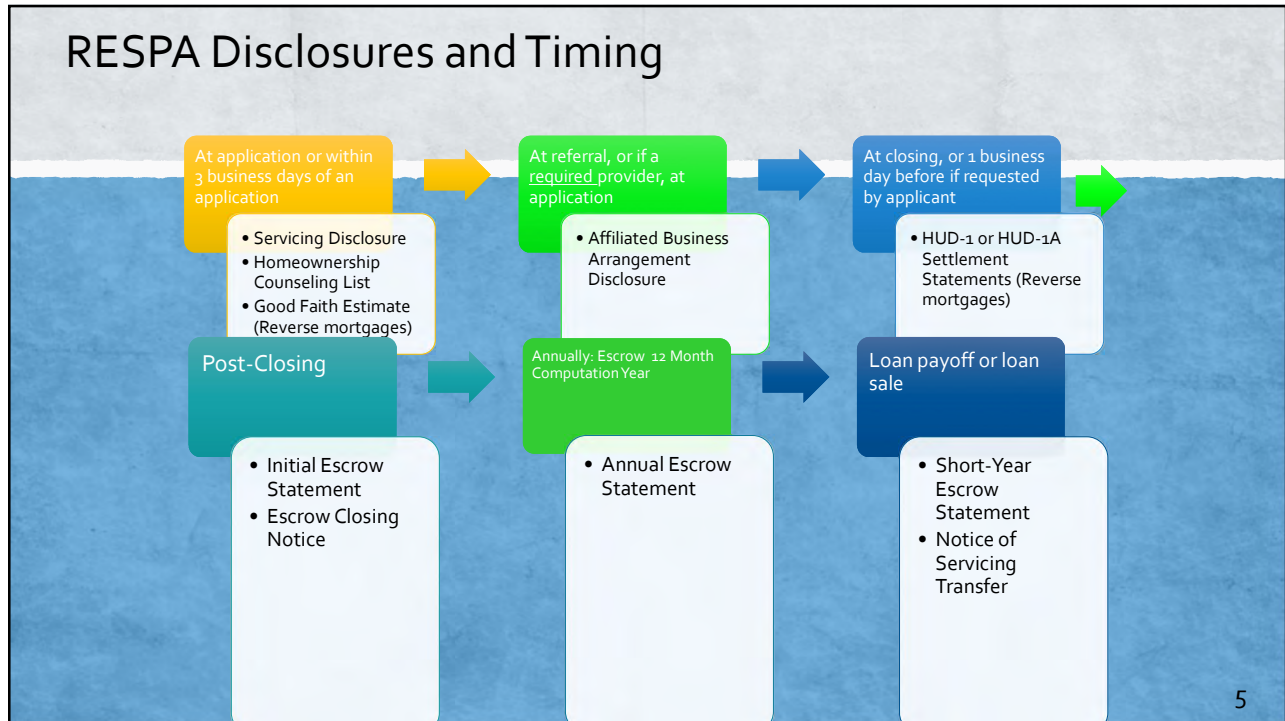
- Any loan secured by a lien on residential real property where there already is or will be constructed or placed (using loan proceeds) a 1-4 family residence or manufactured home. [**§1024.2(b)**]
 - If lender has the right to foreclose on the property as a result of the loan security agreement, the loan is covered by RESPA unless the property is an exception per Reg X
- Loan must generally be made to a natural person (individual, rarely to an entity) and for consumer purposes.
- Residential real property
 - 1 – 4 family residence
 - Individual units in Condominiums or Cooperatives
 - Mobile homes and the land on which it sits
 - Note: Mobile homes in rental parks are NOT covered by RESPA!

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RESPA Definitions

- **Servicing** [**§1024.2(b)**]
- Receiving any scheduled periodic payments from a borrower pursuant to the terms of any federally related mortgage loan, including amounts for escrow accounts... and making the payments to the owner of the loan or other third parties...
- **Business Day** [**§1024.2(b)**]
- A day on which the offices of the business entity are open to the public for carrying on substantially all of the entity's business functions.
- **Mortgage Loan** [**§1024.31**]
- Any federally related mortgage loan subject to RESPA. Consumer purpose open end lines of credit are not included.

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Does RESPA Apply?

