



Department of Law State of Georgia

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VIA FACSIMILE/U.S. MAIL

June 22, 2004

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David R. Williams, Executive Director
Georgia Superior Court Clerks' Cooperative Authority
Suite 100
1875 Century Boulevard
Atlanta, Georgia 30345

Re: House Bill 1EX

Dear David:

This follows up our prior conversations regarding the provisions of O.C.G.A. § 15-21-73(a), as amended by House Bill 1 EX.

As amended by House Bill 1 EX, O.C.G.A. § 15-21-73(a) provides as follows:

- (1) In every case in which any state court, probate court, juvenile court, police, recorder's, or mayor's court, municipal court, magistrate court, or superior court in this state shall impose a fine, which shall be construed to include costs, for any criminal or quasi-criminal offense against a criminal or traffic law, including civil traffic violations and violations of local criminal ordinances, of this state or political subdivision thereof, there shall be imposed as an additional penalty a sum equal to:
 - (A) The lesser of \$50.00 or 10 percent of the original fine; plus
 - (B) An additional 10 percent of the original fine.
- (2) At the time of posting bail or bond in any case involving a violation of a criminal or traffic law of this state or political subdivision thereof, an additional sum equal to:
 - (A) The lesser of \$50.00 or 10 percent of the original amount of bail or bond; plus
 - (B) The lesser of an additional \$50.00 or 10 percent of the original amount of bail or bond

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shall be posted. In every case in which any state court, probate court, municipal court, magistrate court, recorder's court, mayor's court, or superior court shall order the forfeiture of bail or bond, the additional amounts provided for in this paragraph shall be paid over as provided in Code Section 15-21-74.

(emphasis added). As amended by House Bill 1EX, O.C.G.A. § 15-21-74 provides relevantly that:

The sums provided for in Code Section 15-21-73 shall be assessed and collected by the court officer charged with the duty of collecting moneys arising from fines and forfeited bonds and shall be paid over to the Georgia Superior Court Clerks' Cooperative Authority by the last day of the month there following, to be deposited by the authority into the general treasury.

(emphasis added). As I have previously indicated in our conversations regarding the provisions of O.C.G.A. §§ 15-21-73 and 15-21-74, the language appears to be clear that the additional amounts required by O.C.G.A. § 15-21-73(a)(2) are required to be paid "[a]t the time of posting bail or bond" and that such amounts are not required to be paid over to the Authority under O.C.G.A. § 15-21-74 unless they are forfeited.

In construing the similar bond posting provision in O.C.G.A. § 15-21-93(a)(2), 1990 Op. Att'y Gen. U90-4 indicates that the additional amount is to be collected when bail or bond is posted. 1996 Op. Att'y Gen. U96-8 indicates that the amount required by O.C.G.A. § 15-21-93(a)(2) "is also to be added to the amount of any bail or bond established by the Court."

I hope that this is helpful. If you would like to discuss, please contact me.

Please keep in mind that this letter is informal advice and does not constitute the official or unofficial opinion of the Attorney General.

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Sincerely,



W. WRIGHT BANKS, JR.
Senior Assistant Attorney General

WWB/jgb