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EXECUTIVE SECRETARY



CRAIG BURNS
MARTHA MAVREDES
EX-OFFICIO MEMBERS

COMMONWEALTH OF VIRGINIA

Compensation Board

P.O. Box 710
Richmond, Virginia 23218-0710

July 7, 2017

MEMORANDUM

TO: Commonwealth's Attorneys
FROM: Robyn M. de Socio, Executive Secretary
RE: FY17/18 Fines and Fees Reporting Process

The Code of Virginia, §19.2-349, requires the Department of Taxation and the Compensation Board to annually report to the Governor and the General Assembly the total of fines, costs, forfeitures, penalties and restitution assessed, collected, and unpaid and those which remain unsatisfied. Additionally, Commonwealth's Attorneys must complete a signed policy statement each year, and identify each year their elected collection method for delinquent accounts.

With this correspondence, the Compensation Board is seeking your submission of:

1. a signed FY18 Policy Statement (**due July 28, 2017**);
2. a signed FY18 Election for Collection Method of Fines and Fees form (**due July 28, 2017**);
3. a signed and completed FY17 Collection of Fines and Fees Form, which is the reporting format for assessment and collections data for delinquent court fines and costs during FY17 (**due August 25, 2017**), and;
4. a collection agent's report describing their collection efforts in FY17 (**due September 15, 2017**).

Guidelines and Form for Contracts. Please note that the attached Guidelines and Form for Contracts has been updated with minor revisions for FY18. Changes impact the Guidelines only, so new contracts are not required as a result of these changes; however contracts for FY18 between Commonwealth's Attorneys and Treasurers currently collecting on a contingency fee basis are required to utilize the Form for Contracts dated no earlier than July 1, 2016, in order to comply with legislative action and current Guidelines.

The FY18 Policy Statement and the FY18 Election Form are **due by July 28, 2017**. Any future changes to collection agent and/or initiation of a new contract during the year must also include the sending of a new Election Form to the entities noted on the Form.

Commonwealth's Attorneys utilizing collection agents. This correspondence is copied to collection agents. The Compensation Board recommends that collection agents forward to the Commonwealth's Attorney the FY17 Collection of Fines and Fees Form completed with information on the assessment and collection of delinquent fines and fees.

The FY17 Collection of Fines and Fees Form (July 1, 2016 to June 30, 2017) completed by you (in-house programs) or completed and forwarded to you from your collection agent are **due by August 25, 2017**. If you fail to submit the report of collections and assessments data, the Compensation Board's report to the General Assembly will indicate a "did not report/comply" status for your office.

Collection agent's report describing their collection efforts. Pursuant to the Guidelines for contracting, the contractor responsible for the collection of fines, court costs, forfeitures, penalties, statutory interest, restitution, and restitution interest is responsible at this time for filing with the Commonwealth's Attorney a report describing the collection efforts employed during FY17. Within 15 days of receipt of the report from the collection agent, the Commonwealth's Attorney is to file a copy of the report with the Compensation Board and each court included in the report. The Compensation Board is required to make this information available to the Executive Secretary of the Supreme Court and all Commonwealth's Attorneys for their evaluation and renegotiation of collection contracts pursuant to Code §19.2-349.

Collection agents should submit their report to the Commonwealth's Attorney **no later than September 1, 2017**. Commonwealth's Attorney's should review and send a copy of the received report to Mark Pellett at the Compensation Board in electronic format to mark.pellett@scb.virginia.gov **no later than September 15, 2017**.

All Commonwealth's Attorneys. Please review the documents attached to this email and complete with your signature, date, printed name and locality:

1. FY18 Policy Statement for Fines and Fees: Commonwealth's Attorney;
2. FY18 Election for Collection Method of Fines and Fees: Commonwealth's Attorney;
3. FY17 Collection of Fines and Fees Form and Instructions (July 1, 2016 to June 30, 2017) completed by you (in-house programs) or completed and forwarded to you from your collection agent;
4. Supreme Court Guidelines and Model Form for Contract for the Collection of Unpaid Fines, Costs, Forfeitures, and Penalties by Private Contractors (dated July 1, 2017), and;
5. Code of Virginia, §19.2-349; §58.1-3958; Chapter 836, 2017 Acts of Assembly, Item 73. Paragraph H.

Please return the collection effort report and the three (3) completed forms to Mark Pellett not later than each respective deadline. You may return the documents by fax at (804) 371-0235 or by email at mark.pellett@scb.virginia.gov. Fax cover sheets have been provided for your convenience.

