

The State of South Carolina



Office of the Attorney General

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November 2, 1987

Leland B. Greeley, Esquire
Assistant Solicitor
Sixteenth Judicial Circuit
P. O. Box 726
York, South Carolina 29745

Dear Mr. Greeley:

In a letter to the State Court Administration office, a copy of which was forwarded to this Office, you questioned the manner of disposing of revenues generated by the estreatment of bonds in drug cases within the jurisdiction of the court of general sessions.

Section 20-7-1510 of the Code states in part:

(e)xcept for those drug fines and forfeitures remitted to the Department of Mental Health as provided in § 44-53-580, and except for those fines and forfeitures for game or fish law violations used for the purposes enumerated in § 50-1-150 and 50-1-170, on July 1, 1977, three-fourths of all costs, fees, fines, penalties, forfeitures and other revenues generated by the circuit courts and the family courts established by this chapter shall be paid over to the county in which the proceeding is instituted and one-fourth of such revenues shall be remitted to the State for use in deferring the costs of the unified court system.

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In a prior opinion of this Office, 1978 Opinion of the Attorney General No. 78-7 at page 15, it was determined that bond estreatments are within the phrase "all costs, fees, fines, penalties, forfeitures and other revenues" as set forth in the referenced statute. The opinion defined the terms "forfeiture" and "penalty" in concluding that bond estreatments should be considered as falling under one or both of these terms or at least under the phrase "other revenues generated by the ... courts." However, as noted, pursuant to Section 20-7-1510 an exception is made for "those drug fines and forfeitures remitted to the Department of Mental Health as provided in Section 44-53-580."

Pursuant to Act No. 482 of 1984 Section 44-53-580 of the Code was amended to read:

(a)ll fines collected by any court or agency resulting from any violation of any provision of this article must be remitted to the State Treasurer under terms and conditions as he may determine. All fines must be used by the Department of Mental Health exclusively for the treatment and rehabilitation of drug addicts....

Previously, pursuant to a provision of Act No. 1068 of 1974 such statute read in part:

(a)ll fines and forfeitures collected by any court or agency resulting from any violation of any provision of this act shall be remitted to the State Treasurer under such terms and conditions as he may determine. All such fines and forfeitures shall be used by the Department of Mental Health exclusively for the treatment and rehabilitation of drug addicts....

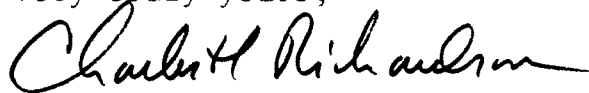
Admittedly, the General Assembly did remove the reference to "forfeitures" in amending Section 44-53-580 in 1984. However, this Office is unable to construe such provision as necessarily indicating the intent of the General Assembly that revenues generated by bond estreatments in drug cases no longer be remitted to the State Treasurer for use by the Department of Mental Health. Section 20-7-1510 was not amended to remove the specific exception for "drug fines and forfeitures" which according to the provision are to be remitted to the Department of Mental

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Health. Absent further clarification by the General Assembly, this Office concludes that revenues generated by bond estreatments should continue to be forwarded to the State Treasurer for use by the Department of Mental Health as referenced by Section 20-7-1510.

With best wishes, I am

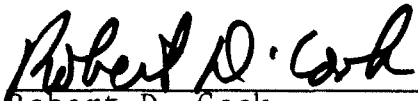
Very truly yours,



Charles H. Richardson
Assistant Attorney General

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REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions

cc: Motte L. Talley, Esquire
South Carolina Court Administration