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**DECISION**



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

FILE: B-186312

DATE: December 21, 1976

MATTER OF: William D. Curtis - Real estate expenses

**DIGEST:** Transferred employee seeks reimbursement of real estate expenses incurred incident to transfer and purchase of new home. Although Settlement Statement is unclear as to items included in \$580.50 "origination fee," supplemental letter from lender states fee covers lender's overhead expenses in connection with preparation of enumerated documents. Lender's overhead expenses are costs incident to extension of credit and there is no basis for payment under Regulation Z, 12 C.F.R. § 226.4 (1976).

This action is in response to a request for an advance decision requested on April 5, 1976, by Thomas R. Lab, an authorized certifying officer, Bureau of Reclamation, United States Department of the Interior, Salt Lake City, Utah, concerning the claim of William D. Curtis, an employee of the Bureau of Reclamation, for expenses incurred when he purchased a residence incident to a transfer of official duty station.

The record indicates that in accordance with Travel Authorization dated January 19, 1976, Mr. Curtis was transferred from Salt Lake City, Utah, to Provo, Utah. On January 26, 1976, the settlement for Mr. Curtis' new home was held. Included on the Buyer's Settlement Statement was a charge against Mr. Curtis in the amount of \$580.50, labeled "origination fee." No breakdown of this amount appeared on the Buyer's Settlement Statement.

On February 19, 1976, Mr. Curtis received from the Bureau of Reclamation an itemized list of those moving expenses for which he would be reimbursed. The "origination fee" was excluded from this list on the basis of the provisions contained in Federal Travel Regulations, FPMR 101-7, para. 2-6.2d, May 1973, which provides in part that:

" \* \* \* no fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance

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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. \* \* \*

On April 1, 1976, Mr. Curtis submitted a reclaim voucher for reimbursement of the "origination fee." Accompanying his voucher was a letter dated February 3, 1976, from Western Pacific Financial Corporation (the lender) which indicated that although the lender could not provide a detailed breakdown of the loan origination fee, it was the aggregation of charges for the preparation of a Warranty Deed, a Deed of Trust, Buyers Settlement Statements and a Finance Note. The letter explained that:

"The Origination fee we charged you is \$580.50 or one and one-half (1½) percent of the loan, which is the customary charge for a conventional home loan such as yours. This fee is used to pay wages, insurance, rent, utilities, equipment and all other overhead expenses, in connection with the preparation of the usual conveyances, deeds, loan documents, and settlement statements for the borrowers."

Regulation Z, 12 C.F.R., Part 226.4 (1976), provides the following guidance for determining whether a particular charge is a finance charge within the definition thereof contained in section 106 of the Truth in Lending Act:

"§ 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

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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:

\* \* \* \* \*

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

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

\* \* \* \* \*

"(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 title 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.

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"(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.

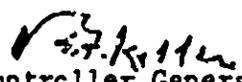
"(4) Fees for notarizing deeds and other documents.

"(5) Appraisal fees.

"(6) Credit reports."

The items as described by the lender relate to overhead expenses involved in the transaction and are otherwise income to the lender. There is no basis under Regulation Z for payment of such expenses of a loaning institution incident to the purchase of a residence. See B-173152, August 2, 1971; B-169674, September 8, 1972. The overhead expenses are costs which are incident to the extension of credit within the purview of Regulation Z, 12 C.F.R. § 226.4(a), and are not reimbursable.

Accordingly, the voucher for payment of the \$580.50 "origination fee" may not be certified for payment.

  
Deputy Comptroller General  
of the United States