If you have any questions or need additional information, please contact Mark Pellett at (804) 225-3414 or mark.pellett@scb.virginia.gov, Charlene Rollins at (804) 225-3321 or charlene.rollins@scb.virginia.gov, or me at (804) 225-3439 or robyn.desocio@scb.virginia.gov.

Thank you for your assistance.

cc: Charlene Rollins, Customer Service Manager
Mark Pellett, Financial and Management Analyst
Laurie Hicks, Office of the Auditor of Public Accounts
Jane S. Chambers, Director, Commonwealth's Attorneys' Services Council
Eric Olsen, President, Virginia Association of Commonwealth's Attorneys
Kathy Lohr, Department of Taxation
Karl Hade, Supreme Court of Virginia
Treasurer, Arlington County
Treasurer, Fauquier County
Treasurer, Loudoun County
Treasurer, Stafford County
Treasurer, City of Falls Church
Treasurer, City of Hampton
Treasurer, City of Virginia Beach
Ballato Law Firm
David S. Hudson
Fines Management, LTD
Glasser and Glasser
Newsome Law Office
Parrish and Lebar
Poole Brooke Plumlee PC
Quadros and Associates
Anthony Kostelecky
Godwin, Jones and Price

FAX

FY17/18 Fines and Fees

Date:	_____
To:	Mark Pellett Compensation Board 102 Governor Street Suite 120 Richmond, VA 23219
Phone:	(804) 225-3414
FAX:	(804) 371-0235
Number of Pages:	<input type="text"/> Including Cover sheet

From:	Commonwealth's Attorney
Name:	_____
Contact Name:	_____
Locality:	_____
Locality Code:	_____
Phone:	_____
FAX:	_____

Contents of FAX includes the following completed, signed and dated form:

- FY17 Policy Statement for Fines and Fees: Commonwealth's Attorney (due no later than July 28, 2017)
- FY17 Election for Collection Method of Fines and Fees: Commonwealth's Attorney (due no later than July 28, 2017)

Please provide Contact Name and Phone Number in the office of the Commonwealth's Attorney for questions regarding these forms.

FY18 Policy Statement for Fines and Fees: Commonwealth's Attorneys Form

Locality Code: _____

Policy and Procedure

Code of Virginia Pursuant to § 19.2-349, Code of Virginia, a Commonwealth's Attorney is required to cause proper proceedings to be instituted for the collection and satisfaction of all fines, costs, forfeitures, penalties and restitution. The Commonwealth's Attorney must follow collection guidelines promulgated by the Office of the Attorney General, the Executive Secretary of the Supreme Court in association with the Department of Taxation and Compensation Board.

If the Commonwealth's Attorney does not undertake collection, he shall contract with (i) private attorneys or private collection agencies, (ii) enter into an agreement with a local governing body, (iii) enter into an agreement with the county or city treasurer, or (iv) use the services of the Department of Taxation. The Commonwealth's Attorney provides for compensation of outside collection agents on a contingency fee basis out the proceeds of the amounts collected (except Treasurers not being compensated on a contingency fee basis as of January 1, 2015, compensated by the added fee to cover administrative cost provided for in Code § 58.1-3958).

The Department of Taxation and the Compensation Board shall establish procedures to be followed by court clerks, Commonwealth's Attorneys, other state agencies or local government entities and any private attorneys or collection agents. The Department of Taxation and the Compensation Board shall report annually to the Governor and the General Assembly the total fines, costs, forfeitures and penalties assessed, collected, and unpaid and those which remain unsatisfied by each circuit or district court.

Pursuant to Chapter 836, 2017 Acts of Assembly, delinquent amounts owed shall have added to them an increase rate fee of seventeen percent, to reflect the costs associated with employing or contracting with agencies or individuals for collections, unless such rate would exceed the collection agent's fees for collection, in which case the increase rate fee shall equal the collection agent's fees for collection. The increase rate fees are also paid on a contingency basis out of the proceeds of the amounts collected.

Policy Prompt payment of fines and fees are ordered by the Court as a form of punishment for an offense committed, as well as a legitimate source of revenue for the locality and the Commonwealth. A Commonwealth's Attorney must take all measures under law to ensure that all fines, costs, penalties, forfeitures, and restitution as ordered by the Court are paid in full.