- If not an exception:
 - Lien position does not make a difference. First or junior lien positions are both covered.
 - As long as it is consumer purposes, use of loan proceeds does not matter in determining if RESPA applies.
 - Does not matter if primary residence or vacation or rental property (consumer purpose).
- RESPA Exceptions:
 - Property over 25 acres
 - Valid business purpose
 - Temporary financing under 2 years
 - Vacant land
 - Construction (under 2 years)
 - Rental property (1-4 family) used to rent to others
- If loan involves a HELOC or junior lien, providing the disclosures required by Reg Z satisfies the RESPA GFE and HUD 1 or HUD 1A requirements
- **Reverse mortgages will still use GFE and HUD 1 or HUD 1A after 10/3/15!**

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CFPB Proposed Reg X Amendments Federal Register - April 9, 2021

- The Bureau seeks comment on proposed amendments to Regulation X to assist borrowers affected by the COVID-19 emergency.
- The Bureau is taking this action to help ensure that borrowers impacted by the COVID-19 pandemic have an opportunity to be evaluated for loss mitigation before the initiation of foreclosure.
- The proposed amendments would
 - Establish a temporary COVID-19 emergency pre-foreclosure review period until December 31, 2021, for **principal residences**.
 - Temporarily permit mortgage servicers to offer certain loan modifications made available to borrowers experiencing a COVID-19-related hardship based on the evaluation of an incomplete application.
- The Bureau also proposes certain amendments to the early intervention and reasonable diligence obligations that Regulation X imposes on mortgage servicers.

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Escrow Accounts

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Section 3500.17 Escrow

1. Governs the amount that a mortgage servicer may require as initial escrow account balance
2. Regulates the amount that may be required in periodic payments into the escrow account
3. Mandates the mortgage servicer's initial and annual reporting requirements to the borrower.
 - Section 3500.17 places limits on the payment amounts to escrow accounts, determines how the payments are to be calculated, provides guidance on how to handle shortages, surpluses and deficiencies in the escrow account at the time of analysis, and requires certain information to be disclosed to the borrower.
 - Applies to all loans subject to RESPA and now also to HPMLs under Regulation Z₉

Escrow Analysis

- Focuses on two occasions
 - Initial escrow account creation
 - Annual escrow analysis and adjustment
 - May perform an escrow account analysis and change the future payments to the escrow in conformity with the analysis whenever bank wishes, but no more than 12 months since the prior analysis.

Escrow Cushion (or Reserve)

- The amount that borrower may be required to pay into or maintain in an escrow account in excess of the minimum amount necessary to pay anticipated disbursements.
- Cushion may not exceed $\frac{1}{6}$ of the anticipated disbursements for the following year.
- Pre-Accruals for Escrow
 - A requirement that the funds needed for a disbursement and the maintenance of a cushion be deposited in the escrow account some period before the disbursement date.
 - Pre-accruals are prohibited under RESPA.

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How Much Escrow do We Need?

- Escrow Target Balance
 - The estimated month–end balance in an escrow account that is just sufficient to cover the anticipated disbursements from the account during the following year, taking into account the anticipated periodic payments into the account, and a cushion, if any.
- Establishing an Escrow
 - Must first identify the amounts of disbursements to be made from escrow
 - Typical escrow payments
 - Property taxes
 - Hazard insurance
 - Flood insurance



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Payment Amount and Date

- Servicer assumes disbursements on or before the earlier of
 - Deadline to take advantage of discounts, if available, or
 - Deadline to avoid a penalty.
- Servicer also assumes borrower will make monthly payments equal to $1/12$ of the estimated total annual escrow account disbursements

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Estimation of Disbursements

- Estimated over 12 month period, beginning with the first month in which the borrower's payment will be due.
- Exception allowed when an escrow item is disbursed less frequently than annually. In these cases, you then use the longer period. Primary example is flood insurance where the premium is paid only once every 3 years.
- Escrow account is then analyzed over a 3-year period rather than a 1-year period.
- If amount is unknown, base the estimate on the preceding year's charge, or the preceding year's charge adjusted by last year's national Consumer Price Index for all urban consumers (CPI).
- For new construction, base the estimate on the assessment of comparable residential property in the market area.

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Discounts and Penalties

- If a taxing jurisdiction offers a discount for a lump sum annual payment or imposes any additional fee for installment disbursements, the servicer may (but is not required by RESPA), make lump sum annual payments to take advantage of the discount or avoid additional fees for installments.
- HUD encourages but does not require servicer to follow the preference of the borrower.
- If no discount or penalty for installment disbursements, must use installment payments.

