



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WAGGONER CARR  
ATTORNEY GENERAL**

September 23, 1964

This Opinion  
Overrules Opinion

*S-79 in any  
manner which  
conflicts*

Honorable Jerry Sadler  
Commissioner  
General Land Office  
Austin, Texas

Opinion No. C-313

Re: Computation of interest on  
Veterans' Land Loans when  
payment in advance of due  
date is tendered.

Dear Mr. Sadler:

Your opinion request reads as follows:

"I respectfully request an opinion of your office on the following Veterans' Land Board matter:

"Can the Veterans' Land Board of Texas, by the adoption of a rule or regulation, require, on an account to be paid in full between the regular May 1st or November 1st installment dates, that interest be paid to the date when such payment is received?

"Previously, the Board's requirement provided that interest be computed to the next regular installment date, when such payments were made between the May 1st or November 1st installment dates. This requirement was confirmed by the Attorney General of Texas on July 31, 1953, by Opinion No. S-79.

"However, this has caused great dissatisfaction on the part of the veteran contract holders, who have asserted that the spirit and intent of Article 5421m, V.R.C.S., Sec. 17, has not been construed in a manner favorable or beneficial to them when they desire to pay their account in full between such regular installment dates, and who have contended that this requirement is not consistent with the general practice of private or commercial lenders.

"I desire to recommend to the Board the adoption of a rule providing that, when an account is paid in full between such installment dates, the interest will be computed to the date payment in full is received, to become effective on the date of its adoption.

"After review of the above opinion and the statutes, I would appreciate your opinion as to the legality of adopting such a rule by the Veterans' Land Board."

In our study of your request, we have reviewed the form of "Contract of Sale and Purchase" which, with variations not here material, has been used for many years by the Veterans' Land Board. After reciting the cash down payment made by the veteran, the contract states:

"The unpaid principal . . . shall be amortized . . . with annual interest at  $4\frac{1}{2}\%$  upon all unpaid principal. Buyer shall pay . . . installments of principal and interest semi-annually . . . on or before the first day of each May and November hereafter until the total purchase price is paid."

A study of the foregoing form reveals that the veteran promises to pay interest only on the "unpaid principal." Further, the "on or before" provision, as commonly understood in commercial transactions, allows payment of the purchase price balance at any time without penalty. Upon such payment, there would be no unpaid principal remaining, and hence no basis for further interest.

We pass next to a consideration of the validity of the form used by the Board. Section 21 of the Veterans' Land Act (Art. 5421m, V.C.S.) empowers the Veterans' Land Board to "prescribe the form and contents of all . . . contracts . . . or instruments whatsoever in any manner used by it . . . when same shall not be in conflict with law." Is there anything in the quoted provisions in the form above referred to which conflict with law?

Article III, Section 49b, Texas Constitution, provides:

"The lands of the Veterans' Land Fund shall be sold by the State to Texas veterans . . . on such terms, and at such prices and rates of interest, and under such rules and regulations as are . . . provided by law."

Section 2(A) of the Veterans' Land Act makes it the duty of the Board "to fix the interest rates as prescribed by law" and "to formulate such policies, rules and regulations as may be necessary . . . to insure the proper administration of the law and to carry out the intent and purposes thereof."

Section 17 of the Act provides that the unpaid balance under the land purchase contract is to be amortized over a period not exceeding 40 years

"together with interest thereon at a rate to be fixed by the board, not to exceed  $4\frac{1}{2}\%$  per annum; provided, however, that the purchaser shall have the right on any installment date to pay any or all installments still remaining unpaid; provided further, that in any individual case, the board may, for good cause, postpone from time to time, upon such terms as the Board may deem proper, the payment of the whole or any part of any installment of the selling price or interest thereon. The board is empowered in each individual case to specify the terms of the contract entered into with the purchaser, not contrary to the provisions of this act. . . ."

From the foregoing, it is obvious that the Board under its granted power to fix the rate of interest, to prescribe the contract forms and to make rules and regulations, is authorized to make a rule that payment of the unpaid balance at any time stops the running of interest, unless such a rule is forbidden by the proviso in Section 17 giving the purchaser "the right on any installment date to pay any or all installments still remaining unpaid."

It will be noted that the form used by the Board fixes May 1st and November 1st as dates upon which installments are due under the contract. However, the effect of the "on or before" provisions of the contract is that any date is an installment date on which the veteran has the right, although not the duty, to make a prepayment. The Act does not impose any limits on the number or times of installment dates.

Further, we are of the opinion that the "on or before" provisions are not in conflict with the statute, even if it were considered that May 1st and November 1st were the only "installment dates." The statute gives the veteran the

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right to prepay on installment dates. If the Board's form denied the existence of such a right, there would be a conflict with the statute. It is our view, however, that the granting of an additional prepayment privilege to the veteran does not create a conflict.

Applicable, we think, is the text statement in 53 Tex.Jur.2d 208, Statutes, Section 142:

"Thus a statute enumerating some of the things to be done by a commission is not an implied denial of authority to do anything else, and a recital of some of the ways in which waste occurs is not exclusive definition of the only kinds of waste which the legislature recognizes." Citing Danciger Oil & Refining Company v. Railroad Commission, 49 S.W.2d 837, 841, rev. o. g. 122 Tex. 243, 56 S.W.2d 1075.

The purpose of the Veterans' Land Program is to help Texas veterans through the establishment of a liberal credit program by which Texas veterans may purchase Texas lands, which program supplants in some measure the giving away of public lands to veterans of wars as the same was done in the early history of this State. The making of money by the State through harsh exactions from veteran purchasers is contrary to the spirit of the law. Allowing prepayment without penalty, thus encouraging such prepayment, actually is in furtherance of the purposes of the program in at least two respects:

(1) The history of the program has been that the demand of veterans for participation in the program has during much of the time exceeded available funds. Every loan that is prepaid, therefore, makes money available for another veteran waiting in line. The encouragement of prompt prepayment, therefore, is in furtherance of the program.

(2) The history of the program has further been that the earlier loans to veterans were made at a lower rate of interest, the latest increase to 4½% per annum having been authorized by the 1961 amendment to the Act. Prepayment, therefore, on contracts executed before 1961 would enable the Board to re-lend the money to another veteran at a higher rate of interest, resulting in financial benefit to the Veterans' Land Program.

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If a veteran is to be penalized for prepayment by requiring payment of unearned interest, he would, doubtless, prefer in many cases to keep his money, perhaps placing it in a savings account so as to earn interest, until the installment date rolls around, all to the detriment of the program. We do not believe that it was the legislative intent to effect such a result. The statute should be liberally construed in accordance with its basic intent and purpose, which is to help Texas veterans.

The general rule is set forth in 47 C.J.S. 53, Interest, Section 41b:

"Interest generally is computed to the time when the debt is paid."

We conclude that the proposed rule or regulation authorizing full payment of veterans' accounts between the May and November installment due dates, without penalty interest, may be validly adopted by the Veterans' Land Board, and we accordingly answer your question in the affirmative.

Opinion No. S-79 of this office was rendered at a time when, as pointed out by your letter, your Board was operating under a rule contrary to the proposed rule and regulation. If Opinion No. S-79 is in any manner in conflict with this opinion, same is hereby to such extent overruled.

S U M M A R Y

The Veterans' Land Board may validly adopt a rule or regulation authorizing veterans' loans to be prepaid in full at any time, with interest being charged only to the date of such final payment.

Yours very truly,

WAGGONER CARR  
Attorney General of Texas

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APPROVED:

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