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## COMMONWEALTH OF VIRGINIA

### *Compensation Board*

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

July 6, 2011

### MEMORANDUM

TO: Commonwealth's Attorneys

FROM: Robyn M. de Socio, Executive Secretary

RE: FY11 Reporting of Fines and Fees

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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.

**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 Collection Form (# 1) completed with information on the assessment and collection of delinquent fines and fees.

**All Commonwealth's Attorneys.** Please review the documents linked to this email at [http://www.scb.virginia.gov/forms/cas\\_fines\\_and\\_fees\\_packet.pdf](http://www.scb.virginia.gov/forms/cas_fines_and_fees_packet.pdf) and complete with your signature, date, printed name and locality:

1. FY11 Collection of Fines and Fees Form and Instructions (July 1, 2010 to June 30, 2011) completed and forwarded to you from your collection agent;
2. FY12 Policy Statement for Fines and Fees: Commonwealth's Attorney;
3. FY12 Election for Collection Method of Fines and Fees: Commonwealth's Attorney;
4. Code of Virginia, § 19.2-349.
5. 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

**Fax all three (3) completed forms to Charlene Rollins at (804) 371-0235 not later than Monday, August 15, 2011.** A fax cover sheet has been provided for your convenience. If you have any questions or need additional information, please call or email Charlene Rollins at (804) 225-3321 or [charlene.rollins@scb.virginia.gov](mailto:charlene.rollins@scb.virginia.gov).

FY11 Reporting of Fines and Fees

July 6, 2011

Page 2 of 2

If you fail to submit this data, the Compensation Board's report to the General Assembly will indicate a "did not report" status for your locality.

Thank you for your assistance.

cc: Charlene Rollins, Customer Service Manager, Compensation Board  
Karen Helderman, Judicial Systems, Auditor of Public Accounts  
Robert Harris, Director, Commonwealth's Attorneys' Services Council  
Robert Beasley, President, Virginia Association of Commonwealth's Attorneys  
Kathy Lohr, Department of Taxation  
Marita Winks, Department of Taxation  
Karl Hade, Supreme Court of Virginia  
Linda Curtis, City of Hampton  
David Zobel, Huff, Poole, and Mahoney  
Margaret Zimmerman, Old Dominion Recovery, LLC  
Cantor and Cantor  
David S. Hudson  
Fines Management, LTD  
Wallace S. Covington, III  
Glasser and Glasser  
Roland W. Dodson, LTD  
Quadros and Associates  
Parrish and Lebar

# FY11 Collection of Fines and Fees Form

Pursuant to § 19.2-349, Code of Virginia, Commonwealth's Attorney's Report to the Compensation Board for July 1, 2010 through June 30, 2011

Commonwealth's Attorney for: \_\_\_\_\_ city/county      Locality Code: \_\_\_\_\_

COURT	Column A Total Assessments of delinquent fines, costs, forfeitures, and penalties <b>(DO NOT include restitution)</b>	Column B Deleted or removed accounts	Column C PAID accounts as reported by Department of Taxation's Debt Set-Off Program	Column D Net Assessments  <i>(A - B - C = D)</i>	Column E Gross Collections of delinquent fines, costs, forfeitures, and penalties collected and deposited in this period <b>(DO NOT include restitution)</b>	Column F Collection Fee	Column G Net Collections  <i>(E - F = G)</i>
Circuit	\$	\$	\$	\$	\$	\$	\$
General District	\$	\$	\$	\$	\$	\$	\$
J & DR	\$	\$	\$	\$	\$	\$	\$
Combined	\$	\$	\$	\$	\$	\$	\$
Totals	\$	\$	\$	\$	\$	\$	\$

COURT	FY11 Collection Agent Name*	<u>IN-HOUSE Collections ONLY</u>		<p><i>Based on information provided to me by the courts and my collection program, I certify that this report is a true and accurate statement of the total fines and costs collected and deposited by me or on my behalf for the period stated above.</i></p> <p><b>Date:</b> _____</p> <p><b>Printed Name:</b> _____</p> <p><b>Signature:</b> _____</p> <p><b>*FY11 Collection Agent:</b> (fill in at bottom-left of form)</p> <p><input type="checkbox"/> DEPARTMENT OF TAXATION    <input type="checkbox"/> IN-HOUSE PROGRAM    <input type="checkbox"/> CITY / COUNTY TREASURER</p> <p><input type="checkbox"/> PRIVATE ATTORNEY (provide name)    <input type="checkbox"/> PRIVATE COLLECTION AGENT (provide name)</p>
Circuit		Total from Column F above	\$	
General District		Less: Expenses for collection efforts	\$	
J & DR		Surplus (deficit)	\$	
Combined		Locality / State Split of Surplus	\$	

## FY11 Collection of Fines and Fees Form

Pursuant to § 19.2-349, Code of Virginia, Commonwealth's Attorney's Report to the Compensation Board for July 1, 2010 through June 30, 2011

Please **TYPE** information on form. Fill out one form per locality (do not combine data for separate localities).