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“Amount Sufficient to Pay”

- When calculating the initial escrow account payment, you can only require an “amount sufficient to pay”, such as taxes and insurance, **from the date the payments were last paid to the initial payment date.**
- Additionally, you may charge the borrower a cushion no greater than $\frac{1}{6}$ of the estimated total annual payments

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Escrow “Payment Shock”

- Typically occurs with new construction where first year property tax based on prior year property value – nominal at that point in construction.
- Next year the property taxes can skyrocket base on full construction value of the new property
- Happening more frequently now since many municipalities are increasing taxes
- HUD offered the following ways to deal with issue:

Payment Shock Options

- Send a notice to borrowers informing them of upcoming payment shock and allow borrowers to make voluntary escrow payments; or
- Offer extended repayment terms to make up the shortage in the 2nd year, beyond the 12 months provided under RESPA

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APPENDIX E TO PART 3500—ARITHMETIC STEPS

I. Example Illustrating Aggregate Analysis:

ASSUMPTIONS:

Disbursements:

\$360 for school taxes disbursed on September 20

\$1,200 for county property taxes:

\$500 disbursed on July 25

\$700 disbursed on December 10

Cushion: One-sixth of estimated annual disbursements

Settlement: May 15

First Payment: July 1

To calculate the MAXIMUM Escrow Amounts!

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STEP 1—INITIAL TRIAL BALANCE

<i>Projected Trial Running Balance</i>	Aggregate		
	pmt	disb	bal
Jun	0	0	0
Jul	130	500	- 370
Aug	130	0	- 240
Sep	130	360	- 470
Oct	130	0	- 340
Nov	130	0	- 210
Dec	130	700	- 780
Jan	130	0	- 650
Feb	130	0	- 520
Mar	130	0	- 390
Apr	130	0	- 260
May	130	0	- 130
Jun	130	0	0

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STEP 2—ADJUSTED TRIAL BALANCE

[Increase monthly balances to eliminate negative balances]

	Aggregate		
	pmt	disb	bal
Jun	0	0	780
Jul	130	500	410
Aug	130	0	540
Sep	130	360	310
Oct	130	0	440
Nov	130	0	570
Dec	130	700	0
Jan	130	0	130
Feb	130	0	260
Mar	130	0	390
Apr	130	0	520
May	130	0	650
Jun	130	0	780

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STEP 3—TRIAL BALANCE WITH CUSHION

Now add the cushion amount
(2 months at \$130 = \$260) to
the beginning amount \$780

	Aggregate		
	pmt	disb	bal
Jun	0	0	1040
Jul	130	500	670
Aug	130	0	800
Sep	130	360	570
Oct	130	0	700
Nov	130	0	830
Dec	130	700	260
Jan	130	0	390
Feb	130	0	520
Mar	130	0	650
Apr	130	0	780
May	130	0	910
Jun	130	0	1040

*II. Example Illustrating Single-Item Analysis
(Existing Accounts)*

ASSUMPTIONS:

Disbursements:

\$360 for school taxes disbursed on Sep-
tember 20

\$1,200 for county property taxes:
\$500 disbursed on July 25

\$700 disbursed on December 10

Cushion: One-sixth of estimated annual dis-
bursements

Settlement: May 15

First Payment: July 1

Single Item Analysis Prepare HUD 1 & HUD 1A

STEP 1—INITIAL TRIAL BALANCE

	Single-item					
	Taxes			School taxes		
	pmt	disb	bal	pmt	disb	bal
June	0	0	0	0	0	0
July	100	500	-400	30	0	30
August	100	0	-300	30	0	60
September	100	0	-200	30	360	-270
October	100	0	-100	30	0	-240
November	100	0	0	30	0	-210
December	100	700	-600	30	0	-180
January	100	0	-500	30	0	-150
February	100	0	-400	30	0	-120
March	100	0	-300	30	0	-90
April	100	0	-200	30	0	-60
May	100	0	-100	30	0	-30
June	100	0	0	30	0	0

The highest negative escrow balances for the two items

Initial trial balance is unadjusted for any shortage and the cushion required by the Servicer

Single Item Analysis Prepare HUD 1 & HUD 1A

STEP 2—ADJUSTED TRIAL BALANCE (INCREASE MONTHLY BALANCES TO ELIMINATE NEGATIVE BALANCES)

