



**South Carolina Court Administration**  
South Carolina Supreme Court  
Columbia, South Carolina

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**MEMORANDUM**

TO: Clerks of Court and Summary Court Judges

FROM: Robert L. McCurdy, Assistant Director

RE: Estreatments; 4% Handling Fee

DATE: September 22, 2010

This Office has been asked to provide guidance regarding the time of collection of the 4% handling fee when a bond estreatment is paid in installments. §38-53-70 provides that the court, in its discretion, may permit a surety to pay an estreatment in installments for a period of up to six months; however, the surety shall pay a handling held fee to the court in an amount equal to 4% of the value of the bond. The statute further provides that if at any time during the period in which installments are to be paid the defendant is surrendered to the appropriate detention facility and the surety company complies with the recommitment procedures, the surety is relieved of further liability.

We would recommend that 4% of **each** installment payment be allocated to the 4% handling fee, rather than requiring a surety to pay the entire 4% in a lump sum at the beginning of the installment period. This appears to be an equitable solution, given that the surety is relieved of further liability upon surrender of the defendant, and would forfeit a partial amount of the unused handling fee upon early surrender of the defendant. Pursuant to Order of the Chief Justice dated November 14, 2002, when an estreatment is paid in installments, the 4% handling fee must be distributed pursuant to § 17-15-260, in the normal course of distribution of the estreated bond.

Please be reminded that a surety is required to pay 4% **only** in the case of installment payments. If the court simply gives the surety a specified amount of time to pay the entire estreatment in one lump sum payment, the 4% handling fee would not apply.

Should you have questions in this matter, please do not hesitate to contact this Office.

RLM/mhb

Cc: Solicitors  
Department of Insurance