MORTGAGE ESCROW ACCOUNT ACT (APPLICATION)

Pursuant to 765 Illinois Comp. Stat. 910/1 and Illinois Admin. Code tit. 38, §1050.1110(f)

Not Required on FHA or VA Transactions

Borrower(s):

Date:

Loan Number:

Property Address:

Lender [or insert Broker as applicable]:
License#:
NMLS ID#:

Loan Originator:
License#:
NMLS ID#:

Illinois law requires that all applicants for a mortgage loan that is not FHA-insured or VA-guaranteed and is secured by an owner-occupied single family residence be informed of the provisions of the Mortgage Escrow Account Act, 765 Ill. Comp. Stat. 910/1 et seq., if the maintenance of an escrow account is or may be a condition of obtaining an extension of credit.

§ 1. This Act shall be known as the "Mortgage Escrow Account Act."

§ 2. As used in this Act, unless the context requires otherwise:

(a) "Escrow Account" means any account established by the mortgage lender in conjunction with a mortgage loan on a residence, into which the borrower is required to make regular periodic payments and out of which the lender pays the taxes on the property covered by the mortgage.

(b) "Borrower" means the person obligated under the mortgage loan.

(c) "Mortgage Lender" means any bank, savings and loan association, building and loan association or other institution, association, partnership, corporation or person who extends the loan of monies for the purpose of enabling another to purchase a residence.

(d) "Escrow-like Arrangement" means any arrangement the intent of which is to serve the same purposes as an escrow account but which does not require the formal establishment of an account.

§ 3. Escrow accounts or escrow-like arrangements established after the effective date of this Act in conjunction with mortgage agreements for single-family owner occupied residential property are hereby declared separate and distinct transactions from mortgages and, hence, subject to the laws and regulations of this State.

§ 4. On or after the effective date of this Act, each mortgage lender in conjunction with the granting of a mortgage on a single-family owner occupied residential property, shall comply with the provisions of this Act.

§ 5. When the mortgage is reduced to 65% of its original amount by payments of the borrower, timely made according to the provisions of the loan agreement secured by the mortgage, and the borrower is otherwise not in default on the loan agreement, the mortgage lender must notify the borrower that he may terminate such escrow account or that he may elect to continue it until he requests a termination thereof, or until the mortgage is paid in full, whichever occurs first.

§ 6. In lieu of the mortgage lender establishing an escrow account or an escrow-like arrangement, a borrower may pledge an interest bearing time deposit with the mortgage lender in an amount sufficient to secure the payment of anticipated taxes.

§6.5. (a) For purposes of this Section, "Homeownership Preservation Program" means

(1) a program that is expressly intended to assist homeowners by refinancing or restructuring existing mortgage obligations either (i) to avoid default or foreclosure, or both, or (ii) to lower interest rates, and that is sponsored by a federal, state, or local government authority or a non-profit organization; or

(2) a lender-sponsored program that is expressly intended to assist homeowners by restructuring existing mortgage obligations to avoid default or foreclosure, or both.

"Subprime Mortgage Lender" means a mortgage lender that has, for at least 2 of the prior 3 reporting years, reported the rate spread, as required under 12 C.F.R. §203.4(a)(12), for at least 75% of the loans reported by the mortgage lender in the Loan/Application Register filed in compliance with the federal Home Mortgage Disclosure Act, 12 U.S.C. 2801 et seq., and implementing Regulation C, 12 C.F.R. 201 et seq.

(b) Section 6 shall not apply:

(1) to a mortgage loan made by a subprime mortgage lender in compliance with the requirements for higher-priced mortgage loans established in Regulation Z 12 C.F.R. Part 226, issued by the Board of Governors of the Federal Reserve System to implement the federal Truth in Lending Act, whether or not the mortgage loan is a higher-priced mortgage loan, provided that:

(A) for loans that are not higher-priced mortgage loans, the escrow account must be terminated upon the borrower's request at no cost to the borrower; and

(B) for loans that are higher-priced mortgage loans, the escrow account must be terminated upon the borrower's request at no cost to the borrower on terms no stricter than the following conditions:

(i) the escrow termination requirements established in Regulation Z are satisfied;

(ii) the borrower has maintained a satisfactory payment history (no payments more than 30 days late) for the 12 months prior to the mortgage lender's receipt of the borrower's termination request; and

(iii) the borrower has reimbursed the mortgage lender for any escrow advances or escrow deficiencies existing at the time of the borrower's termination request.