The Commonwealth's Attorney has discretion to delegate preparation of the fines and fees collection form to the collection agent or an employee of the office, but ultimately the Commonwealth's Attorney is responsible for the content of the form. The Auditor of Public Accounts reviews these forms on an annual basis; therefore, all information used to prepare the form should be kept available.

*For General District Court reporting, please combine separate divisions into one general district amount and submit one form.*

- Column A:** Enter the total amount of **assessments** for delinquent fines, costs, forfeitures, and penalties during this reporting period (as taken from the Supreme Court's Financial Management System BR022 spreadsheet, "Receivable Balances, Total Sent to Collections, and Collections Ratios", June 2011 report).
- Column B:** Enter the amount of **accounts manually removed** by the Clerk of the Court. The Commonwealth's Attorney should approve amounts manually removed. Supporting documentation, including the reason for the removal, should be maintained for auditing purposes.
- Column C:** Enter the amount of **accounts reported as "paid"** by the Department of Taxation's Debt Set-Off program (provided by the Clerk of the Court).
- Column D:** Enter the Subtotal. This subtotal represents **net assessments**. Column A minus Column B minus Column C ( $A - B - C = D$ ).
- Column E:** Enter the total amount of **gross collections** of delinquent fines, costs, forfeitures, and penalties collected and deposited by your office in the reporting period (as provided by the Department of Taxation, your In-House program, Treasurer, private attorney or private collection agent). **DO NOT INCLUDE RESTITUTION ON THIS FORM.**
- Column F:** Enter the **fee for collection services**. If your office is charged a flat fee for collecting fines and fees, enter that amount in this column.
- Column G:** Enter the **net collections** that were deposited to the court. Column E minus Column F ( $E - F = G$ ). Reconcile to the Clerk of the Court's records.

**Collection Agent to fill out form completely and accurately. Commonwealth's Attorney to print name and provide the date and signature.  
Fax to the attention of Charlene Rollins, Compensation Board (804) 371-0235, not later than Monday, August, 15, 2011.**

**FY12 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 pays fees to an outside collection agent on a contingency fee basis out the proceeds of the amounts collected.

The Department of Taxation and the Compensation Board shall establish procedures to be followed by court clerks, Commonwealth's Attorneys, other state agencies 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.

**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. 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 Commonwealth's Attorney

\_\_\_\_\_  
Locality

\_\_\_\_\_  
Signature of Commonwealth's Attorney

\_\_\_\_\_  
Date

**Commonwealth's Attorney to fill out form completely and accurately. Commonwealth's Attorney to print name and provide the date and signature. Fax to the attention of Charlene Rollins, Compensation Board (804) 371-0235, not later than Monday, August, 15, 2011.**

**FY12 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 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.
- 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.

FY12				
Court	Collection Method		Contract or MOU	
	A: CHOOSE ONLY ONE PER COURT:		B:	C:
	<ul style="list-style-type: none"> <li>Department of Taxation</li> <li>In-House Program</li> <li>Private Attorney (provide name)</li> <li>Private Collection Agent (provide name)</li> <li>City / County Treasurer</li> </ul>		Contract Date	Fee for Collection Services
	<b>Provide Name:</b>		<b>Month &amp; Year:</b>	<b>Percentage:</b>
SAMPLE	<i>Treasurer - Jane G. Doe</i>		<i>Oct 2004</i>	<i>21%</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 of the Collection Method Form to the following:**

- |   |  |  |
|---|--|--|
| <p>i.      Circuit, District, Juvenile and Domestic Relations Courts of your Locality</p> | <p>ii.     Supreme Court of Virginia<br/>100 North Ninth Street<br/>Richmond, VA 23219</p> | <p>iii.    Department of Taxation<br/>P. O. Box 2402<br/>Richmond, VA 23218-2402</p> |
|---|--|--|

**Commonwealth's Attorney to fill out form completely and accurately. Commonwealth's Attorney to print name and provide the date and signature. Fax to the attention of Charlene Rollins, Compensation Board (804) 371-0235, not later than Monday, August, 15, 2011.**

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# FAX

## FY11 Fines and Fees

<b>Date:</b>	_____
	(not later than August 15, 2011)
<b>To:</b>	<b>Charlene Rollins</b> Compensation Board 102 Governor Street Suite 120 Richmond, VA 23219
<b>Phone:</b>	(804) 225-3321
<b>FAX:</b>	(804) 371-0235
<b>Number of Pages:</b>	<input type="text"/>
	Including Cover sheet

<b>From:</b>	<b>Commonwealth's Attorney</b>
<b>Name:</b>	_____
<b>Contact Name:</b>	_____
<b>Locality:</b>	_____
<b>Locality Code:</b>	_____
<b>Phone:</b>	_____
<b>FAX:</b>	_____

Contents of FAX includes 3 completed, signed and dated forms:

- FY11 Collection of Fines and Fees Form: Report by the Commonwealth's Attorney for July 1, 2010 - June 30, 2011
- FY12 Policy Statement for Fines and Fees: Commonwealth's Attorney
- FY12 Election for Collection Method of Fines and Fees: Commonwealth's Attorney

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

**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.