

WHY DO THE BANKS ALWAYS ASK MORE THAN A SELLER ACTUALLY OWES TO CANCEL A BOND ON TRANSFER?

Herewith our reply:

One of the essential steps in the transfer of a property that is mortgaged, is the cancellation of the existing bond. This takes place simultaneously with the registration of the transfer. Sellers usually rely on their monthly bond statements to estimate what will need to be paid to cancel the bond, but these never correlate with the cancellation figures received from the banks, and this sometimes results in concerns that the banks are over charging. This short article seeks to demystify the issue.

The bond cancellation (BC) process runs concurrently with the transfer, and it is usually initiated by the transferring attorney advising the bank the property is going to be transferred and the bond is going to be cancelled. In this notification the transferring attorney asks the bank to advise what their cancellation requirements are, and to appoint a firm of attorneys to attend to the BC.

The bank then instructs attorneys on their panel to attend to the BC and sends out a list of their requirements to the transferring attorney and the BC attorney. These requirements include a guarantee from the transferring attorneys to pay the bank the following amounts on date of registration:

- The amount owing at the time that their letter giving the cancellation figures is written.
- Interest on that amount at the going rate from that date until date of the cancellation.
- Service fees and insurance premiums for at least the next 90 days; and
- The early termination penalty interest that would be payable if the seller cancelled the bond without giving the bank the necessary 90 days' notice.

This always works out to a sum substantially more that the seller was expecting. But why does this happen?

The banks are regrettably not able to give exact cancellation figures on the date of the transfer, when the bond is cancelled, as one can never say for certain when the property will actually transfer. As a result, the banks work on a formula, and they give the BC attorney an amount that they require to be paid (which is valid for a period of time).

This figure does not take into account the bond instalments the seller still has to pay until the transfer is registered, nor does it take into account the time lapse which will reduce or even extinguish the penalty for cancellation without the 90-day notice period. The end result is that the amount paid to the bank on date of cancellation is more than the amount actually owing by the seller.

The good news is that once the transfer has registered and the bond has been cancelled the banks have definite dates to work with and they then quickly reconcile the amounts that were due and refund the seller the overpayment. This refund is usually made within 2 to 5 working days.

Lastly, remember that if a property is mortgaged, the process of cancelling a bond in the deeds office is always necessary, even if there is nothing owing on the bond. The BC attorneys charge a conveyancing fee for this service. The costs of cancelling a single bond are currently between R5 000 and R6 000, and it increases with each additional bond that needs to be cancelled.

We hope this has cleared up any uncertainty regarding bond cancellations and added to your knowledge!