	Single-item					
	Taxes			School taxes		
	pmt	disb	bal	pmt	disb	bal
Jun	0	0	600	0	0	270
Jul	100	500	200	30	0	300
Aug	100	0	300	30	0	330
Sep	100	0	400	30	360	0
Oct	100	0	500	30	0	30
Nov	100	0	600	30	0	60
Dec	100	700	0	30	0	90
Jan	100	0	100	30	0	120
Feb	100	0	200	30	0	150
Mar	100	0	300	30	0	180
Apr	100	0	400	30	0	210
May	100	0	500	30	0	240
Jun	100	0	600	30	0	270

The highest negative escrow balances added to first payment

Single Item Analysis Prepare HUD 1 & HUD 1A

STEP 3—TRIAL BALANCE WITH CUSHION

Now add the cushion amount (2 months at \$100 and \$30 respectively) to first payment

	Single-Item					
	Taxes			School taxes		
	pmt	disb	bal	pmt	disb	bal
Jun	0	0	800	0	0	330
Jul	100	500	400	30	0	360
Aug	100	0	500	30	0	390
Sep	100	0	600	30	360	60
Oct	100	0	700	30	0	90
Nov	100	0	800	30	0	120
Dec	100	700	200	30	0	150
Jan	100	0	300	30	0	180
Feb	100	0	400	30	0	210
Mar	100	0	500	30	0	240
Apr	100	0	600	30	0	270
May	100	0	700	30	0	300
Jun	100	0	800	30	0	330

[59 FR 53908, Oct. 26, 1994, as amended at 60 FR 8816, Feb. 15, 1995. Redesignated at 61 FR 58479, Nov. 15, 1996]

HUD 1 Escrow Detail

Initial deposit calculated on previous slide

1000. Reserves Deposited With			Paid From Borrower's Funds at Settlement
1001. Hazard insurance		per month	
1002. Mortgage insurance	months	per month	
1003. City property taxes	months	per month	
1004. County property taxes	8 months @ \$100	per month	\$800
1005. Annual assessments	months @ \$	per month	
1006. School Taxes	11 months @ \$30	per month	\$330
1007.	months @ \$	per month	
1008. Aggregate Adjustment	months @ \$	per month	(\$ 90)

"Aggregate adjustment" is listed as the last item in the 1000 series of line items on the HUD-1 or HUD-1A. When escrowing for 2 or more items, adjustment is always negative or zero. If escrowing only 1 item, adjustment is always \$0 and must still be shown as an adjustment!

Annual Escrow Analysis



- All loans subject to RESPA with an escrow must be analyzed at least an annually
- Analysis is to be performed in exactly the same aggregate manner as the analysis for the initial escrow account
- Servicer can select any month to end the computation year

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Exceptions to Annual Analysis

- Servicer must submit an annual escrow statement within 30 days of end of the escrow computation year.
- If at the time the servicer conducts escrow analysis 1 of the 3 following status exists, no escrow statement is required:
 - Borrower is more than 30 days overdue, or
 - Servicer has brought an action for foreclosure, or
 - Borrower is in bankruptcy proceedings
- However, if Servicer does not issue annual statement under this exemption and the loan is reinstated or becomes current, the servicer must provide a history of the account since the last annual statement **within 90 days** of the date the account became current.

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Annual Analysis Projection

- Determine total of escrow items to be paid over the next 12 months
- Divide that total by 12 to obtain monthly escrow payment required to be paid into the account
- Analyze payments into and out of the account each month and determine the amount needed to **eliminate the largest negative balance** in the account during the year
- Add to that amount any Cushion. RESPA limits the amount of the cushion to 2 month's escrow payments. This total is the amount of the **target balance** (also called the **starting balance**) of the account.

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Annual Escrow Analysis Contents

- Current monthly mortgage payment and the escrow amount;
- Past year's monthly mortgage payment and escrow amount;
- Total paid into escrow during the past computation year;
- Total paid out of escrow during year for taxes, insurance premiums, and other charges (as separately identified);
- Balance in the escrow account at the end of the period;
- Explanation of how any surplus is being handled or an explanation of how shortage or deficiency is to be paid by the borrower; and
- If applicable, the reason(s) why the estimated low monthly balance was not reached, as indicated by noting differences between the most recent account history and last year's projection

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Short Year Statements

- Special form of annual escrow analysis and disclosure
- Annual statement that covers a period of less than 1 year.
- Ends the escrow computation year and establishes the beginning date of the new year. Servicer must deliver the short year statement within 60 days from the end of the short year.
- Optional to issue a short year annual escrow statement to change account computation year to another
- Required upon transfer of servicing of the borrower’s mortgage loan
- Required within 60 days of loan payoff

8826 Federal Register / Vol. 30, No. 21 / Wednesday, February 15, 1965 / Home and Regulations

APPENDIX I-B: ANNUAL ESCROW ACCOUNT DISCLOSURE STATEMENT—FORMAT

(Account history for one- and two-rate accounts computed using aggregate analysis.)

