

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

**Office of the Assistant Secretary for
Housing-Federal Housing
Commissioner**

24 CFR Part 3500

[Docket No. R-95-1688; FR-3255-F-05]

RIN 2502-AF77

**Real Estate Settlement Procedures Act
(Regulation X); Escrow Accounting
Procedures**

AGENCY: Office of the Assistant
Secretary for Housing-Federal Housing
Commissioner, HUD.

ACTION: Final rule.

SUMMARY: On October 26, 1994, HUD published a rule, to become effective on April 24, 1995, establishing escrow accounting procedures under Sections 6(g) and 10 of the Real Estate Settlement Procedures Act. Subsequent to the publication of that rule, HUD received a number of requests asking HUD to correct, clarify, or further illustrate matters contained in the final rule. Because the Department agrees that further action may help illuminate its intentions and avoid confusion on the part of persons responsible for complying with the requirements of the October 26 rule, the Department is issuing this subsequent final rule. This rule responds to inquiries concerning the applicability of the October 26 rule and, as was the October 26 rule, is based on policy decisions made while reconsidering the proposed rule published on this subject earlier and the public comments received in connection with the proposed rule.

Both this rule and the October 26 rule will be effective on the same date, which is delayed by 1 month from the effective date originally announced in the October 26 rule. Where applicable, the provisions and appendices in this rule will supersede the provisions and appendices in the October 26 rule. As part of these corrections, clarifications, and further illustrations, HUD is reissuing Appendices G, H, I, and J in their entirety, and is adding Appendices K, L, M, and N, which provide additional examples or information.

EFFECTIVE DATE: The final rule is effective May 24, 1995, and the effective date of the final rule published at 59 FR 53890, is delayed until May 24, 1995.

FOR FURTHER INFORMATION CONTACT: William Reid, Research Economist, Office of Policy Development and Research, Room 8212, telephone (202) 708-0421. For legal questions: Grant E.

Mitchell, Senior Attorney for RESPA, Room 9262, telephone (202) 708-1552; or Kenneth A. Markison, Assistant General Counsel for Government-Sponsored Enterprises/RESPA, Room 9262, telephone (202) 708-3137. The address for all of these contact persons is: Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500. The TDD number is (202) 708-4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB), under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520), and assigned OMB control number 2502-0501.

Justification for Final Rulemaking

In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking, 24 CFR part 10. However, part 10 does provide for exceptions from that general rule where the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest." (24 CFR 10.1) The Department finds that good cause exists to publish this rule for effect without first soliciting separate public comment, in that any changes in the existing requirements made by this final rule evolve from the proposed rule published on December 3, 1993 (58 FR 64065). Prior public procedure is unnecessary with respect to the corrections, clarifications, and information contained in this rule and its preamble because the corrections, clarifications, and information do not impose additional requirements, but are merely explanatory in nature or correct certain technical requirements of the October 26, 1994, rule to make it easier to comply with the substance of the rule. This rule is being issued in response to requests for such corrections, clarifications, and information, and, therefore, delaying its issuance would also be contrary to the public interest. Immediate issuance of this rule will ease the regulatory compliance burden of persons subject to the October 26, 1994, rule (59 FR 53890) (October 26 rule) and will eliminate the possibility of having to make intermediate changes in business

practices, required by that rule, pending the completion of notice-and-comment procedures for this rule. As has been urged by some persons subject to the requirements of the October 26 rule, the Department is issuing this subsequent rule with the belief that it will make timely compliance with the October 26 rule easier. In order to facilitate compliance further, the Department also is delaying the effective date of the escrow accounting requirements by 1 month from the effective date announced in the October 26 rule.

Background

On October 26, 1994 (59 FR 53890), the Department published a final rule establishing escrow accounting procedures under Sections 6(g) and 10 of the Real Estate Settlement Procedures Act of 1974 (RESPA; see 12 U.S.C. 2605(g) and 2609). In response to a number of requests from mortgage servicing industry spokespersons, including those in the form and computer software businesses, asking for corrections, clarifications, or further illustration of matters contained in the final rule, in this document the Department is setting forth clarifications and technical corrections of the October 26 final rule. Following publication of the final rule, the Department also received requests for extension of the April 24, 1995, effective date of the rule. The Department has concluded that today's corrections and clarifications, coupled with the original rule, provide sufficient information to allow the industry to implement the rule by May 24, 1995, which is 1 month later than the effective date originally announced for the October 26 rule. In addition, the Department anticipates publishing soon a Mortgagee Letter containing instructions regarding the RESPA escrow rule and the FHA single family program.

Clarifications of Final Rule

Clarifications of the final rule that do not require modifications of the language in the rule are set out in the following paragraphs of this document. When appropriate for ease in referencing the final rule, the clarification references in brackets the page number of the relevant provision of the rule as published in the October 26, 1994, **Federal Register**.

(a.) May dollar amounts under this rule be rounded?

Answer: Yes, any dollar amount referenced in this rule may be rounded up or down to the nearest dollar.

(b.) What impact does the escrow accounting rule have on the Good Faith