

1981 WL 157915 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 14, 1981

*1 Honorable David C. Stephens
Assistant Solicitor
Fifth Judicial Circuit
P. O. Box 1525
Orangeburg, SC 29115

Dear David:

In a letter to this office you questioned whether your office is authorized to reach an agreement with an individual whereby the amount of a judgment imposed against him as a result of a bond estreatment may be decreased.

The procedure for estreatment of a bond is controlled by [Sections 17-15-170, et seq., Code of Laws of South Carolina](#), 1976. [Section 17-15-170](#) states in part that whenever a recognizance 'shall become forfeited by noncompliance with the condition thereof,' a party bound to the recognizance shall be summoned to show cause 'why judgment should not be confirmed against him.' The South Carolina Supreme Court in [State v. Holloway](#), 262 S.C. 552, 206 S.E.2d 822 (1974) construed Section 17-15-180, which deals with remission of bond forfeitures, to '... place the exercise of the power to grant relief from bond forfeitures within the discretion of the court ...' Referencing the above statutory provisions, the Court in [Pride v. Anders](#), 266 S.C. 838, 223 S.E.2d 184 (1976) further stated that when the condition of recognizances is breached by the failure of particular defendants to appear, '... the recognizances were forfeited and the liability of ... (a surety) ... to pay the amount of the penalty then became fixed, unless relieved or exonerated by action of the court.' Referencing such, it is the opinion of this Office that any separate agreement between the State and an individual to decrease the amount of a judgment imposed against the individual as the result of a bond estreatment would be unauthorized. Presumably, any such reduction of a judgment could only be authorized by a court.

With best wishes.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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