[Servicer's name, address, and toll-free number.]

ANNUAL ESCROW ACCOUNT DISCLOSURE STATEMENT—ACCOUNT HISTORY

THIS IS A STATEMENT OF ACTUAL ACTIVITY IN YOUR ESCROW ACCOUNT FROM _____ THROUGH _____ (COMPARE IT TO THE ANNUAL ESCROW ACCOUNT DISCLOSURE STATEMENT—PROJECTIONS FOR COMING YEAR—WHICH WAS SENT TO YOU LAST YEAR OR _____ (ANOTHER COPY ENCLOSED).)

[INSTRUCTIONS TO PREPARER: Delete material in brackets () if initial escrow account disclosure statement or annual disclosure payment history was not delivered in previous year. Also, if the servicer elects to provide a side-by-side comparison of last year's projection to the account history, delete "COMPARE ... ENCLOSED." This instruction paragraph should not be included in the form.]

Your monthly mortgage payment for the past year was \$ _____ of which \$ _____ was to principal and interest and \$ _____ went into your escrow account.

Month	Payments to Escrow Account	Payments from Escrow Account	Description	Escrow Account Balance
Starting balance: _____ \$ _____				

[A filled-out example follows.]

An asterisk (*) indicates a difference from a previous estimate either in the date or the amount.

Last year, we anticipated that payments from your account would be made during this period equaling \$ _____. Under Federal law, your lowest monthly balance should not have exceeded \$ _____ or 1/6 of anticipated payment from the account, unless your mortgage contract or State law specifies a lower amount. (Your mortgage contract and State law are silent on this issue.) (Under your mortgage contract and State law, your lowest monthly balance should not have exceeded \$ _____.)

[INSTRUCTIONS TO PREPARER: The servicer is to use the appropriate sentence above describing the mortgage contract. This instruction paragraph should not appear in the form.]

Your actual lowest monthly balance was greater than \$ _____. The items with an asterisk on your Account History may explain this. If you want a further explanation, please call our toll-free number.

[INSTRUCTIONS TO PREPARER: The servicer is to use the paragraph above if the lowest month-and balance exceeds either the Federal or the contract/State law limit. Put the lower of the two in the blank. This instruction paragraph should not appear in the form.]

Federal Register / Vol. 30, No. 21 / Wednesday, February 15, 1965 / Home and Regulations 8827

APPENDIX I-B: ANNUAL ESCROW ACCOUNT DISCLOSURE STATEMENT—FORMAT

(Projections for one- and two-rate accounts computed using aggregate analysis.)

[Servicer's name, address, and toll-free number.]

ANNUAL ESCROW ACCOUNT DISCLOSURE STATEMENT—PROJECTIONS FOR COMING YEAR

THIS IS AN ESTIMATE OF ACTIVITY IN YOUR ESCROW ACCOUNT DURING THE COMING YEAR BASED ON PAYMENTS ANTICIPATED TO BE MADE FROM YOUR ACCOUNT.

Month	Payments to Escrow Account	Payments from Escrow Account	Description	Escrow Account Balance
Starting balance: _____ \$ _____				

[A filled-out format follows.]

Your ending balance, from the last month of the account history, is \$ _____. Your starting balance according to this analysis should be \$ _____.

[This means you have a surplus of \$ _____. This surplus must be returned to you unless it is less than \$50, in which case we have the additional option of keeping it and lowering your monthly payments accordingly. (We are sending you a check for the surplus.) (We are keeping the surplus and lowering your monthly payments.)]

[This means you have a shortage of \$ _____. This shortage may be collected from you over a period of 12 months or more unless the shortage is less than 1 month's deposit, in which case we have the additional option of requesting payment within 30 days. (We have decided to collect it over _____ months.) (We have decided to collect it within 30 days.) (We have decided to do nothing.)]

[This means you have a deficiency of \$ _____. This deficiency may be collected from you over a period of 2 months or more unless the deficiency is less than 1 month's deposit, in which case we have the additional option of requesting payment within 30 days. (We have decided to collect it over _____ months.) (We have decided to collect it within 30 days.) (We have decided to do nothing.)]

