

BUREAU OF FINANCIAL INSTITUTIONS
Department of Professional and Financial Regulation
State of Maine

December 9, 2003

Bulletin #76

Interest on Escrow Accounts

Title 9-B MRSA §429 requires interest to be paid on escrow accounts held for loans secured by mortgages on owner-occupied residential property. That law, as amended by PL 2003 c. 263 and effective September 13, 2003, requires each mortgagee¹ holding funds of a mortgagor in an escrow account required for the payment of taxes and insurance, to pay interest on that account. Section 429 requires that the mortgagee pay interest on a mandatory escrow account of not less than....."50% of the 1-year Treasury Note rate or rate of a comparable instrument if the 1-year Treasury Note is not offered, as published in a financial newspaper of national circulation, as of the first business day of the year in which the quarterly interest or dividend is paid".²

A review of the United States Treasury auction schedule through January 2004 indicates that the 1-Year Treasury Note is not scheduled to be auctioned. Therefore, a comparable instrument had to be identified. This Bulletin is issued to direct mortgagees to use the weekly average yield on United States Treasury securities, adjusted to a constant maturity of one year (1 – year Treasury Index) as the alternate index. This index is reported by the Federal Reserve System in its Report of Selected Interest Rates H.15³.

Maine law has required payment of interest on escrow accounts for over 20 years. Historically, mortgagees have been required to pay a fixed rate of interest on mandatory escrow accounts. With the changes embodied in PL 2003 c. 263, the Maine Legislature recognized that an escrow account interest rate, which is tied to an index outside of the control of the mortgagee, provides a rate of return that keeps pace with market conditions which is not limited to a fixed rate. In addition, the Legislature reconfirmed the public policy that interest should be paid by mortgagees on mandatory escrow balances and the rate of interest should be beyond the control of the mortgagee.

¹ "Mortgagee" is defined as any financial institution authorized to do business in this State, as defined in Title 9-B section 131, subsection 17-A, any credit union authorized to do business in this State, as defined in section 131, subsection 12-A, any supervised lender, as that term is defined in Title 9-A, section 1-301, subsection 39, and their assignees.

² Title 9-B section 429, subsection 2.

³ Federal Reserve Report H.15 may be found at: <http://www.federalreserve.gov/releases/h15>.

This Bulletin identifies the 1 – year Treasury Index as the base that must be used to calculate the mandatory escrow account interest rate for calendar year 2004. The first weekly update of H. 15 in 2004, that will report the most recent 1-year Treasury Index, will be issued on Monday, January 5, 2004 and will be posted on the Federal Reserve website at <http://www.federalreserve.gov/releases/h15/update/>.

The shift to an index-based interest rate on mandatory escrow accounts is a substantial change from the 3% fixed interest rate that has been required by Maine law for almost twenty years. To facilitate a smooth transition to this new interest calculation method, the Bureau strongly encourages mortgagees to provide customers advance notice of the rate of interest to be paid on escrow accounts and the formula upon which it is calculated. Such a notice should be provided by mortgagees at least 30 days prior to the first quarterly interest payment in the calendar year. The Bureau of Financial Institutions will inform the public via a press release issued in January, 2004 about the new law, the current index rate and the statutory minimum which must be paid on escrow accounts. In addition, the Bureau will provide a link on its website and a toll-free number so that the public may have access to the index rate number utilized to calculate the fixed escrow interest rate for calendar year 2004.

If you have any questions regarding this Bulletin, please contact Deputy Superintendent Colette Mooney (624-8574) or via email: Colette.L.Mooney@Maine.gov. or Attorney John A. Barr at (624-8561) or via email: John.A.Barr@Maine.gov.

A handwritten signature in black ink, reading "Howard R. Gray, Jr." with a stylized flourish at the end.

Howard R. Gray, Jr.
Superintendent

Note: This Bulletin is intended 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 Financial Institutions if additional information is needed.