

## **CHAPTER 47-10.2 ESCROW ACCOUNTS**

### **47-10.2-01. Definitions.**

In sections 47-10.2-01 through 47-10.2-03, unless the context or subject matter otherwise requires:

1. "Borrower" means the obligor under a residential mortgage held by a mortgagee.
2. "Servicer" means a person or entity maintaining an escrow account for a residential mortgagee.
3. "Surplus amount" means from the annual escrow account analysis, any amount greater than or equal to fifty dollars, excluding any escrow cushion required by the servicer.

### **47-10.2-02. Notice of surplus escrow payments.**

If an escrow account is maintained by the servicer of a residential mortgage for a mortgagee, and the account contains a surplus amount, the servicer shall provide written notice to the borrower within thirty calendar days following the end of the escrow account computation year. The information provided to the borrower must include the balance in the escrow account after the annual payment of taxes and special assessments.

### **47-10.2-03. Refunding of surplus escrow payments.**

Upon creation of the written notice under section 47-10.2-02, the servicer shall refund any surplus amount to the borrower within thirty calendar days following the end of the escrow account computation year. The notice required under section 47-10.2-02 must be included when surplus escrow funds are refunded under this section.

### **47-10.2-04. Payments from escrow - Notice - Liability of lender or escrow agent.**

1. If the borrower notifies the escrow agent as provided in subsection 2, is current in loan payments, and funds in the escrow account are sufficient, the borrower may direct the escrow agent under the borrower's loan to do any of the following:
  - a. Pay the property taxes by December thirty-first, if the escrow agent has received a tax statement for that property by December twentieth.
  - b. Pay the property taxes on or before February fifteenth to qualify for the discount for early payment under section 57-20-09.
  - c. Pay the property taxes when due.
2. To require the escrow agent to make payments in any of the manners specified in subsection 1, the borrower shall send, by December first, written notice to the escrow agent specifying the manner in which the borrower wants the escrow agent to make payments under subsection 1. Once notified, the escrow agent shall annually make payments in that manner unless the borrower is not current in loan payments, unless funds in the escrow account are not sufficient, or unless otherwise notified in writing by the borrower by December first. If the borrower has never provided a written notice to the escrow agent, the escrow agent shall pay property taxes as provided in subdivision b of subsection 1.
3. An escrow agent who fails to comply with a directive of a borrower under subsection 1 made within the time limitations under subsection 2 is liable to the borrower for five hundred dollars plus actual damages, costs, and reasonable attorney fees.
4. In this section, unless the context or subject matter otherwise requires:
  - a. "Escrow agent" means a person who receives escrow payments on behalf of itself or another person.
  - b. "Loan" means a loan under which an escrow is required by the lender to assure payment of property taxes and which is secured by a first lien real estate mortgage or equivalent security interest in a dwelling that the borrower uses as a principal place of residence, not including a mobile home.

**47-10.2-05. Annual escrow account statement.**

Each residential mortgagee, including any insurance company with articles of incorporation filed under section 26.1-01-03, intending to maintain an escrow account for the payment of taxes, assessments, insurance premiums, and other charges upon the mortgagor's residence shall furnish annually each mortgagor with a detailed statement showing all debits and credits to the account.