# RESPA-Escrow Analysis Guide

Over 35 years have passed since HUD established statutes under the Real Estate Settlements Procedures Act (RESPA) protecting consumers from predatory practices during the home buying process. These regulations detail proper methods for communicating crucial loan and settlement information as well as appropriate lender partnerships.

Of particular importance are RESPA disclosure requirements concerning proper escrow account analysis, financing, and reporting. The purpose of this memorandum is to revisit these specific escrow regulations and provide affiliates with the tools necessary for compliance.

Although establishing an escrow account is not required by law, Habitat for Humanity International strongly encourages affiliates to create escrow accounts as best practice for asset protection. All escrow accounts must conform to RESPA regulations.

## Regulations

The following outlines lenders' responsibilities for escrow accounts under RESPA:

### Escrow Account Management Provisions

- RESPA mandates that escrow account funds be used for the payment of taxes and insurance premiums.
- Escrow account funds must be kept separate from any other funds, e.g. personal, or business. Escrow deposits are not the property the lender. These funds cannot compliment or substitute the lender's operations.
- It is not necessary to keep a separate bank account for each borrower but the accounting records must segregate balances and activity by borrower.
- Lenders must make timely payments from the escrow account. If the lender makes a late payment, any penalties must be paid by the lender and cannot be charged against the homeowner's account.
- Negligence on the part of the lender is a prosecutable offense.
- Lenders are required to make disbursements from the escrow account in installments if the tax and insurance entities offer that option. Incremental payments reduce the possibility of deficiencies in the account created by a large lump sum disbursement.

### Yearly Escrow Account Analysis

RESPA requires that lenders analyze the escrow accounts of each borrower at least once a year to determine the appropriate target balance; to evaluate whether surpluses, shortages, or deficiencies exist; and to forecast the following year's monthly payments.

A written statement of the analysis detailing prior account activity and any future adjustments must be provided to the borrower.

Escrow analysis ensures that accounts are properly funded and that borrowers have accurate information about tax and insurance expenses for budgeting purposes.

## Amount of Money in Escrow Account

RESPA set limits on the amount of money a lender can require a borrower to deposit into an escrow account for the payment of taxes and insurance premiums.

Monthly deposits into the account shall not exceed 1/12th of the estimated total expenses.

A cushion can be added to cover potential increases but it cannot be greater than 1/6th of the estimated total expenses.

# Escrow Calculator

The following details the steps for analyzing an escrow account to establish accurate and appropriate payment and balance information. **See Exhibit A at the end of this document**.

The yellow cells indicate data entry areas; the affiliate must supply figures for these spaces. All other cells contain formulas and will automatically display results once the yellow cells are filled in.

### 1 Escrow analysis begins with itemizing taxes and insurance premiums.

- List each expense paid out of the account by type and payee, including the estimated amount and due date. Estimates should be based on the latest tax and insurance information.
- "Annual Escrow" and "Monthly Escrow" will be computed automatically.
- List the start date of the escrow year.

### 2 The "Deposits" column lists the monthly deposits into the account.

### 3 Detail the monthly payouts from the account.

Disbursements for taxes and insurance should be listed by the estimated amount in the month the expense is due.

### 4 The "Base Bal." column determines the minimum initial balance needed for the account to never go below zero.

### 5 The "Req. Bal" column determines the required monthly balances for the account to never be negative.

## 6 Calculate a cushion. Determine if a surplus or shortage exists.

- List the amount of the homeowner's previous balance at the start of the new escrow year. If a new escrow account is being established there will be no previous balance.
- The "Required Funding" figure, the balance needed at the beginning of the year for the account to never be negative, will automatically be calculated.
- Enter a cushion of 2 or less months. (RESPA requires that a lender's escrow cushion cannot exceed 2 monthly escrow deposits.)

## 7 The "Adjusted Req. Bal" column adjusts the required balance to reflect the cushion.

## RE: 6 Surplus / (Shortage) Assessment

Evaluating surpluses and shortages is a crucial part of escrow analysis as it establishes the foundation for proper account funding and general compliance.

Section 6 of the worksheet will automatically compute the surplus or shortage; it is here that the lender must take proper actions to ensure RESPA guidelines are being observed.

RESPA mandates the following guidelines for surpluses and shortages:

- ***Surpluses can be handled by one of the following options***:
    - Any excess of $50 or more must be returned to the borrower
    - Any excess less than $50 can be used to reduce the following year's monthly escrow payments*
- ***Shortages can be handled by one of the following options***:
    - Repaid in equal monthly installments over the next year*
    - If the shortage is less than one month's escrow payment, the lender can require a lump sum payment due within 30 days
    - The lender can choose to take no action. If the shortage is allowed to exist, the lender must advance any necessary funds.

**The "Monthly option given shortage/surplus" cell in section 6 will adjust the amount of the "New Escrow Payments" by the shortage or surplus (less than $50). This will be the borrower's new monthly contribution into the account.*

## Exhibit A

Yellow field are data entry fields. All other fields are calculated.

| TAXES AND INSURANCE | | | |
|---|---|---|---|
| **Expense Type** | **Payee** | **Estimate** | **Due Month** |
| Insurance: | State Farm | 200.00 | April |
| City Taxes: | City | 600.00 | Quarterly in Sept, Dec., Mar., June |
| County Taxes: | County | 550.00 | January |
| School Taxes | School | 550.00 | September |
| Annual Escrow | | 1,900.00 | |
| Monthly Escrow | | 158.33 | (rounded) |
| | | | |
| New Escrow Starts | | 01/01/11 | |

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| SURPLUS/ (SHORTAGE) CALCULATOR | |
|---|---|
| Y/E Homeowner Balance 12/31/10 | 500.00 |
| Required Funding | 391.67 |
| | |
| Months | 2 |
| Affiliate cushion | 316.67 |
| | |
| **Surplus/(Shortage)*** | **$ (208.34)** |
| | |
| New Escrow Payment | 158.33 |
| Monthly option given shortage | **$ 175.69** |
| * Y/E balance - (required funding + cushion) | |

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| RESPA ESCROW CALCULATOR | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | Deposits | Payouts | Base bal. | Req. Bal | Adjusted Req. Bal | |
| | **Initial** | | | 0.00 | 391.67 | 708.34 | |
| ESCROW YEAR | January | 158.33 | 550.00 | (391.67) | 0.00 | 316.67 | Lowest Bal |
| | February | 158.33 | 0.00 | (233.33) | 158.33 | 475.00 | |
| | March | 158.33 | 150.00 | (225.00) | 166.67 | 483.34 | |
| | April | 158.33 | 200.00 | (266.67) | 125.00 | 441.67 | |
| | May | 158.33 | 0.00 | (108.34) | 283.33 | 600.00 | |
| | June | 158.33 | 150.00 | (100.00) | 291.67 | 608.34 | |
| | July | 158.33 | 0.00 | 58.33 | 450.00 | 766.67 | |
| | August | 158.33 | 0.00 | 216.66 | 608.33 | 925.00 | |
| | September | 158.33 | 700.00 | (325.00) | 66.66 | 383.33 | |
| | October | 158.33 | 0.00 | (166.67) | 225.00 | 541.67 | |
| | November | 158.33 | 0.00 | (8.34) | 383.33 | 700.00 | |
| | December | 158.33 | 150.00 | (0.00) | 391.66 | 708.33 | |
| | | | | | | | |
| | Total | 1900.00 | 1900.00 | | | | |

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