

# The State of South Carolina



## Office of the Attorney General

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October 2, 1989

The Honorable John A. Bearden  
Clerk of Court  
Lexington County, Eleventh Judicial  
Circuit  
Lexington County Court House  
Lexington, South Carolina 29072

Dear Mr. Bearden:

In a letter to this Office you questioned whether a magistrate may charge a one dollar (\$1.00) fee for taking and filing an order for bail with or without bond. You referred to Sections 8-21-310(13) and (14) as the basis for your question. Such provisions state:

Except as otherwise expressly provided, the following fees and costs shall be collected on a uniform basis in each county by clerks of court and registers of mesne conveyances or county treasurers as may be determined by the governing body of the county:

- (13) For taking and filing an order for bail with or without bond, one dollar; with bond when surety must be justified, five dollars;
- (14) For taking and filing bond or security costs, one dollar; with bond when surety must be justified, five dollars;

I presume you are referring to a situation where the magistrate collects the fee on behalf of the clerk of court.

As to whether a magistrate may collect such fee on behalf of the clerk, while such a practice would not be in strict accord with such provision inasmuch as the provision refers to the collection by a clerk, I cannot conclude that the collection by a magistrate on

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behalf of a clerk would be prohibited. Presumably such a practice would avoid later billing by the clerk of an individual for payment of such a fee. This presumably would involve situations where an understanding is reached between a clerk and the magistrate as to how such a fee is to be collected. Of course, in any such situation it must be understood that the fee is ultimately paid to the clerk of court.

If there is anything further, please advise.

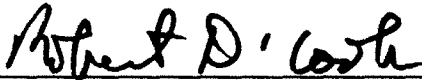
Sincerely,



Charles H. Richardson  
Assistant Attorney General

CHR/nnw

REVIEWED AND APPROVED BY:



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