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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

FILE: B-197544

DATE: July 10, 1980

MATTER OF: John J. Connors - *[claim for]* Real Estate Expenses *[involving]* Loan Assumption Fee

**DIGEST:** Transferred employee may not be reimbursed loan assumption fee incurred incident to purchasing a house since fee is finance charge within the meaning of Regulation Z, 12 C.F.R. § 226.4(a) (1978), despite the fact that such fee merely reflects administrative costs.

This action is in response to a request dated January 18, 1980, by Lena M. Jones, Certifying Officer of the Department of Housing and Urban Development (HUD), regarding the propriety of certifying for payment a reclaim voucher in the amount of \$100 in favor of Mr. John J. Connors representing a loan assumption fee incurred in connection with the purchase of a residence in Washington, D.C. The purchase was made incident to Mr. Connors' change of duty station from New York, New York, to Washington, D.C.

Mr. Connors' claim was denied by HUD on the basis that our decisions Dean E. Taylor, B-184626, February 12, 1976, and B-178433, June 4, 1973, have held that the loan assumption fee is a cost incident to the extension of credit and is therefore a nonreimbursable finance charge within the purview of Regulation Z, 12 C.F.R. § 226.4(a) (1978). The pertinent part of Regulation Z states:

"226.4 Determination of finance charge.

"(a) General rule. Except as otherwise provided in this section, the amount of the finance charge in connection with any transaction shall be determined as the sum of all charges, payable directly or indirectly by the creditor as an incident to or as a condition of the extension of credit, whether paid or payable by the customer, the seller, or any other person on behalf of the customer to the creditor or to a third party, including any of the following types of charges:

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"(2) Service, transaction, activity, or carrying charge.

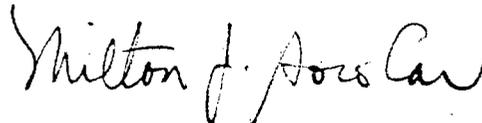
"(3) Loan fee, points, finder's fee, or similar charge\* \* \*."

Mr. Connors contends that HUD's determination was improper because the loan assumption fee was for the preparation of documents and administrative work involved in the loan transfer process and did not represent a finance charge. In support of his position, Mr. Connors cites an informal decision of the Federal Reserve Board which states that certain expenses associated with real estate transactions are excluded from the definition of "finance charge" expressed in § 226.4(a) of Regulation Z. These reimbursable costs are listed in § 226.4(e) and include title charges, fees for preparation of deeds and other documents, appraisal fees, credit reports, and notary fees.

Our Office has long held that a loan transfer fee/or loan assumption fee is not reimbursable because it is regarded as a finance charge under Regulation Z, despite the fact that such a fee merely reflects administrative costs. Lawrence F. Roth, B-194203, May 7, 1979; Dean E. Taylor, supra.

While we agree with Mr. Connors that certain expenses associated with real estate transactions are reimbursable, the record does not demonstrate that the loan assumption fee covered charges for document preparation or any other items which are excludable from the finance charge by reason of § 226(e) of Regulation Z. In fact, the "Disclosure/Settlement Statement" accounts for the assumption fee as a charge which is separate from other "items payable in connection with the loan", eg. credit reports and appraisal fees.

Accordingly, Mr. Connors' reclaim for reimbursement of the loan assumption fee may not be certified for payment.



For the Comptroller General  
of the United States