

BUREAU OF BANKING

Department of Professional and Financial Regulation

State of Maine

March 15, 1999

BULLETIN #68 Real Estate Mortgage Escrow Accounts

For many years, Maine lenders have originated real estate mortgage loans with escrow accounts in which the borrower sets aside funds, on an installment basis, to pay property taxes and insurance premiums. In some instances, such escrow accounts are established on a voluntary basis as a convenience to the borrower. In other cases involving a high loan to value relationship or to meet underwriting standards required by the secondary market, such escrow accounts may be mandatory.

Both the Bureau of Banking and the Office of Consumer Credit Regulation have received complaints from individuals regarding timely payment of property taxes or insurance premiums and perceived excess balance requirements. Constituent concern has also given rise to legislative scrutiny in this area.

§ 10 of the Real Estate Settlement Procedures Act of 1974 (12 USC 2601 et seq.) limits the amount of money a lender may require a borrower to hold in an escrow account for payment of taxes, insurance, etc. RESPA also requires the lender to provide initial and annual escrow account statements and to conduct a periodic analysis of escrow requirements. Federal rules (24 CFR 3500 et seq) issued in 1994, which took effect in May of 1995, required lenders to adopt the aggregate accounting method for newly established escrow accounts; lenders had until October 1997 for previously established accounts. In final rules published January 1998, lenders received direction on what to do when a taxing jurisdiction offers a choice of payment on an installment basis or an annual basis.

There are substantial federal rules governing the establishment and maintenance of escrow accounts and these rules have changed over time. The state financial regulators remind lenders that adherence to the requirements in the Real Estate Settlement Procedures Act and the implementing regulations is essential to ensure adequate consumer protection in this area. This Bulletin is being issued in conjunction with the Office of Consumer Credit Regulation Advisory Ruling #108. Should you have any questions regarding this Bulletin or the Advisory Ruling, please contact Colette Mooney (624-8574) or Will Lund (624-8532)

/s/ H. Donald DeMatteis
Superintendent

NOTE: This bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties or privileges nor is it intended to provide legal advice. Readers are encouraged to consult applicable statutes and regulations and to contact the Bureau of Banking if additional information is needed.