

Article - Commercial Law

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§12-1026.

(a) (1) In this section the following words have the meanings indicated.

(2) “Escrow account” means an expense or escrow account which tends to protect the security of a loan by the accumulation of funds for the payment of taxes, insurance premiums, or other expenses.

(3) “Lending institution” means a bank, savings bank, or savings and loan association doing business in Maryland.

(b) (1) A lending institution that makes a loan to a consumer borrower secured by a first mortgage or first deed of trust on residential real property and creates or is the assignee of an escrow account in connection with that loan shall pay interest to the consumer borrower on the funds in the escrow account at an annual rate not less than the weekly average yield on United States Treasury securities adjusted to a constant maturity of 1 year, as published by the Federal Reserve in “Selected Interest Rates (Daily) – H.15”, as of the first business day of the calendar year.

(2) Interest on these funds shall be:

(i) Adjusted, if applicable, as of the first day of each calendar year to reflect the rate to be paid during that year, as determined under paragraph (1) of this subsection;

(ii) Computed on the average monthly balance in the escrow account;
and

(iii) Paid annually to the borrower by crediting the escrow account with the amount of interest due.

(3) The lending institution shall annually provide the consumer borrower with a statement of the escrow balance.

(4) The provisions of this subsection do not apply to a lending institution that provides for the payment of taxes, insurance, or other expenses under the direct reduction method by which these expenses, when paid by the lending institution, are added to the outstanding principal balance of the loan.

(5) (i) This subsection does not apply if the loan:

1. Is purchased by an out-of-state lender through the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation; and

2. The out-of-state lender elects to service the loan as a condition of purchase.

(ii) Notwithstanding subparagraph (i) of this paragraph, this subsection shall apply if the out-of-state lender:

1. Sells the loan to a Maryland lender; or

2. Places the loan with a Maryland lender for servicing.

(c) (1) Except upon foreclosure, release, or as provided in paragraph (2) of this subsection, funds in any escrow account maintained by a credit grantor on behalf of a consumer borrower for use in paying taxes, insurance premiums, and ground rents may not be used:

(i) To reduce the principal; or

(ii) To pay interest or other loan charges.

(2) If there is periodically a balance in the escrow account maintained by a credit grantor on behalf of a consumer borrower which exceeds the amount stated in the agreement, note, or other evidence of the loan, the consumer borrower shall be given at least annually the option of:

(i) Receiving a refund of the excess amount;

(ii) Applying the excess amount to the payment of principal and interest; or

(iii) Leaving the excess amount in the escrow account.

(3) A refund of any excess amount shall be made:

(i) Within 60 days after the receipt by the credit grantor of the consumer borrower's request for a refund; or

(ii) If the consumer borrower has not notified the credit grantor of the option chosen by the consumer borrower, within 60 days after the date the credit grantor mailed notice of an excess amount.

(4) (i) Subject to subparagraph (iii) of this paragraph, if, after recalculating the amount that is required to be maintained in escrow under a first mortgage or first deed of trust on residential real property, a credit grantor or a servicer of a loan determines that the amount that a consumer borrower is required to pay must increase, the credit grantor or servicer may not include, for a 1-year period after the determination is made, the amount of the increase in escrow payments in any calculation of the amount of interest or any fee due under the loan.

(ii) This paragraph may not be construed to limit the ability of a credit grantor or a servicer of a loan to impose a late fee for any escrow payment that is due and not timely paid.

(iii) 1. In this subparagraph, “other expenses” does not include money required by a credit grantor or a servicer of a loan for an escrow account cushion as permitted by the federal Real Estate Settlement Procedures Act.

2. A credit grantor or a servicer of a loan may charge interest to a consumer borrower on the amount of funds the credit grantor or servicer advances to pay taxes, insurance premiums, or other expenses owed by the consumer borrower in order to protect the security of the loan.

3. Interest may be charged by a credit grantor or a servicer of a loan under subparagraph 2 of this subparagraph only if:

A. The credit grantor or servicer advances its own funds because funds of the consumer borrower were not available to pay the taxes, insurance premiums, or other expenses owed by the consumer borrower;

B. The need for the advance was not caused by an error of the credit grantor or servicer in servicing the loan;

C. The credit grantor or servicer provides notice to the consumer borrower that the advance was made and that interest will be charged on the advance;

D. Interest does not begin to accrue until 60 days after notice has been provided to the consumer borrower in accordance with item C of this subparagraph;

E. Interest is charged only on the amount of funds actually advanced by the credit grantor or servicer after the credit grantor or servicer has used all available funds of the consumer borrower to pay taxes, insurance premiums, or other expenses owed by the consumer borrower; and

F. The consumer borrower is permitted to repay the advance as permitted by the federal Real Estate Settlement Procedures Act.

(d) (1) Funds in any escrow account shall be kept separate from and may not be commingled with the funds of the credit grantor.

(2) A credit grantor may place escrow funds received in connection with more than one loan into a single escrow account.

(3) In the event of the bankruptcy of the credit grantor, any escrow funds placed in any escrow account may not be considered to be part of the bankrupt estate of the credit grantor.

(e) A credit grantor may not impose a collection fee or service charge on the maintenance of an escrow account on a first mortgage or first deed of trust.

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