

HOME MORTGAGE ESCROW ACCOUNTS



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INTRODUCTION

Like millions of homeowners, your monthly mortgage payments cover principal and interest and, probably, something called an escrow account. But, like many people, you may not know why you pay into an escrow account each month, how the amount is determined, or how your lender disburses funds from the account.

WHAT IS AN ESCROW ACCOUNT?

An escrow account is a fund your lender establishes to pay property taxes and hazard insurance as they become due on your home during the year. In this way, the lender uses the escrow account to guard its investment in your home. For example, if you did not pay your property taxes, your municipality could sell your home at a foreclosure sale. Similarly, if you neglected to pay the hazard insurance premium, a fire or flood that destroyed your home would also destroy the lender's security for the loan.

MUST I HAVE AN ESCROW ACCOUNT?

Most mortgage loans require escrow accounts, but not all do. In some cases, if your mortgage contract does not specifically require an escrow account, you may be able to negotiate with the

lender for the right to pay your own taxes and insurance. This ability can help you avoid having your money tied up until it is needed. However, if you have a mortgage insured or guaranteed by the Department of Housing and Urban Development or certain other federal agencies it may not be possible to negotiate the right to make your own tax and insurance payments, and these payments will have to be held in an escrow account until the lender disburses them on your behalf.

HOW MUCH SHOULD THE LENDER CHARGE?

The goal of the escrow account is to have enough money to pay taxes and insurance when they become due. To achieve this, the lender adds one-twelfth of the tax and insurance amount to your mortgage payment each month. For example, if your taxes and insurance are \$1200 per year, the lender would collect \$1200 in twelve installments of \$100 per month. To cover possible tax or insurance increases, the federal Real Estate Settlement Procedures Act (RESPA)¹ permits the lender to add to the yearly amount two months of extra payments prorated monthly. So, the lender would collect an additional \$200 divided by 12, or \$16.67 per month, for a total escrow payment of \$116.67 per month.

¹ 12 U.S.C. § 2601 et seq. (2010).

To determine whether you are being charged correctly, compare your escrow payments with what you owe annually on your hazard insurance and property taxes. You can get this information from your local tax authority and your insurance company. If the lender charges you substantially less than the required amount, you will need to pay an additional lump sum at the end of the year. If the lender charges you substantially more, it may tie up your money unfairly, as well as violate the RESPA regulations.

WHY DO MORTGAGE PAYMENTS CHANGE?

Most lenders will analyze your escrow account at least yearly to make sure they are collecting enough money to pay your taxes and insurance. If your taxes or insurance premiums change during the year, your lender will need to adjust your payments accordingly.

DOES THE LENDER HAVE TO PAY INTEREST ON ESCROW MONEY?

In most cases, no. But this is determined by state law where your property is located. Check with the state banking commission or consumer protection office concerning state requirements. Idaho law is silent concerning home mortgage escrow accounts.

ESCROW STATEMENTS

Most lenders provide an annual statement indicating the amount paid out of the escrow account and the balance in the account. Read this carefully. If you have any questions, ask the lender. If the

statement shows the lender has collected more in escrow payments than it has paid out, ask to have the money refunded to you, unless you prefer to have it applied toward next year's payments.

COMPLAINTS

If you have a complaint about how your escrow account is being handled, first try to resolve it with your lender. If you cannot resolve your problem with the person handling your account, talk to a supervisor or an officer of the company. Be sure to keep a copy of any correspondence you may have with the lender.

Often, your state banking agency will be able to help you, or at least direct you to the state agency that can.

***This handout is general in nature. It is not a substitute for legal advice from an attorney regarding individual situations. (August 2021)**

For additional information on this and other legal topics, see the Air Force Legal Assistance Website:
<https://aflegalassistance.law.af.mil>