



**THE ATTORNEY GENERAL  
OF TEXAS**

AUSTIN 11, TEXAS

*See act 3430+*

**WILL WILSON  
ATTORNEY GENERAL**

October 2, 1958

Honorable Robert S. Calvert  
Comptroller of Public Accounts  
Capitol Station  
Austin 11, Texas

Opinion No. WW-508

Re: Authority of the Comptroller  
to issue a warrant in payment  
of a recording fee in order  
to record the Agriculture  
lease on lands purchased by  
the Veterans' Land Board.

Dear Mr. Calvert:

You have requested an opinion concerning the authority of the payment of a fee to the County Clerk of a salaried county for recording an agricultural lease on land purchased by the Veterans' Land Board. The Veterans' Land Board requested that the payment of the recording fee to the County Clerk be paid out of funds in the State Treasury comprised of money collected pursuant to the following provisions of Section 21 of Article 5421m:

"The Board is further authorized and required to charge and collect for the use of the State the following fees for the processing and servicing of purchase applications and Contracts of Sale and Purchase and matters incidental thereto. Any such fees, or a portion thereof, which in the opinion of the Board are unused shall be refunded.

". . .

"7. Service fee for each Contract of  
Sale and Purchase . . . . . \$25.00

"All moneys received by payment of the above fees and not refunded shall be deposited in the State Treasury and credited to the Veterans' Land Board Special Fund, and said Fund is hereby appropriated to the Veterans' Land Board to be used as it deems necessary to pay any expenses of the Veterans' Land Board, including salaries, in-

creasing of salaries, or travel expenses of the employees of the Veterans' Land Board, or employees of the General Land Office doing work with the Veterans' Land Program, provided, however, that such salaries, or expenses, shall be in line with the salaries or expenses paid to similar employees of other State departments performing similar duties."

The contention of the Veterans' Land Board is stated in a letter to the Comptroller's Office dated August 21, 1958, as follows:

"The Veterans' Land Board, by necessity, must correct errors in deeds and forty-year contracts when such errors are discovered during the life of the contract. The method in correcting such errors is by means of a corrected instrument which must be recorded in the County where the land is located. It is the opinion of this office that the \$25.00 service fee is set up specifically under Article 5421m, Section 21, Vernon's Civil Statutes for the payment of the recording fee for recording the corrected instrument and for the payment of other necessary expenses of servicing the Veteran's contract.

"Under the above referred to Article 5421m, Section 21, Vernon's Civil Statutes, the \$25.00 service fee is, quote, 'deposited in the State Treasury and credited to the Veterans' Land Board's special fund, and said fund is hereby appropriated to the Veterans' Land Board to be used as it deems necessary to pay any expenses of the Veterans' Land Board.'"

If the recording fee were a legal expense of the Veterans' Land Board, the service fees appropriated by the Legislature could be expended for this purpose. However, Sections 1 and 3 of Article 3912e, Vernon's Civil Statutes, specifically prohibit the payment of such fees. Section 1 states that "nor shall the State . . . pay to any county officer . . . any fee or commission for any service by him performed as such officer . . ." (Exceptions not applicable). Section 3 provides "neither the State . . . shall be charged with or pay to any of the officers . . . any fee or commission for the performance of any or all of the duties of their offices . . ." (Exceptions not applicable).

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Since the charge is specifically prohibited by statute, these instruments must be recorded without any charge to the Veterans' Land Board. If the "fee" for rendering the service of recording these instruments should be construed to be a charge against the individual rather than the Veterans' Land Board, the money deposited in the State Treasury could not be used for the payment of personal expenses of an individual. Therefore, you are advised that you are not authorized to issue a warrant in payment of these fees.

SUMMARY

The Comptroller of Public Accounts is not authorized to issue a warrant in payment of a recording fee for recording an Agriculture lease on lands purchased by the Veterans' Land Board.

Yours very truly,

WILL WILSON  
Attorney General of Texas

By *John Reeves*  
John Reeves  
Assistant

JR:jl

APPROVED:

OPINION COMMITTEE

Geo. P. Blackburn, Chairman

L. P. Lollar

Arthur Sandlin

Richard Wells

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REVIEWED FOR THE ATTORNEY GENERAL

BY: W. V. Geppert