

May 28, 2013
OPINION 13-0049

46 A FEES & COSTS
La. R.S. 15:571.11

Ms. Jessica J. Brewster
Assistant District Attorney
22nd Judicial District
701 North Columbia Street
Covington, LA 70433

Under La. R.S. 15:571.11(L), judgments of bond forfeiture that are rendered after June 22, 1993, and result from the posting of a commercial surety bond in a criminal proceeding in the state of Louisiana may not be collected by the clerk of court. Those judgments must be collected by the prosecuting attorney for the jurisdiction in which the bond was posted.

Dear Ms. Brewster:

Your request for an Attorney General's Opinion has been assigned to me for research and reply. Specifically, you ask whether, under La. R.S. 15:571.11(O), judgments of bond forfeiture, rendered after June 22, 1993, and resulting from the posting of a commercial surety bond in a criminal proceeding in the state of Louisiana, may be collected by the clerk of court.

First, we note that La. R.S. 15:571.11(L) provides, in pertinent part, as follows:

All judgments of bond forfeiture rendered after June 22, 1993, resulting from the posting of a commercial surety bond in a criminal proceeding in the state of Louisiana upon collection by the prosecuting attorney for the jurisdiction in which the bond was posted shall be paid to the prosecuting attorney who shall, as attorney of record in the proceeding, distribute the funds as follows...

Additionally, La. R.S. 15:571.11(O) provides, in pertinent part, the following:

Sheriffs and executive officers of any court in the state may accept payment for all fines, forfeitures, penalties, and costs by means of credit card, electronic fund transfer, money order, bank check, teller's check, cashier's check, traveler's check, electronic fund transfer terminal, electronic financial terminal, automated banking device, or similar device or terminal...

Notably, under La. R.S. 15:571.11(L), the prosecuting attorney for the jurisdiction in which the bond was posted must collect judgments of bond forfeiture rendered after

June 22, 1993, resulting from the posting of a commercial surety bond in a criminal proceeding. On the other hand, La. R.S. 15:571.11(O) merely permits sheriffs and executive officers of any court to accept certain means of payment for all fines, forfeitures, penalties, and costs. That statute does not grant the power to collect judgments of bond forfeiture to the executive officers of any court.

Thus, it is the opinion of this office that, under La. R.S. 15:571.11(L), judgments of bond forfeiture that are rendered after June 22, 1993, and result from the posting of a commercial surety bond in a criminal proceeding in the state of Louisiana, may not be collected by the clerk of court. Those judgments must be collected by the prosecuting attorney for the jurisdiction in which the bond was posted.

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

Yours very truly,

JAMES D. "BUDDY" CALDWELL
Attorney General

By:

BENJAMIN A. HUXEN II
Assistant Attorney General

JDC/BAH II

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Syllabus

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Date Received:

Date Released: May 28, 2013

Benjamin A. Huxen II
Assistant Attorney General