

2. Items which may not be considered as incident to the credit transaction :

Title search.

Title abstract.

Escrow fee (usually a charge by an attorney to hold moneys involved in the settlement, such as for paying off an existing second mortgage or other liens, and thereby assures clear title).

Revenue stamps (on the deed).

Title transfer tax.

(Prepaid items, such as for real estate taxes, special assessments, ground rents, hazard insurance premiums, and the initial FHA mortgage insurance premium are excluded from these FHA data, as was previously explained in the information presented in answer to question 2.)

Title insurance. Where required solely for the benefit of the lender and in amount equal to the mortgage amount, the charge should be included in category 1 above. Where the insurance is also provided for the protection of the owner and may also be extended to cover his equity in the property, part of the charge should be included in category 2 above.

Preparation of deed and documents. Would include preparation of the deed and mortgage, and therefore should be divided between categories 1 and 2.

Attorney's fees. Practices appear to differ among communities in the way this item appears on the settlement statements at loan closing. In some areas, the attorney's fee may also include title search if conducted by him and possibly preparation of the deed and the mortgage. Thus, part of this fee may be included under category 1 and part under category 2, depending upon what items are covered.

Closing fee. Attorney services for the borrower at closing. Generally, this does not include preparation of deed and mortgage, but in some cases may include this. Probably should be divided in some manner between categories 1 and 2.

Notary fees (for mortgage and deed). Should be divided between categories 1 and 2.

Recording fees (for mortgage and deed). Should be divided between categories 1 and 2.

Broker's commission. Under FHA regulations this is optional with the borrower. He may, if he so desires, negotiate with a broker to arrange financing or to represent his interests at closing. This charge occurs infrequently, but to the extent it does, it belongs in category 1 or 2 depending upon the circumstances involved.

Adjusted interest. This adjustment for interest is made to cover the interest for the period between the time the loan is closed and the date of the first monthly payment on the mortgage. This represents, in effect, a prepayment of interest on the loan and would represent part of the total interest to be paid over the life of the loan.

Mr. BARR. "Annual percentage rate" means the nominal annual rate determined by the actuarial method. I would like to emphasize that this annual rate becomes real and true as it is actually applied to the periodic credit balances. As each payment is made, this rate is applied to determine the portion of the payment that is applied to the finance charge, with any remainder of the payment used to reduce the principal. This procedure is strictly in accordance with the U.S. Supreme Court decision in 1839 and is generally known in consumer finance as the U.S. rule. It is the rate used throughout the financial world and in Government transactions.

On page 11 of my statement there is a table which was prepared by the General Counsel of the FHA indicating FHA's opinion as to which charges are incident to the extension of credit and which are not. I will admit that this is a bit of philosophical judgment. But I would like the committee to keep one thing in mind as they move into this area of first mortgages; this is another area that is contentious and on which reasonable men disagree.

I believe that one of the greatest areas of confusion is the first-mortgage area. The interest rate charge is clearly stated as a cost and