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COMMONWEALTH OF VIRGINIA

Compensation Board

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

July 20, 2009

MEMORANDUM

TO: Clerks of the Circuit Court

FROM: Robyn M. de Socio, Executive Secretary

RE: FY09 Reporting of Fines and Fees

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 and penalties assessed, collected, and unpaid and those which remain unsatisfied.

Circuit Court Clerks. Please review the documents linked to this email at http://www.scb.virginia.gov/forms/clerks_fines_and_fees_packet.pdf and complete the policy statement with your signature, date, printed name and locality:

1. FY10 Policy Statement for Fines and Fees: Clerk of the Circuit Court;
2. Supreme Court Guidelines and Model Form Contract for the Collection of Unpaid Fines, Costs, Forfeitures, and Penalties by Private Contractors (dated January 14, 1999); and
3. Code of Virginia, § 19.2-349.

Fax the completed policy statement to Joe Kimec at (804) 371-0235 not later than Friday, July 31, 2009. A fax cover sheet has been provided for your convenience. If you have any questions or need additional information, please call Lisa Carson at (804) 225-3443 or email at lisa.carson@scb.virginia.gov.

For your convenience, these documents are located on the Compensation Board web site at <http://www.scb.virginia.gov/reports.html> under the header, Publications and Forms / Collection of Fines and Fees / Clerks: Fines and Fees Packet.

Attachments (4)

cc: Tom Roberts, President, Virginia Court Clerks Association
Charlene Rollins, Customer Service Manager, Compensation Board
Lisa J. Carson, Senior Policy Analyst, Compensation Board
Oliver Bradshaw, Audit Supervisor, Compensation Board
Joe Kimec, External Auditor, Compensation Board

FY10 Policy Statement for Fines and Fees: Clerk of the Circuit Court

Policy and Procedure

Code of Virginia

Pursuant to § 19.2-349A, Code of Virginia, 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 30 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 of the Supreme Court shall make the report required by this subsection on behalf of those clerks who participate in the Supreme Court's automated information system.

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 Circuit Court Clerk must take all measures under the law to ensure that all fines, costs, penalties, forfeitures, and restitution as ordered by the Court are paid in full.

Procedure

Circuit Court Clerks must follow these procedures to ensure the collection of fines and fees:

- All costs and fines assessed by the Court are due and payable in full at the time the Court pronounces judgment unless the Judge directs otherwise;
- Payment is made in full at the time of sentencing or a deferred payment date or an installment plan is established; and
- If the debtor is unable to pay the total amount due, the court follows an established procedure to ensure that the debtor understands the total dollar amount owed, the mechanics of making payments and the consequences of failing to pay as agreed.

Actions if the debtor fails to pay as agreed:

- Unpaid costs and fines constitute a judgment against the debtor in favor of the Commonwealth and are docketed as such;
- If the debtor fails either to pay in full by the agreed upon due date or to meet the obligations of the installment payment plan, the Clerk will file an abstract with the Department of Motor Vehicles to effect a suspension of the debtor's drivers license and the registration certificate and license plates of any automobile registered solely in the name of the debtor;
- At any point past the final judgment date and the exhaustion of appeals, the outstanding debt should be forwarded to the Commonwealth's Attorney or his/her designee; and
- No less frequently than annually, all outstanding debts are to be referred to the Department of Taxation's Debt Set-off program.

Effective Date

This policy was effective July 1, 1997 and amended on July 18, 2007. 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, and the Supreme Court Guidelines and Model Form Contract for the Collection of Unpaid Fines, Costs, Forfeitures, and Penalties by Private Contractors, dated January 14, 1999.

Printed Name of Clerk

Locality

Signature of Clerk

Date

**Please fill out form completely. Print the name of the Clerk of the Circuit Court, date and sign.
Fax to the attention of Joe Kimec, (804) 371-0235, not later than Friday, July 31, 2009.**

FAX

FY09 Fines and Fees

Date:	_____
	(not later than July 31, 2008)
To:	Joe Kimec Compensation Board 102 Governor Street Suite 120 Richmond, VA 23219
Phone:	(804) 225-3407
FAX:	(804) 371-0235
Number of Pages:	<input type="text"/> Including Cover sheet

From:	Clerk of the Circuit Court
Name:	_____
Contact Name:	_____
Locality:	_____
FIPS Code:	_____
Phone:	_____
FAX:	_____

Contents of FAX includes signed and dated forms:

- FY10 Policy Statement for Fines and Fees: Clerk of Circuit Court

Please provide contact person's name and phone number for the office of the Clerk of the Circuit Court.

Code of Virginia, § 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 30 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. 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 15 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.

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](#).

C. 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.)