



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

B-178235

May 7, 1973

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Mr. Robert E. Cavanaugh
Authorized Certifying Officer
Office of Financial Management Services
United States Department of Commerce

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Also 04155
DG 05877

Dear Mr. Cavanaugh:

We refer to your letter of February 12, 1973, with enclosures, requesting a decision concerning whether a \$260 Veterans Administration home loan origination charge, claimed on a voucher submitted by Mr. Jerome L. Kajcienski, an employee of the Department of Commerce, may be allowed. The expense was incurred by the employee in connection with a permanent change of station from Austin, Texas, to Denver, Colorado, in January 1972.

You question whether this expense could possibly be considered as an expense customarily paid by the purchaser of a residence in the Denver, Colorado area so as to come within the purview of section 4.2d of Office of Management and Budget (OMB) Circular No. A-56, revised August 17, 1971, as an allowable expense.

Prior to the June 29, 1969 revision of OMB Circular No. A-56, service fees such as Veterans Administration funding fees or loan origination charges were authorized expenditures for which the purchaser could be reimbursed. Our decision, B-169740, May 28, 1971, concerned such an expense that occurred prior to the aforementioned revision of OMB Circular No. A-56. The revision, dated June 29, 1969, removed loan origination fees from the listing of reimbursable expenses and prohibited reimbursement of expenses that are determined to be part of the finance charge under the Truth in Lending Act. Our decision B-168674, February 10, 1970, and published as 49 Comp. Gen. 483 (1970), cited by you, concerns an expenditure made after the 1969 revision and accordingly was determined not to be reimbursable.

Section 4.2d of OMB Circular No. A-56, revised August 17, 1971, states in pertinent part:

[Reimbursement of Home Loan Origination Charge
Precluded]

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B-178235

* * * Notwithstanding the above, no fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, Title I, Public Law 90-321, and Regulation Z issued pursuant thereto by the Board of Governors of the Federal Reserve System. * * *

The rule regarding which expenditures incident to real estate transactions constitute part of the finance charge within the contemplation of the Truth in Lending Act, Title I, Public Law 90-321, and Regulation Z issued by the Board of the Federal Reserve System, is set forth in section 226.4 of title 12, Code of Federal Regulations (CFR), which provides in part as follows:

§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 customer, and imposed 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:

(1) Interest, time price differential, and any amount payable under a discount or other system of additional charges.

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

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

(4) Fee for an appraisal, investigation, or credit report.

(5) Charges or premiums for credit life, accident, health, or loss of income insurance, written in connection with any credit transaction * * *

* * * * *

(e) Excludable charges, real property transactions.

The following charges in connection with any real property transaction, provided they are bona fide, reasonable in amount, and not for the purpose of circumvention or evasion of this part, shall not be included in the finance charge with respect to that transaction:

(1) Fees or premiums for the examination, abstract of title, title insurance, or similar purposes and for required related property surveys.

(2) Fees for preparation of deeds, settlement statements, or other documents.

(3) Amounts required to be placed or paid into an escrow or trustee account for future payments of taxes, insurance, and water, sewer, and land rents.

(4) Fees for notarizing deeds and other documents.

(5) Appraisal fees.

(6) Credit reports.

The Veterans Administration origination charge claimed by Mr. Kajcienski is a "loan fee" within the meaning of 12 CFR 226.4(a)(3) and inasmuch as it is not excluded from being part of the finance charge under the terms of 12 CFR 226.4(e), reimbursement of this \$260 item is precluded. See R-177306, January 2, 1973, copy enclosed.

The voucher with accompanying papers is returned herewith for handling in accordance with the foregoing.

Sincerely yours,

PAUL G. DEMBIJNG

For the Comptroller General
of the United States