(2) to a refinance or modification made by a subprime mortgage lender under a homeownership preservation program that requires establishment of an escrow account as a condition or requirement of the refinance or modification, provided that the escrow account must be terminated upon the borrower's request at no cost to the borrower on terms no stricter than the following conditions:

(A) termination is permitted under the terms of the government or non-profit sponsored homeownership preservation program, if applicable, and the borrower complies with all conditions or requirements for termination established by or allowed under such program;

(B) the borrower has maintained a satisfactory payment history (no payments more than 30 days late) for the 12 months prior to the mortgage lender's receipt of the borrower's termination request; and

(C) the borrower has reimbursed the mortgage lender for any escrow advances or escrow deficiencies existing at the time of the borrower's termination request. Termination may not be denied for failure to reimburse escrow advances or escrow deficiencies under item (iii) of subparagraph (B) of paragraph (1) of subsection (b), or subparagraph (C) of paragraph (2) of subsection (b) if the borrower claims, in writing, that there is an error with such advances or deficiencies. In such case, the lender must terminate the escrow account if all other conditions of termination are satisfied; however, such termination will not alter or affect any other rights of the mortgage lender or the borrower with respect to the collection of such escrow advances or escrow deficiencies.

§ 7. The borrower shall not have the right to terminate any such arrangement under Section 5 in conjunction with mortgages insured, guaranteed, supplemented, or assisted by the State of Illinois or the federal government that require an escrow arrangement for their continuation.

§ 8. If after terminating an escrow arrangement under the conditions of this Act, the borrower does not furnish to the lender sufficient evidence of payment of the taxes when due on the residence covered by the mortgage with respect to which the escrow arrangement was established, the lender, after taking reasonably good faith steps to verify nonpayment, may, within thirty days after such payment is due, establish or reestablish an escrow arrangement notwithstanding the provisions of this Act.

§ 9. Failure of any mortgage lender operating within this State to comply with the provisions of this Act shall entitle the borrower to actual damages in a court action.

§ 10. The provisions of this Act shall not be applicable to a mortgage lender using the capitalization method of accounting for receipt of payments for taxes. The capitalization method shall mean crediting such tax payments directly to the loan principal upon receipt and increasing the loan balance when the taxes are paid.

§ 11. Notice of the requirements of the Act shall be furnished in writing to the borrower at the date of closing.

§ 12. This Act takes effect on January 1, 1976.

§ 15. (a) When any mortgage lender pays the property tax from an escrow account, the mortgage lender must give the borrower written notice of the following, within 45 business days after the tax payment:

(1) the date the taxes were paid;

(2) the amount of taxes paid; and

(3) the permanent index number, mortgage account number, address of the property, or other property description that is used for assessment and taxation purposes under the Property Tax Code.

(b) The notice required in subsection (a) may be included on or with other documents, notices, or statements provided to the borrower. If more than one borrower is obligated on the loan, only one borrower who is primarily liable on the loan need be given notice. Notice may be delivered, mailed, or transmitted by any usual means of communication.

(c) Notwithstanding the requirements in subsection (a), a mortgage lender that provides notice at least annually to a borrower in the manner provided in subsection (b) of a means of communication for the borrower to access the information set forth in subsection (a) by telephone, facsimile, e-mail, Internet access, or other means of communication, is deemed to be in compliance with subsection (a).

ACKNOWLEDGEMENT

I/We have read the above document and acknowledge receiving a copy by signing below.

I/We understand that pursuant to the state law of Illinois, Ill. Admin. Code tit. 38, § 1050.1150, if this document was provided through the mail, it is my/our responsibility to obtain machine copies before returning this document.

Borrower	Date	Co-Borrower	Date
Co-Borrower	Date	Co-Borrower	Date