Procedure A Commonwealth's Attorney must:

- Annually choose a collection method by completing and signing an *Election for Collection Method of Fines and Fees: Commonwealth's Attorney* and return by fax to the Compensation Board; and
- Annually receive assessment and collection totals from his collection agent and file a report with the Compensation Board using the *Collection of Fines and Fees Form*.

Effective Date This policy was effective July 1, 2003 and amended on July 18, 2007, July 1, 2013, July 1, 2014, and July 1, 2015. Unless otherwise noted, it shall remain in effect until further amended. Any recommended amendments to this policy shall be communicated to and are subject to review by the Compensation Board.

Certification

I am in compliance with the requirements of § 19.2-349, Code of Virginia, Chapter 836, 2017 Acts of Assembly, Item 73. Paragraph H. and the Supreme Court Guidelines and Model Form for Contracts for the Collection of Unpaid Fines, Costs, Forfeitures, and Penalties by Contractors, dated July 1, 2017.

Printed Name of Commonwealth's Attorney

Locality

Signature of Commonwealth's Attorney

Date

Commonwealth's Attorney: Please complete form fully, provide printed name of officer and locality, sign and date form. Fax to the attention of Mark Pellett, Compensation Board (804) 371-0235, not later than Friday, July 28, 2017.

FY18 Election for Collection Method of Fines and Fees: Commonwealth's Attorney

Locality Code: _____

In compliance with § 19.2-349, Code of Virginia, I elect the following as the collection method for delinquent fines, costs, penalties, and forfeitures and restitution for each court in my locality:

- Column A Indicate if the Department of Taxation, In-House program, city/county Treasurer, private attorney, or private collection agent collects delinquent fines and fees for each of your courts; list contact information.
- Column B For all collection methods (except the In-House program) please provide month and year of contract or Memorandum of Understanding.
- Column C For all collection methods please provide the collection fee percentage (excludes restitution) or the fee amount for administrative cost for Treasurers not contracting on a contingency basis as of January 1, 2015.
- Column D For all collection methods please provide the increase rate of 17% of the amount owed for outstanding fines **unless the Collection Commission Rate is less than 17%. If the Collection Commission Rate (column C) is less than 17%, then the Increase Rate and the Fee for Collection Services Percentages should match** (the increase rate where Treasurers were not contracting on a contingency basis as of January 1, 2015 should be 0%). Please note this is not considered compensation due the contractor except for restitution.

FY18				
Court	Collection Method	Contract or MOU		
	A: CHOOSE ONLY ONE PER COURT: <ul style="list-style-type: none"> Department of Taxation In-House Program Private Attorney (provide name/contact) Private Collection Agent (provide name/contact) City / County Treasurer or other Official <p style="color: red; font-size: small; margin: 5px 0;">Provide Name and Contact Information:</p>	B: Contract Date <p style="color: red; font-size: small; margin: 5px 0;">Month & Year:</p>	C: Fee for Collection Services (Collection Commission Rate) <p style="color: red; font-size: small; margin: 5px 0;">Percentage:</p>	D: Increase Rate Fee applied to delinquent amounts (Increase Rate) <p style="color: red; font-size: small; margin: 5px 0;">Percentage:</p>
SAMPLE	<i>County Treasurer - Jane G. Doe 804-555-1234; jane.doe@treasurer.gov</i>	<i>Jul 2017</i>	<i>21%</i>	<i>17%</i>
Circuit				
General District				
Juvenile & Domestic Relations				
Combined				

Printed Name of Commonwealth's Attorney

Locality

Signature of Commonwealth's Attorney

Date

Please forward a copy of the Election for Collection Method Form to the following no later than Friday, July 28, 2017:

i. Circuit, District, Juvenile and Domestic Relations Courts of your Locality	iii. Department of Taxation P. O. Box 2402 Richmond, VA 23218-2402
ii. Supreme Court of Virginia 100 North Ninth Street Richmond, VA 23219 FAX: (804) 371-5034	

Commonwealth's Attorney: Please complete form fully, provide printed name of officer and locality, sign and date form. Fax to the attention of Mark Pellett, Compensation Board (804) 371-0235, not later than Friday, July 28, 2017. Provide copies to above listed agencies (by fax where listed) no later than Friday, July 28, 2017.

