

Examples of Liquidating Escrow Surpluses and Shortages
(Section 235)

1. Assistance payments have been billed under Formula One. Some adjustment with HUD will always be required. Most surpluses will be refunded to HUD in their entirety and at least a part of every shortage will be paid by HUD.

(a) Escrow Surplus. After subtracting that part of the surplus which was created by payments made by the mortgagor without assistance, such as at closing, no computations are necessary. The entire balance of the surplus is refunded to HUD unless it is so great as to represent more than the total assistance payments billed on the account since the last analysis. In that event, the full amount of assistance paid shall be refunded to HUD and the balance shall be refunded to the mortgagor. If there is a surplus, the mortgage payments should have been smaller. If the mortgage payments had been smaller, the Formula One assistance payment would have been smaller. Since it was already smaller than the Formula Two assistance payment, assistance was billed under the proper formula, but too much was billed.

(b) Escrow Shortage

(1) First Analysis After Closing. Assume taxes were estimated before closing to be \$360 per year. Six months' taxes, or \$180, were collected at closing, and payment of \$30 per month have been included in the monthly payments for 18 months. One tax bill for \$480 was paid six months after closing and another for the same amount has just been paid. There is an escrow shortage of \$240. (Taxes are paid in advance and an adjustment for the current year was made at closing. That adjustment was probably also incorrect, but it is not considered here, since the concern here is only with the effect on deposits to the escrow account by the mortgagor and HUD). The full monthly mortgage payment has been \$200. Assistance payments of \$75 per month have been billed under Formula One. The Formula Two assistance payment is \$80.

Based on the actual tax bill of \$480 per year, the monthly requirement should have been \$40 per month. \$240 should have been collected at closing to establish the escrow

account, the difference between the \$180 which was collected, and the \$240 which should have been collected, or \$60, is due from the mortgagor. The full monthly mortgage payment should have been \$210 instead of \$200, making the correct Formula One assistance payment \$85 instead of \$75 per month.

Since the smaller of the two assistance payments is maximum which can be billed at the Formula Two rate of \$80, instead of the erroneous Formula One rate of \$75, HUD has been billed \$5 per month too little for 18 months, or \$90 too little over the entire period. The full mortgage payment should have been \$210, and the mortgagor should have been paying the difference between that amount and the \$80 assistance payment, or \$130. Instead, he has been paying the difference between \$75 and \$200, or \$125. He, too, has been paying \$5 per month too little for 18 months and is responsible for a total of \$90. HUD should be billed for \$90 and the mortgagor should be billed for \$150/\$90 created by incorrect monthly collections and \$60 by incorrect collections at closing, thus accounting for the full \$240 shortage.

Future monthly mortgage payments should be increased by \$10 each to prevent a similar shortage at the time of the next analysis, making future payments \$210 per month. This figure should be used in computing the future Formula One assistance payment. Assuming no change in the mortgagor's income or family composition, the new Formula One assistance payment will be \$85. Since the \$80 under Formula Two is smaller, future assistance will be \$80 per month and the mortgagor's share of the payment will be \$130 per month. If the mortgagor's \$150 shortage is to be collected in installments, the portion to be

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collected in any one month shall be added to the mortgagor's share of the monthly payment after the assistance payments have been computed. The shortage to be repaid in installments must not be included in the future payments due under the mortgage used in the Formula One computation.

(2)Subsequent Analysis. The procedure followed at subsequent analysis differs from that followed at the first analysis after closing only in that no consideration need be given to errors made in collections at closing. Care should be taken, however, to consider any other intervening situation which might have resulted in deposits to the escrow account without HUD participation.

2.Assistance Payments Have Been Billed Under Formula Two. Some adjustment with the mortgagor will always be required. All shortages will be collected from the mortgagor in their entirety and at least a part of every surplus will be refunded to the mortgagor.

(a)Escrow Shortage. No computation is necessary. The entire shortage must be collected from the mortgagor. If there is a shortage, the collections at closing and the mortgage payments should have been larger. (If the mortgage payments had been larger, the Formula One assistance payment would have been larger. Since the Formula Two assistance payment was already the smaller, correction of the error would produce no change in the assistance payment. The proper amount of assistance has been paid, and any shortage must be paid by the mortgagor.) If the shortage is to be repaid in installments, the future monthly payments necessary to prevent a future shortage shall first be established and used in the computation of the new Formula One assistance payment. After this computation has been completed, the appropriate share of the shortage shall be added to the mortgagor's share of the future monthly payments.

(b)Escrow Surplus

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(1)First Analysis After Closing. Assume taxes were estimated before closing to be \$480 per year. Six months' taxes at that rate, or \$240, were collected at closing, and payment of \$40 per month have been included in the monthly payments for 18 months. One tax bill for \$360 was paid six months after closing and another for the same amount has just been paid. There is an escrow surplus of \$240. (Taxes are paid in advance and an adjustment for the current year was made at closing, which was probably also inaccurate. It is not considered here, since the concern here is only with the effect on deposits to the escrow account by the mortgagor and HUD.) The full monthly mortgage payment has been \$210. The Formula One assistance payment was computed at \$85 and assistance in the amount of \$80 has been billed under Formula Two.

Based on the actual tax bill of \$360 per year, the monthly requirement should have been \$30 per month. Only \$180 should have been collected at closing. Since HUD does not participate in the amounts collected at closing to establish the escrow account, the difference between the \$240 which was collected and the \$180 which should have been collected, or \$60, is due to the mortgagor in its entirety.

The monthly mortgage payments should have been \$200 instead of \$210, making the Formula One assistance payment \$75 instead of \$85 per month. Since the smaller of the two assistance payments is the maximum which can be billed, assistance should have been billed at the Formula One rate of \$75, instead of the Formula Two rate of \$80. HUD has been billed \$5 per month too much for 18 months, or a total of \$90 too much over the entire period. The full mortgage payment should have been \$200 and the mortgagor should have been paying the difference between this amount and \$75 or \$125.

Instead, the mortgagor has been paying the difference between \$210 and \$80, or \$130. The mortgagor

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has been paying \$5 too much for 18 months and is entitled to an additional refund of \$90. HUD and the mortgagor should each receive a refund of \$90 from the total \$180 surplus created by the incorrect monthly installments. The mortgagor should receive an additional \$60 refund because of the erroneous collections at closing, accounting for the full \$240 surplus. It should be remembered, however, that the mortgagor's refund must be handled in such a way as to avoid reducing his investments to less than the statutory minimum.

Future monthly payments should be reduced by \$10 each to prevent a similar surplus at the time of the next analysis, making future payments \$200 per month. This figure should be used in computing the Formula One assistance payments. Assuming no change in the mortgagor's income, or family composition, the Formula Once assistance payment will be \$75, which is smaller than the Formula Two assistance payment and is the amount which should be billed. The mortgagor's share of future payments will be \$125 per month. If the mortgagor's \$150 surplus (\$60 from closing and \$90 from monthly installments) is to be refunded in installments over all or any part of the period to the next analysis, the portion to be refunded in any one month should be subtracted from the mortgagor's share of the monthly payment after the assistance payments have been computed. The surplus to be refunded in installments should not be included in the future payments due under the mortgage used in the Formula One computation.

(2)Subsequent Analyses. The procedure followed at subsequent analyses differs from that followed at the first analysis after closing only in that no consideration need be given to

errors made at closing. If, however, there have been payments by the mortgagor in excess of those required by the mortgage which have affected the balance in the escrow account, those payments must be deducted before the assistance payments are adjusted.