[INSTRUCTIONS TO PREPARER: The servicer is to use the appropriate paragraph above if there is a surplus, shortage, or deficiency. The servicer should then print the response selected from the choices given. If the deficiency and shortage paragraphs are to be used on the same form, appropriate explanatory language may be used. This instruction paragraph should not be included in the form.]

(PLEASE KEEP THIS STATEMENT FOR COMPARISON WITH THE ACTUAL ACTIVITY IN YOUR ACCOUNT AT THE END OF THE NEXT ESCROW ACCOUNTING COMPUTATION YEAR.)

[YOUR MONTHLY MORTGAGE PAYMENT FOR THE COMING YEAR WILL BE \$ _____ OF WHICH \$ _____ WILL BE FOR PRINCIPAL AND INTEREST AND \$ _____ WILL GO INTO YOUR ESCROW ACCOUNT.]

[YOUR FIRST MONTHLY MORTGAGE PAYMENT FOR THE COMING YEAR WILL BE \$ _____ OF WHICH \$ _____ WILL BE FOR PRINCIPAL AND INTEREST AND \$ _____ WILL GO INTO YOUR ESCROW ACCOUNT. THE TERMS OF YOUR LOAN MAY RESULT IN CHANGES TO THE MONTHLY PRINCIPAL AND INTEREST PAYMENTS DURING THE YEAR.]

[INSTRUCTIONS TO PREPARER: The servicer is to use the appropriate option above describing the principal and interest payments for the coming year. This instruction paragraph should not appear in the form.]

Discretionary Payments

- Any borrower's discretionary payment (such as credit life or disability) included in a monthly mortgage payment is to be noted on the initial and annual escrow statements.
- If discretionary payment is set up or terminated during the escrow computation year, the change should be noted on the next annual escrow statement.
- Discretionary payments are not part of the escrow account unless lender requires the payment, or servicer chooses to place the discretionary payment in the escrow account.

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Key Terms for Analysis

- **Surplus**: Amount by which escrow account balance exceeds target balance at the time of analysis.
- **Shortage**: Amount the current escrow balance falls short of target balance at the time of analysis.
- **Deficiency**: Negative balance in an escrow account at the time of an escrow analysis.

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Surplus Disposition

- Surplus of \$50 or more**
 - Refund to the borrower within 30 days of analysis
- Surplus of less than \$50**
 - Refund to borrower, **OR**
 - Credit to next year's escrow payments

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Shortage Disposition

- Short < 1 month's escrow payment**
 - Allow shortage and do nothing
 - Require repayment within 30 days
 - Require equal installments over at least next 12 months to cover
- Short 1 month or more escrow payment**
 - Allow shortage and do nothing
 - Require equal installments over at least next 12 months to cover

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Deficiency Disposition

Deficiency < 1 month's escrow payment

- Allow deficiency and do nothing
- Require repayment within 30 days
- Require equal installments over 2 or more months to cover

Deficiency of 1 month or more escrow payment

- Allow deficiency and do nothing
- Require equal installments over at least next 12 months to cover

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APPENDIX M: ILLUSTRATION OF OPTION OF IDENTIFYING SIMULTANEOUS DEFICIENCY AND SHORTAGE

(Projections for pre-rule and post-rule accounts combined using appropriate analysis.)

(Servicer's name, address, and toll-free number.)

ANNUAL ESCROW ACCOUNT DISCLOSURE STATEMENT — PROJECTIONS FOR COMING YEAR

THIS IS AN ESTIMATE OF ACTIVITY IN YOUR ESCROW ACCOUNT DURING THE COMING YEAR BASED ON PAYMENTS ANTICIPATED TO BE MADE FROM YOUR ACCOUNT.