§ 19.2-349. Responsibility for collections; clerks to report unsatisfied fines, etc.; duty of attorneys for Commonwealth; duties of Department of Taxation

A. The clerk of the circuit court and district court of every county and city shall submit to the judge of his court, the Department of Taxation, the State Compensation Board and the attorney for the Commonwealth of his county or city a monthly report of all fines, costs, forfeitures and penalties which are delinquent more than 90 days, including court-ordered restitution of a sum certain, imposed in his court for a violation of state law or a local ordinance which remain unsatisfied, including those which are delinquent in installment payments. The monthly report shall include the social security number or driver's license number of the defendant, if known, and such other information as the Department of Taxation and the Compensation Board deem appropriate. The Executive Secretary shall make the report required by this subsection on behalf of those clerks who participate in the Supreme Court's automated information system.

B. The clerk of the circuit court and district court of every county and city shall submit quarterly to the attorney for the Commonwealth of his county or city and any probation agency that serves such county or city:

1. A list of all defendants with an outstanding balance of restitution ordered by the court served by such clerk. Such report shall include the defendant's name, case number, total amount of restitution ordered, amount of restitution remaining due, and last date of payment; and

2. A list of all accounts where more than 90 days have passed since an account was sent to collections and no payments have been made toward fines, costs, forfeitures, penalties, or restitution. For accounts where restitution is owed, such report shall include the defendant's name, case number, and total amount of restitution and restitution interest due.

C. It shall be the duty of the attorney for the Commonwealth to cause proper proceedings to be instituted for the collection and satisfaction of all fines, costs, forfeitures, penalties and restitution. The attorney for the Commonwealth shall determine whether it would be impractical or uneconomical for such service to be rendered by the office of the attorney for the Commonwealth. If the defendant does not enter into an installment payment agreement under § [19.2-354](#), the attorney for the Commonwealth and the clerk may agree to a process by which collection activity may be commenced 90 days after judgment.

If the attorney for the Commonwealth does not undertake collection, he shall contract with (i) private attorneys or private collection agencies, (ii) enter into an agreement with a local governing body, (iii) enter into an agreement with the county or city treasurer, or (iv) use the services of the Department of Taxation, upon such terms and conditions as may be established by guidelines promulgated by the Office of the Attorney General, the Executive Secretary of the Supreme Court with the Department of Taxation and the Compensation Board. If the attorney for the Commonwealth undertakes collection, he shall follow the procedures established by the Department of Taxation and the Compensation Board. Such guidelines shall not supersede contracts between attorneys for the Commonwealth and private attorneys and collection agencies when active collection efforts are being undertaken. As part

of such contract, private attorneys or collection agencies shall be given access to the social security number of the defendant in order to assist in the collection effort. Any such private attorney shall be subject to the penalties and provisions of § [18.2-186.3](#).

The fees of any private attorneys or collection agencies shall be paid on a contingency fee basis out of the proceeds of the amounts collected. However, in no event shall such attorney or collection agency receive a fee for amounts collected by the Department of Taxation under the Setoff Debt Collection Act (§ [58.1-520](#) et seq.). A local treasurer undertaking collection pursuant to an agreement with the attorney for the Commonwealth may collect the administrative fee authorized by § [58.1-3958](#).

D. The Department of Taxation and the State Compensation Board shall be responsible for the collection of any judgment which remains unsatisfied or does not meet the conditions of § [19.2-354](#). Persons owing such unsatisfied judgments or failing to comply with installment payment agreements under § [19.2-354](#) shall be subject to the delinquent tax collection provisions of Title 58.1. The Department of Taxation and the State Compensation Board shall establish procedures to be followed by clerks of courts, attorneys for the Commonwealth, other state agencies and any private attorneys or collection agents and may employ private attorneys or collection agencies, or engage other state agencies to collect the judgment. The Department of Taxation and the Commonwealth shall be entitled to deduct a fee for services from amounts collected for violations of local ordinances.

The Department of Taxation and the State Compensation Board shall annually report to the Governor and the General Assembly the total of fines, costs, forfeitures and penalties assessed, collected, and unpaid and those which remain unsatisfied or do not meet the conditions of § [19.2-354](#) by each circuit and district court. The report shall include the procedures established by the Department of Taxation and the State Compensation Board pursuant to this section and a plan for increasing the collection of unpaid fines, costs, forfeitures and penalties. The Auditor of Public Accounts shall annually report to the Governor, the Executive Secretary of the Supreme Court and the General Assembly as to the adherence of clerks of courts, attorneys for the Commonwealth and other state agencies to the procedures established by the Department of Taxation and the State Compensation Board.

