

Estimate requirement under § 3500.7 of the RESPA rules?

Answer: Good Faith Estimates are set forth in dollar amounts or ranges. The Good Faith Estimate range or number for reserves (the 1000 series on the HUD-1 or HUD-1A) will generally be lower than before the effective date of the rule, because of the requirements of the escrow accounting rule to use aggregate accounting. During the phase-in period, § 3500.8(c) (as added by the October 26 final rule, 59 FR at 53901) servicers are allowed, as an alternative to the use of aggregate analysis, to use single-item analysis with a maximum 1-month cushion amount at closing. The use of single item analysis with a maximum 1-month cushion for establishing a range for Good Faith Estimate purposes is acceptable until October 27, 1997. See Appendix N, for an example of these alternatives on a HUD-1.

(c.) Is an assumption of an existing loan by a new purchaser which is covered by RESPA under § 3500.2 a new loan for purposes of this rule, even if the existing escrow account is assigned to the new purchaser?

Answer: Yes.

(d.) [Page 53902, § 3500.17(b), Definitions, "Escrow account item".] Are certain payments that may enter and leave the account within the same month, such as FHA monthly premiums, private mortgage insurance, or credit life insurance, considered to be escrow account items?

Answer: Yes. All items in the account are included so that the projected low monthly balance is zero (-0-) at the end of Step 2 in the Appendix I examples. The chosen cushion may be no more than the lesser of 2 months or the number of months allowed in the loan documents, multiplied by 1/12 the sum of the estimated disbursements for the items that may be included in the cushion.

Note: State laws or Federal program requirements may prohibit cushioning for certain of these payments.

(e.) [Page 53902, § 3500.17(b), Definitions, "Phase-in period".] Is the switch to aggregate accounting for existing accounts, and the use of the alternate method for calculating escrow account requirements at settlement, the only requirements that are allowed a 3-year phase-in period under the rule?

Answer: Yes.

(f.) [Page 53903, § 3500.17(c).] Do surpluses generated by voluntary borrower prepayments before the due date (frequently of principal, interest, and escrow account amounts) constitute a violation of the escrow account limits

if they remain in the account in the next escrow account computation year?

Answer: No. The escrow account portions of any voluntary prepayment by a borrower should be treated as an accrual for the upcoming escrow account computation year, and not counted for the purpose of determining whether a surplus is to be credited or returned. In these circumstances, shortage or surplus adjustments to monthly escrow account payments for the succeeding escrow account computation year may, at the servicer's option, be spread over the period remaining in the escrow account computation year after the prepayment accrual period. This precept also applies for other unusual accumulations in the escrow account; e.g., loss drafts for property damage, or continuing accumulation because new construction is not assessed for more than a year after completion, but the tax charges are billed retroactively.

(g.) [Page 53903, § 3500.17(c)(1)(i), and page 53904, § 3500.17(c)(7).] In the case where an account is being established for a new borrower, is the servicer bound by the charges the previous owner paid regarding the subject property, particularly where taxes or other charges may have been held down because of the seller's status or tax laws relating to ownership?

Answer: No. In creating a new escrow account, the servicer should estimate disbursement amounts using its best judgment with information known or readily available.

(h.) [Page 53903, § 3500.17(c)(2) and (3).] May a servicer choose a disbursement date earlier than the date due for a disbursement, for example, to give the borrower the advantage of a current year tax deduction, even though the payment is due in the next calendar year?

Answer: Yes, the rule states that the servicer shall use as the disbursement date for the escrow item a date on or before the earlier of either a deadline to take advantage of discounts, if available, or the deadline to avoid a penalty. There is no conflict with the statement in the background information (page 53893, third column, first full sentence): "Unless there is a discount to the borrower for early payments, the regulation does not allow servicers to pay installment payments on an annual or other prepayment basis." This statement dealt with a practice, previously engaged in by some servicers, of collecting and paying a full-year's taxes in advance, although they were billed on an installment basis.

(i.) [Page 53904, § 3500.17(c)(7).] How does a servicer compute the Consumer

Price Index (CPI) adjustment factor to estimate disbursements?

Answer: This factor is the ratio of the monthly CPI for all urban consumers, all items, reported most recently, to the same monthly CPI reported 12 months earlier; i.e.:

$$\frac{\text{most recent monthly CPI}}{\text{monthly CPI for same month 12 months earlier}}$$

The adjustment is made by multiplying last year's disbursement by this ratio. For example, if last year's school tax bill was \$827, the value of the most recent CPI (September 1994) was 149.4, and the value of the CPI in September 1993 was 145.1, then the school tax projection using this technique may not exceed \$851.51:

$$\$827 \times \frac{149.4}{145.1} = \$851.51$$

The two CPI numbers must have the same base period and must either both be seasonably adjusted or both be not seasonably adjusted.

(j.) [Page 53905, § 3500.17(e).] For what period of time is the transferor (old) servicer or transferee (new) servicer responsible for delivering an account history or projection in the case of a transfer of mortgage servicing?

Answer: Each servicer is generally responsible for providing data for the period for which it services the loan. The transferor (old) servicer is responsible for providing a short-year annual statement (but not a projection) for the portion of the year it controlled the servicing. (Also see "short year" statement discussion in paragraph (r), below.) If the transferee servicer provides an initial escrow account statement, the transferee servicer uses the effective date of the transfer of servicing to establish a new escrow account computation year. The transferee servicer may also retain the payment schedule and accounting method of the previous servicer and not provide an initial escrow account statement after transfer.

(k.) [Page 53905, § 3500.17(f).] May a servicer return surplus funds by wire transfer, rather than by a check?

Answer: Yes. The rule does not specify the manner in which refunds are to be paid.

(l.) [Page 53905, § 3500.17(f).] How does the servicer show the collection of a deficiency and a remaining shortage in the same account?

Answer: The servicer first computes the deficiency and then computes the remaining shortage, and informs the borrower accordingly, based on the format in Appendix I. That format