Month	Payments to Escrow Account	Payments from Escrow Account	Description	Escrow Account Balance
Starting balance:				\$3,300
September	500	0		3,800
October	500	800	taxes	3,500
November	500	3,000	insurance	1,000
December	500	0		1,500
January	500	0		2,000
February	500	0		2,500
March	500	0		3,000
April	500	0		3,500
May	500	0		4,000
June	500	2,200	taxes	2,300
July	500	0		2,800
August	500	0		3,300

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CFPB Mortgage Servicers Experience Report

- CFPB (June 28, 2024) [published a report](#) examining experiences of mortgage borrowers who struggled to make payments during the pandemic
 - CFPB used a dataset from the 2020 American Survey of Mortgage Borrowers, derived from the National Mortgage Database
- Most common challenges borrowers faced:
 - Thinking they did not qualify for assistance programs
 - Not knowing how to apply for them
 - Experiencing “too much trouble” with the application process
- Other findings:
 - Many borrowers felt uncomfortable talking to their mortgage servicer and noted data and evidence that borrowers with limited English proficiency were more likely to face challenges
 - Over half of distressed borrowers discussed their repayment difficulties with their servicer, and those who discussed these difficulties were more likely to receive offers for assistance (such as repayment plans or loan modifications)
 - Most common topics discussed with servicers were forbearances, loan modifications, repayment plans, refinancing options and available government programs
 - Most borrowers who received a forbearance reported being satisfied with the process, but more than a third were unclear about what would happen at the end of the forbearance period and how to repay forbore payments
 - Some borrowers were also confused at the outset about how deferred payments would work after entering a loan forbearance

CFPB Proposed Servicing Rule Changes

- CFPB (July 10, 2024) issued a [Proposed Rule](#) to streamline the mortgage servicing process under RESPA for distressed borrowers
 - Also requests comment on “possible approaches it could take to ensure servicers are furnishing accurate and consistent credit reporting information for borrowers undergoing review for assistance”
 - Unofficial [redline](#) of the “Streamlining Mortgage Servicing for Borrowers Experiencing Payment Difficulties” proposed rule
 - [Fast Facts](#): Streamlining Mortgage Servicing for Borrowers Experiencing Payment Difficulties (Regulation X) →
- Would not apply to “small servicers” – those that service 5,000 or fewer mortgage loans, all of which the servicer or affiliates own or originated

Topic	Proposed rule provisions	Location in proposed rule
Statements including Language Translation and Interpretation Services are Available	The CFPB proposes to require that servicers include in the English version of the specified written communications the brief in-language statements identifying the availability of translated versions of those written communications and the availability of interpretation services for the specified oral communications in the appropriate language. The brief statements would also identify how the borrower can request those translations or interpretation services.	Part IV D
Translation and Interpretation Services Based on Language Pre-Origination Marketing	The proposed rule would require that the five languages selected by the servicer be the five most frequently used languages of those speakers to a significant majority of their borrowers with limited English proficiency other than English or Spanish.	Part IV D
Other Servicing Issues		
Record Retention Requirements	The proposed rule would clarify that the current requirement that servicers retain records that document actions taken with respect to a borrower's mortgage loan account includes retention of records evidencing compliance with Regulation X. The proposed rule would add an example of compliant record requirements.	§ 1024.36(c)(1)
Credit Reporting	The CFPB requests comment about possible approaches it could take to ensure servicers are furnishing accurate and	Part IV E

CFPB Proposed Servicing Rule Changes

- Provisions:
 - Early intervention: expands early intervention notification efforts for borrowers in forbearance
 - At least 30 days, but no more than 45 days, before the scheduled end of the forbearance, would require the servicer establish, or make good faith efforts to establish, live contact with the borrower
 - Foreclosure safeguards: proposes to remove most existing application-based loss mitigation framework and replace it with a new framework based on foreclosure procedural safeguards
 - Once loss mitigation has begun, servicer must ensure that one of the following has been met before advancing to foreclosure:
 - Servicer has reviewed the borrower for all available loss mitigation options and no options remain, the borrower has been sent all required notices, and the borrower has not requested an appeal; or
 - Borrower has not communicated with the servicer for 90 days despite the servicer's efforts
 - Loss mitigation application process: allow servicers flexibility in assessing loss mitigation efforts
 - Servicers are not required to collect a complete loss mitigation application for all available options prior to making a determination about whether to deny or to offer a loss mitigation option to a borrower
 - Servicer may, but is not required to, review a borrower for loss mitigation options sequentially rather than simultaneously
 - Fee limitations: cap fees during a loss mitigation review cycle
 - Servicer cannot charge fees beyond amounts scheduled or calculated as if the borrower made all contractual payments on time
 - Improved communications: enhanced and tailored notices to inform borrowers of available actions and options
 - Language accessibility: Borrowers who received marketing materials in another language could request mortgage assistance communications in that language
 - Would also require servicers to provide notices in Spanish in addition to English, and make oral interpretation services available during telephone calls with borrowers

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