

## STATE ADMINISTRATION OF JUSTICE FUND

### Rule 2009-2

This rule is promulgated pursuant to Ark. Code Ann. § 25-15-204, to administer the provisions of Ark. Code Ann. § 16-10-301 et seq., specifically Ark. Code Ann. § 16-10-306 and 16-10-309, pertaining to the duties of the Administration of Justice Fund Section of the Department of Finance and Administration (AOJF Section) to collect and administer the fees, fines, and court costs that are required to be remitted by towns, cities, or counties to the AOJF Section and deposited to the State Administration of Justice Fund and various state agencies. This rule also applies to those payments required by Ark. Code Ann. § 16-17-1106 to be submitted to the AOJF Section by those towns, cities and counties participating in the Pilot State District Court Judges' Program.

#### A. FILING FEES AND COURT COSTS

1. Filing fees and court costs for each type of case filed in general and limited jurisdiction courts in Arkansas are uniform and are assessed according to law.
2. All court costs and filing fees for initiation or reopening a cause of action in the circuit courts or transferring a case from any district or circuit court to a circuit court (Ark. Code Ann. § 21-6-403); initiating a cause of action in district court (Ark. Code Ann. § 16-17-705); initiating a civil cause of action in city court (Ark. Code Ann. § 16-10-303); and court costs (Ark. Code Ann. § 16-10-305) that are assessed and collected in the city courts, district courts, and circuit courts in Arkansas are required to be remitted to the AOJF Section after deduction of an amount that is allowed by law to be retained to defray costs of administration of justice.
3. Each county treasurer maintains the county administration of justice fund. Each county is required to remit all sums received from initiating or reopening a cause of action in the circuit courts or transferring a case from any district or circuit court to a circuit court, and court costs that were collected during the previous month less the amounts the county is allowed by law to retain to defray a part of the county administration of justice expenses. The net amount (amount collected minus amount retained) shall be remitted to the AOJF Section on or before the fifteenth (15<sup>th</sup>) day of the month following the month in which the fees were collected. This remittance amount will be supported by the Uniform Filing Fees Collection Remittance Form and Fine Report provided by the AOJF Section.
4. The city treasurer of each municipality that operates a city or district court maintains the city administration of justice fund. Each city is required to remit all sums received from initiating a cause of action in district court, initiating a cause of action in city court, and court costs that were collected during the previous month less the amounts the city is allowed by law to retain to defray a part of the city administration of justice expenses. The net amount (amount collected minus amount retained) shall be remitted to the AOJF

Section on or before the fifteenth (15<sup>th</sup>) day of the month following the month in which the fees were collected. This remittance amount will be supported by the Uniform Filing Fees Collection Remittance Form and Fine Report provided by the AOJF Section.

**B. FINES AND OTHER MISCELLANEOUS FEES.** Certain statutory fines and fees are collected by city courts, district courts, and circuit courts in Arkansas. Each town, city, or county that collects these fines or fees is required to remit the fines or fees collected during the previous month to the AOJF Section on or before the tenth (10<sup>th</sup>) day of the month following the month in which the fines or fees were collected. This remittance amount will be supported by the Miscellaneous Fee/Fine Collection Report provided by the AOJF Section. These fines or fees include the following statutory fees and fines, and any fines and fees that are subsequently required by law to be remitted to the AOJF Section:

1. DNA Detection Fund, Ark. Code Ann. § 12-12-1118;
2. Sex and Child Offenders Registration Fund, Ark. Code Ann. § 12-12-910;
3. Installment Payment Fees, (Judicial Fine Collection Enhancement Fund), Ark. Code Ann. § 16-13-704;
4. Unlawful Littering to Keep Arkansas Beautiful Fund, Ark. Code Ann. § 8-6-404(d)(2);
5. State Capitol Police Enforcement Fines, Ark. Code Ann. § 12-14-105;
6. Used Motor Vehicle Buyers Protection Act Fines, Ark. Code Ann. § 23-112-603(c)(1);
7. Fines for Failure to Register Vehicle Over 60 Days, Ark. Code Ann. § 27-14-314(c) (Repealed by Act 633 of 2009 effective July 31, 2009);
8. Illegal Parking in Area for Disabled Fines, Ark. Code Ann. § 27-15-305;
9. Fines for No Liability Insurance, Ark. Code Ann. § 27-22-103(c)(1);
10. Child Passenger Protection Fund, Ark. Code Ann. § 27-34-107;
11. Fines for Large Truck Exceeding Speed Limit, Ark. Code Ann. § 27-50-311(e);
12. Fines for Large Truck Z-Tickets Safety Violations, Ark. Code Ann. § 23-13-264;
13. Fines for Failure to License and Register Vehicle, Ark. Code Ann. § 27-14-601(e)(2);
14. Fees and Penalties for Overweight/Over Length Trucks, Ark. Code Ann. § 27-35-211;
15. Fines for Fraudulently Obtaining or Applying for a Commercial Motor Vehicle License, Ark. Code Ann. § 27-23-114(h)(2);

16. Fines for Illegally Operating a Tow Vehicle, Ark. Code Ann. § 27-50-1212(d);
17. Drug Crime Special Assessment, Ark. Code Ann. § 12-17-106;
18. Fines for Violation of Federal Unified Carrier Registration Act of 2005, Ark. Code Ann. § 23-13-605(d)(1); and
19. Court Technology Fees for Judicial Fine Collection Enhancement Fund, Ark. Code Ann. § 21-6-416(b).

