

# The State of South Carolina



## Office of the Attorney General

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Motte L. Talley, Esquire  
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South Carolina Court Administration  
P. O. Box 50447  
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Dear Motte:

In a letter to this Office you questioned whether a municipal court is authorized to allow individuals to post bond or pay fines by credit card.

I am unaware of any State statutes presently authorizing such use of credit cards. In my research I have found that certain other jurisdictions do authorize the use of credit cards to pay fines. See: V.T.C.S. art. 3910 (a) (Texas); K.S.A. 1981 Supp. 8-2107 (Kansas).

Certain State statutes appear to indicate that payments for bonds should be made by cash. Section 22-5-530 of the Code states:

(a)ll persons charged and to be tried before any magistrate for any violation of law shall be entitled to deposit with the magistrate, in lieu of entering into recognizance, a sum of money not to exceed the maximum fine in the case for which such person is to be tried. (emphasis added).

Pursuant to Section 14-25-45 of the Code, municipal courts have the same "powers, duties and jurisdiction in criminal cases" as magistrates. Also, pursuant to Section 17-15-15 of the Code

(i)n lieu of requiring actual posting of bond ... the court setting bond may permit the defendant to deposit in cash with the clerk of court an amount not to exceed ten percent of the amount of bond set .... (emphasis added.)

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Section 17-15-190 of the Code states:

(w)enever in any criminal proceeding in any of the courts of this State a bond, recognizance or understanding is authorized or required to be given, the party authorized or required to give it may deposit in lieu thereof a sum of lawful money of the United States of America equal in amount of the bond .... (emphasis added).

As to fines, the various provisions which set forth the assessments which must be levied in association with fines all appear to refer to the receipt of actual monies by judges. See: Section 23-23-70 of the Code ("each and every magistrate, recorder, judge, ... who receives monies from fines or bond forfeitures in criminal or traffic cases shall transmit same to the ... treasurer ...."); Section 24-23-220 of the Code ("assessments, restitution charges, and assessments imposed as a condition of probation which are collected by clerks of court for the Court of General Sessions and assessments collected by magistrates' courts must be paid monthly to the county treasurer ... Assessments collected by municipal courts must be paid monthly to the municipal financial officer ...."); Section 14-1-220 of the Code ("each city recorder, mayor, or municipal clerk of court or other person who receives monies from the cost of court assessments in criminal or traffic cases in the municipal courts shall transmit all these monies to the Office of State Treasurer.")

Obviously, other questions may arise as to the use of credit cards to pay fines or bonds. An opinion of the Attorney General of Texas, Op. No. JM-749, which reviewed the Texas statute authorizing the acceptance of credit cards to pay "a fee, fine court cost, or other charge", V.T.C.S. art. 3910a, commented that "... in the unusual case where the defendant actually paid the lending institution but the lending institution failed or refused to credit the county with the payment, it could raise serious due process questions and concerns under the consumer credit laws if the county refused to consider the defendant discharged from his obligation to pay costs and fines ...." An opinion from the Kentucky Attorney General, KYAG Op. No. 85-48, in reviewing the question of the legality of using credit cards to pay certain taxes and fines also commented on the necessity for the payment by some party of the interchange fee, a fee typically paid by a merchant to a card company or bank for the opportunity of utilizing a credit card. Obviously, these matters would also have to be resolved if the system of accepting credit cards for the payment of fines or bonds was adopted for this State's courts.

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In conclusion, in the absence of a court rule or legislation expressly authorizing the use of credit cards to post bond or pay fines, this Office is unable to conclude that credit cards can be utilized for such purposes in a municipal court.

If there is anything further, please advise.

Sincerely,



Charles H. Richardson  
Assistant Attorney General

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REVIEWED AND APPROVED BY:



Robert D. Cook  
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