

DECISION

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

FILE: B-184077

DATE: FEB 3 1976

MATTER OF: Kirk H. McDonald - Relocation Expenses - Loan
Origination Fees

DIGEST: Employee who reclaimed \$860, consisting of a charge he paid for loan origination fee, and whose original claim was disallowed by the administrative agency may not be reimbursed any part of that charge since it is a finance charge under the Truth in Lending Act and Regulation Z. See also para. 2-6.2d of the Federal Travel Regulations (FPMR 101-7) (May 1973).

This action is taken pursuant to a request by a certifying officer as to the propriety of certifying for payment the reclaim voucher in the amount of \$860 representing a loan origination fee paid by Mr. Kirk H. McDonald, an employee of the Department of Agriculture, upon the transfer of his official duty station authorized on April 23, 1974, from Atlanta, Georgia, to Athens, Georgia.

The record shows that the Athens Federal Savings and Loan Association charged Mr. McDonald a loan origination fee in the amount of \$860. This amount was disallowed from the original claim by the administrative agency on the ground that it was a part of the finance charge under the Truth in Lending Act, Title I, Public Law 90-321, 82 Stat. 146-182, and Regulation Z, 12 C.F.R. § 226 (1972).

The employee requested a reconsideration of his claim and supported his request with a letter from the Athens Federal Savings and Loan Association which clearly states that the charge of \$860 was for a loan origination fee which is to compensate the Association for current expenses incurred in origination of the loan. Mr. McDonald also states that a neighbor of his who works for the United States Environmental Protection Agency was paid for a similar service charge. We point out, however, that previously the loan origination fee was a reimbursable expense under Bureau of the Budget Circular No. A-56 until June 26, 1969, when that regulation was revised. This revision, which excluded the loan origination fee from allowable expenses, was carried over into the succeeding regulation, the Federal Travel Regulations (FPMR 101-7) para. 2-6.2d (May 1973), which was the applicable regulation when Mr. McDonald's transfer was effected. That regulation provides in pertinent part as follows:

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"d. Miscellaneous expenses. * * * 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. Property taxes and operating or maintenance costs also are not reimbursable. * * *"

Under Regulation Z loan origination fees have been determined to be part of the finance charge and, therefore, nonreimbursable expenses. 12 C.F.R. § 226.4(a)(3) (1972); 49 Comp. Gen. 483 at 486 (1970); B-169367, April 17, 1970; B-171056, November 27, 1970; B-176362, August 7, 1972. That regulation became effective on July 1, 1969, 34 Fed. Reg. 2002 (1969). Therefore, lender's loan origination fees had not been reimbursable for more than 5 years when the \$860 fee in question here was incurred in November 1974.

Accordingly, the disallowance of Mr. McDonald's claim is hereby sustained, and the reclaim voucher may not be certified for payment.

R. F. Keller

Deputy Comptroller General
of the United States