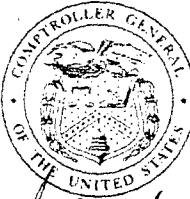


DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D. C. 20548

[Request By Transferred Employee for Reimbursement of Loan 10,645 Origination Fee]

FILE: B-194072

DATE: July 2, 1979

MATTER OF: Richard J. Elliott - Real Estate Expenses -
Loan Origination Fee

DIGEST: Transferred employee may not be reimbursed loan origination fee incurred incident to purchase of home at new official duty station since fee is finance charge within the purview of Section 106 of Truth in Lending Act, Title I, Pub. L. 90-321, 15 U.S.C. §1605 (1976) and Regulation Z, 12 C.F.R. §226.4(a) (1978) and is thus not reimbursable under Federal Travel Regulations (FPMR 101-7) paragraph 2-6.2d (May 1973).

AG-10033 This action is in response to a letter dated February 1, 1979, from Mr. R. A. Hicks, an authorized certifying officer of the Department of the Interior. Mr. Hicks requests our decision whether he may certify for payment a voucher submitted by Special Agent Richard J. Elliott, an employee of the Fish and Wildlife Service. Mr. Elliott, who was transferred from St. Paul, Minnesota, to Columbus, Ohio, with a reporting date of October 9, 1977, is seeking reimbursement of a loan origination fee of \$414 which he paid when he purchased a home at his new official station. The amount was previously disallowed by Interior. AG-00397

Mr. Elliott's claim was disallowed by the Department of the Interior on the basis that the loan origination fee represented a finance charge under Section 106 of the Truth in Lending Act, Title I, Pub. L. 90-321, 15 U.S.C. §1605 (1976) and the implementing Regulation Z, 12 C.F.R. §226.4(a) (1978), and was thus not reimbursable under the Federal Travel Regulations (FPMR 101-7) paragraph 2-6.2d (May 1973). The pertinent part of Regulation Z provides:

"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

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behalf of the customer to the creditor or to a third party, including any of the following types of charges:

* * * * *

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

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

Under paragraph 2-6.2d of the Federal Travel Regulations, reimbursement of expenses incurred in connection with the sale or purchase of a house depends on whether an expense is the result of a finance charge as defined in the Truth in Lending Act (TILA) and Regulation Z. The primary purpose of the TILA is to assure a meaningful disclosure of credit terms so that a consumer will be able to compare more readily the various credit terms available to him and avoid the uninformed use of credit. See 15 U.S.C. §1601. Therefore, the finance charge is defined so as to distinguish between charges imposed as part of the cost of obtaining credit and charges imposed for services rendered in connection with a purchase or sale regardless of whether credit is sought or obtained.

It is clear that Mr. Elliott's loan origination fee is a finance charge. In a letter dated March 20, 1978, to the Department of the Interior, Mr. Carl D. Salyers, Assistant Vice President of State Savings, Columbus, Ohio, which holds the mortgage on Mr. Elliott's house, stated that "The disallowed fee of \$414 with regards to Richard J. Elliott in no way represents points, interest, or loan discount. This is a standard closing cost charged to the borrower in the Central Ohio region by the financial institutions. These closing costs represent the total charges necessary to close a mortgage loan at State Savings Company." The loan origination fee reflects the mortgagor's administrative costs in connection with making the loan and is therefore "incident to * * * the extension of credit." Paragraph 226.4 of Regulation Z.

Mr. Elliott does not specifically contend that the loan origination fee is not a finance charge. Rather, he argues that these fees should be reimbursed because the economic climate has placed a financial burden on transferred employees. Since loan origination

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fees are not reimbursable under the current FTR provision, Mr. Elliott's argument is more appropriately directed to the General Services Administration. That agency has responsibility for promulgating the FTR and, as a result, any change would require the action of the GSA administrator.

Accordingly, the reclaim voucher may not be certified for payment.

R. F. Keller
Deputy Comptroller General
of the United States