Code 1950, § 19.1-341.2; 1960, c. 366; 1975, c. 495; 1979, c. 469; 1983, cc. 415, 499; 1988, cc. 742, 750, 770, 852; 1991, c. 202; 1992, c. 623; 1993, c. 269; 1994, cc. [841](#), [945](#); 2001, c. [414](#); 2003, c. [262](#); 2006, c. [359](#); 2007, c. [551](#); 2012, c. [786](#), [802](#), [806](#), [814](#); 2017.

Code of Virginia, Title 58.1. Taxation, Chapter 39. Enforcement, Collection, Refunds, Remedies and Review of Local Taxes

§ 58.1-3958. Payment of administrative costs, etc

The governing body of any county, city or town may impose, upon each person chargeable with delinquent taxes or other delinquent charges, fees to cover the administrative costs and reasonable attorney's or collection agency's fees actually contracted for. The attorney's or collection agency's fees shall not exceed 20 percent of the taxes or other charges so collected. The administrative costs shall be in addition to all penalties and interest, and shall not exceed \$30 for taxes or other charges collected subsequent to 30 or more days after notice of delinquent taxes or charges pursuant to §

[58.1-3919](#) but prior to the taking of any judgment with respect to such delinquent taxes or charges, and \$35 for taxes or other charges collected subsequent to judgment. If the collection activity is to collect on a nuisance abatement lien, the fee for administrative costs shall be \$150 or 25 percent of the cost, whichever is less; however, in no event shall the fee be less than \$25.

No tax assessment or tax bill shall be deemed delinquent and subject to the collection procedures prescribed herein during the pendency of any administrative appeal under § [58.1-3980](#), so long as the appeal is filed within 90 days of the date of the assessment, and for 30 days after the date of the final determination of the appeal, provided that nothing in this paragraph shall be construed to preclude the assessment or refund, following the final determination of such appeal, of such interest as otherwise may be provided by general law as to that portion of a tax bill that has remained unpaid or was overpaid during the pendency of such appeal and is determined in such appeal to be properly due and owing.

Code 1950, § 58-1020.1; 1982, c. 620; 1984, c. 675; 1991, c. 271; 1994, c. [932](#); 1995, c. [395](#); 1997, c. [496](#); 1998, c. [648](#); 1999, c. [389](#); 2000, cc. [389](#), [453](#); 2003, c. [170](#).

Chapter 836, 2017 Acts of Assembly (2017 Appropriation Act). Item 73. Compensation Board. Financial Assistance for Attorneys for the Commonwealth.

H. In accordance with the provisions of § [19.2-349](#), Code of Virginia, attorneys for the Commonwealth may employ individuals, or contract with private attorneys, private collection agencies, or other state or local agencies, to assist in collection of delinquent fines, costs, forfeitures, penalties, and restitution. If the attorney for the Commonwealth employs individuals, the costs associated with employing such individuals may be paid from the proceeds of the amounts collected provided that the cost is apportioned on a pro rata basis according to the amount collected which is due the state and that which is due the locality. If the attorney for the Commonwealth does not undertake collection, the attorney for the Commonwealth shall, as soon as practicable, take steps to ensure that any agreement or contract with an individual, attorney or agency complies with the terms of the current Master Guidelines Governing Collection of Unpaid Delinquent Court-Ordered Fines and Costs Pursuant to Virginia Code § [19.2-349](#) promulgated by the Office of the Attorney General, the Executive Secretary of the Supreme Court, the Department of Taxation, and the Compensation Board ("the Master Guidelines"). Notwithstanding any other provision of law, the delinquent amounts owed shall be increased by seventeen (17) percent to help offset the costs associated with employing such individuals or contracting with such agencies or individuals. If such increase would exceed the contracted collection agent's fee, then the delinquent amount owed shall be increased by the percentage or amount of the collection agent's fee. Effective July 1, 2015, as provided in § [19.2-349](#), Code of Virginia, treasurers not being compensated on a contingency basis as of January 1, 2015 shall be prohibited from being compensated on a contingency basis but shall instead be compensated for administrative costs pursuant to § [58.1-3958](#), Code of Virginia. Treasurers currently collecting a contingency fee shall be eligible to contract on a contingency fee basis. Effective July 1, 2015, any treasurer collecting a contingency fee shall retain only the expenses of collection, and the excess collection shall be divided between the state and the locality in the same manner as if the collection had been done by the attorney for the Commonwealth. The attorneys for the Commonwealth shall account for the amounts collected and the fees and costs associated with the collections consistent with procedures issued by the Auditor of Public Accounts.