

DECISION

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

FILE: B-217822

DATE: June 20, 1985

MATTER OF: Daniel T. Mates

DIGEST:

A transferred employee claims reimbursement for a mortgage insurance premium required by the lender. Reimbursement of this type of charge is specifically precluded by FTR para. 2-6.2d(2)(a). In addition, mortgage insurance to protect the lender against default is a finance charge which may not be reimbursed under FTR para. 2-6.2d(2)(e).

The question presented here is whether a transferred employee may be reimbursed for a mortgage insurance premium required by a lender in connection with the purchase of a residence. We find that the charge for mortgage insurance to protect the lender against a default by the borrower is not reimbursable. This type of insurance should be distinguished from mortgage title insurance which protects the lender against defective title and, if required by the lender, may be reimbursed.^{1/}

BACKGROUND

Mr. Daniel T. Mates, an employee of the Bureau of Land Management, Department of the Interior, was transferred from Santa Fe, New Mexico, to Washington, D.C., in October 1984. He purchased a residence at his new duty station and in connection with that transaction was required by Inland Mortgage Company to pay a mortgage insurance premium in the amount of \$3,154 to protect the lender against a possible default on the mortgage.

Mr. Mates requested reimbursement for this amount from his agency. The Bureau of Land Management initially disallowed his claim on the basis of Comptroller General decisions Albert M. Garcia, B-183611, September 2, 1975;

^{1/} Mr. Edward P. Greenberg, an authorized certifying officer with the Bureau of Land Management, Department of the Interior, has requested an advance decision on the claim of Mr. Daniel T. Mates for reimbursement of a mortgage insurance premium paid in connection with the purchase of a residence at his new duty station.

James E. King, B-183958, April 14, 1976; B-169477, June 2, 1970; and B-162673, June 3, 1968. These decisions hold that mortgage insurance may not be reimbursed in connection with the purchase of a residence incident to a transfer.

The employee has appealed the disallowance and contends that recent amendments to applicable regulations permit reimbursement of mortgage insurance. Specifically he believes that reimbursement is allowable under Federal Travel Regulations (FTR) para. 2-6.2d(1)(h) (Supp. 4, August 23, 1982), incorp. by ref. 41 C.F.R. § 101-7.003 (1982). The certifying officer notes that the agency's initial disallowance of the employee's claim was based on decisions issued prior to the date the regulations were amended and he requests our decision on whether mortgage insurance is now reimbursable under FTR para. 2-6.2d(1)(h).

HOLDING

Paragraph 2-6.2d of the FTR as amended effective October 1, 1982, by GSA Bulletin FPMR A-40, Supp. 4, August 23, 1982, permits reimbursement of certain miscellaneous expenses in connection with an employee's sale of a residence at his old duty station or purchase of a residence at his new duty station. It states in pertinent part as follows:

"d. Miscellaneous expenses.

"(1) Reimbursable items. The expenses listed below are reimbursable in connection with the sale and/or purchase of a residence, provided they are customarily paid by the seller of a residence in the locality of the old official station or by the purchaser of a residence at the new official station to the extent they do not exceed amounts customarily paid in the locality of the residence.

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"(h) Mortgage title insurance policy, paid for by the employee, on a residence purchased by the employee for the protection of, and required by, the lender;

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"(2) Nonreimbursable items. Except as otherwise provided in (1), above, the following items of expense are not reimbursable:

"(a) Owner's title insurance policy, 'record title' insurance policy, mortgage insurance or insurance against loss or damage of property, and optional insurance paid by the employee in connection with the purchase of a residence for the protection of the employee;

* * * * *

"(e) No fee, cost, charge, or expense determined to be part of the finance charge under the Truth in Lending Act, Title I, Pub. L. 90-321, and Regulation Z issued in accordance with Pub. L. 90-321 by the Board of Governors of the Federal Reserve System, unless specifically authorized in (1), above;
* * *"

Under FTR para. 2-6.2d(1)(h) the cost of a mortgage title insurance policy paid for by the employee may be reimbursed if required by the lender. Charles A. Onions, B-210152, June 28, 1983. This type of insurance protects the lender against possible defects in the purchaser's title to the property. The record indicates that Mr. Mates claimed and was reimbursed for mortgage title insurance in the amount of \$247.20.

Mortgage insurance, as distinguished from mortgage title insurance, insures the lender against possible default on the mortgage by the purchaser. Mortgage insurance is not reimbursable under the Federal Travel Regulations or Comptroller General decisions. Reimbursement of its cost is specially precluded by FTR para. 2-6.2d(2)(a). Moreover, its reimbursement is prohibited by FTR para. 2-6.2d(2)(e) since it is a finance charge. Regulation Z lists as an example of a finance charge "premiums or other charges for any guarantee or insurance protecting the creditor against the consumer's default or other credit loss." 12 C.F.R. § 226.4(b)(5).

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The Comptroller General decisions cited by the agency in denying Mr. Mates' claim were not affected by the 1982 amendments to the Federal Travel Regulations and are still controlling in this situation. As in effect prior to October 1, 1982, FTR para. 2-6.2d similarly authorized reimbursement for the cost of a mortgage title policy. It specifically disallowed costs of other types of insurance, including mortgage insurance, and prohibited reimbursement of any expense determined to be a finance charge. The 1982 amendments to the FTR did not affect the allowability of these particular items of expense.

Accordingly, we sustain the agency's initial disallowance and hold that Mr. Mates' voucher may not be certified for payment.

for Milton J. Astor
Comptroller General
of the United States