An escrow agent is an independent third party responsible for holding documents or funds during a transaction. In some states escrow is handled by the closing agent or title agent. If all of the proceeds from a loan transaction are not distributed at the loan closing, the escrow agent is usually responsible for holding the remainder until certain events occur. The lender or escrow agent may have drafted an escrow agreement that governs to whom and when the remaining funds will be paid.

If a home improvement loan is involved, it is common for the remaining proceeds to be paid to a home improvement contractor once work is completed. But if the loan is covered by the Home Ownership and Equity Protection Act (HOEPA), the lender and its agents are prohibited from paying this money to the contractor in the form of a check or other instrument made out solely to the contractor. \footnote{364}{15 U.S.C. § 1639(i).}

The escrow agent involved in a closing should be distinguished from the role played by loan servicers in managing borrowers’ escrow (or impound) accounts. The role of loan servicers as escrow agents is discussed in more detail in NCLC’s \textit{Mortgage Servicing and Loan Modifications}.\footnote{365}{National Consumer Law Center, \textit{Mortgage Servicing and Loan Modifications Chs. 2 [1], 3 [2]} (2019), \textit{updated at} www.nclc.org/library.}

\textbf{Footnotes}

\footnote{364}{15 U.S.C. § 1639(i).}

\footnote{365}{National Consumer Law Center, \textit{Mortgage Servicing and Loan Modifications Chs. 2 [1], 3 [2]} (2019), \textit{updated at} www.nclc.org/library.}

\textbf{Source}: National Consumer Law Center, Mortgage Lending [3rd ed.], updated at www.nclc.org/library

\textbf{Source URL}: https://library.nclc.org/ml/010409-0

\textbf{Links}

[1] https://library.nclc.org/nclc/link/MS.02