C. PILOT STATE DISTRICT COURT JUDGES' PROGRAM.

1. The state shall pay the salary and benefits of pilot state district court judges;
2. Each town, city and county that has a pilot state district court judgeship created shall pay to the state an amount equal to its proportionate share of one-half (1/2) of the base salary established by law;
3. Payments will be remitted to the AOJF Section beginning on the fifteenth (15<sup>th</sup>) day of the first month that the town, city or county is participating in the pilot state district court judges' program and will be supported by the form prescribed by the AOJF Section;
4. Payments may be made on an annual, semi-annual, quarterly, or monthly basis, whichever best suits the need of the submitting town, city or county.

D. NOTICES. When any town, city, or county fails to timely report and/or remit the required fees, fines, or court costs, the AOJF Section will send notices to the mayor, district judge, district court clerk, circuit clerk, or other town, city, or county personnel stating which report and/or funds have not been received. When any town, city, or county fails to timely report and/or remit the required payments on the pilot state district court judges' program, the AOJF Section will send notices to the county judge, county treasurer, city or town mayor, city or town treasurer or other town, city, or county personnel stating which report and/or funds have not been received.

1. If the AOJF Section does not receive the funds and/or reports required by law to be remitted within five (5) days of the statutory due date, the Fiscal Support Specialist will contact the individual responsible for submitting the required funds and/or reports to let them know which reports and/or funds have not been received. This contact may be by telephone, fax, email, or letter and will be documented in the AOJF Section files. If the required funds and/or reports are received within thirty (30) days of the statutory due date, no further action is required.
2. If the AOJF Section does not receive the funds and/or reports required by law to be remitted within thirty (30) days of the statutory due date, the Fiscal Support Analyst will send a first-notice letter to the mayor, district judge, district court clerk, circuit clerk, or other town, city, or county personnel, stating which report and/or funds have not been received. The town, city, or county will have thirty (30) days from the date of the first-

notice letter to remit the required funds and/or reports. If the required reports and funds are received in the AOJF Section within the thirty (30) days of the first-notice letter, no further notices will be sent.

3. If the AOJF Section does not receive the funds and/or reports within thirty (30) days of the date of the first-notice letter, the Program Manager will send a second-notice letter to the mayor, district judge, district court clerk, circuit clerk, or other town, city, or county personnel notifying the town, city, or county that the Chief Fiscal Officer of the State may withhold from the town's, city's, or county's share of the state turnback funds until the delinquent funds have been paid. The town, city, or county will have thirty (30) days from the date of the second-notice letter to report and remit the funds before turnback withholding begins.
4. In all instances where second-notice letters are sent to cities that are operating a City Court, a copy of the letter will also be forwarded to the Legislative Joint Auditing Committee. In accordance with Act 488 of 2009, this will be their notice that the Department of Finance and Administration has determined that the city court is not in substantial compliance with Ark. Code Ann. § 16-10-306 or § 16-10-308.
5. If the required funds and/or reports are not received within thirty (30) days of the second-notice letter, or there is not otherwise an acceptable response to the AOJF Section in response to the second-notice letter, the Chief Fiscal Officer of the State will send a third-notice letter stating that in accordance with Ark. Code Ann. § 16-10-309 the town's, city's, or county's share of turnback funds will be withheld from month to month until the reports and funds required to be paid have been received in the AOJF Section.
  - a. If a town, city, or county makes full payment of the delinquent funds and files all required reports, but again becomes delinquent in submitting the funds and/or reports required by law during the six (6) month period immediately following payment in full, the Chief Fiscal Officer of the State may immediately implement withholding of the town's, city's, or county's share of the turnback funds without further notification.
  - b. If a town, city, or county makes full payment of the delinquent funds and files all required reports, but again becomes delinquent in submitting the funds and/or reports more than six (6) months following payment in full, the AOJF Section will follow the notification process as outlined in subdivisions 1 through 5 of section C of this rule before withholding turnback funds.

**E. JUDICIAL REMEDIES TO COLLECT DELINQUENT FUNDS.** The Chief Fiscal Officer of the State may request that the Attorney General file a civil suit in circuit court against the town, city, or county that fails to comply with the provisions of Ark. Code Ann. § 16-10-309. The action may be brought in the circuit court of the subject county or the Circuit Court of Pulaski County. If the town, city, or county is found by the court to have failed to submit the required funds and reports, the court shall impose a civil penalty on such town, city, or county of ten percent (10%) of the amount required to be remitted for the period of time the town, city, or county has failed to be in compliance. The Attorney General shall be allowed to recover costs

and attorney's fees associated with the civil suit from the town, city, or county found to have failed to be in compliance. Turnback funds that are being withheld at the time the lawsuit is filed will continue to be withheld pending resolution of the action.

IN WITNESS WHEREOF, we have hereunto set our hands this \_\_\_\_\_ day of July 2009.

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RICHARD A. WEISS, Director  
Arkansas Dept. of Finance & Administration

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TIM LEATHERS, Deputy Director  
and Commissioner of Revenue