



ROLAND W. BURRIS
ATTORNEY GENERAL
STATE OF ILLINOIS

April 22, 1992

FILE NO. 92-008

FEES:

Use of Proceeds from Fees
Collected by the County Clerk,
County Recorder and Circuit Clerk

Honorable Daniel A. Fish
State's Attorney, Lee County
Lee County Courts Building
Post Office Box 462
Dixon, Illinois 61021

Dear Mr. Fish:

I have your letter wherein you inquire, firstly, whether separate fees are to be collected by the clerk of the circuit court under subsection 27.1(u)(3), and sections 27.3a and 27.3c, of the Clerks of Courts Act (Ill. Rev. Stat. 1990 Supp., ch. 25, par. 27.1(u)(3), as amended by Public Acts 87-381, effective January 1, 1992; 87-435, effective September 10, 1991; 87-670, effective January 1, 1992; 87-828, effective December 30, 1991; Ill. Rev. Stat. 1989, ch. 25, par. 27.3a, as amended by Public Acts 87-669, effective January 1,

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1992; 87-670, effective January 1, 1992; 87-671, effective January 1, 1992; 87-828, effective December 31, 1991; Ill. Rev. Stat. 1990 Supp., par. 27.3c, as amended by Public Act 87-670, effective January 1, 1992), and secondly, whether the proceeds of the fees collected under those sections of the Clerks of Courts Act and sections 3-5018 and 4-4001 of the Counties Code (Ill. Rev. Stat. 1990 Supp., ch. 34, par. 3-5018; Ill. Rev. Stat. 1989, ch. 34, par. 4-4001) may be used to compensate personnel who enter data into the various record and document storage systems involved. For the reasons hereinafter stated, it is my opinion, in response to your first inquiry, that the circuit clerk is authorized to collect three distinct and separate fees under subsection 27.1(u)(3) and sections 27.3a and 27.3c of the Clerks of Courts Act. Further, it is my opinion that the proceeds of the specified fees collected by the various county and court officers may be used to compensate data entry personnel who are engaged in entering data into the specific systems to which the fees relate.

With respect to your first question, subsection 27.1(u)(3) of the Clerks of Courts Act provides:

" * * *

(3) In maintenance and child support matters, the Clerk may deduct from each payment an amount equal to the United States postage to be used in mailing the maintenance or child support check to the recipient. In such cases, the Clerk shall collect an annual fee of up to \$36 from the person making such payment for

administering the collection and distribution of maintenance and child support payments. Such sum shall be in addition to and separate from amounts ordered to be paid as maintenance or child support and shall be deposited in a separate Maintenance and Child Support Collection Fund of which the clerk shall be the custodian, ex officio, to be used by the clerk to further maintenance and child support collection efforts in his office. Unless paid in cash or pursuant to an order for withholding, the payment of the fee shall be by a separate instrument from the support payment and shall be made to the order of the Clerk.

* * *

"

(Emphasis added.)

Subsection 27.1(u)(3) of the Clerks of Courts Act authorizes the imposition of a service fee to defray the costs of collecting maintenance and child support payments. (Ill. Att'y Gen. Op. 91-024, issued June 6, 1991.) Nothing in the language of the section indicates that the collection of the maintenance and child support service fee precludes the collection of any other fees by the circuit clerk, or that the service fee may not be collected if other fees are imposed.

Section 27.3a of the Clerks of Courts Act provides, in pertinent part:

"1. The expense of establishing and maintaining automated record keeping systems in the offices of the clerks of the circuit court shall be borne by the county. To defray such expense in any county having established such an automated system or which elects to establish such a system, the county board may require the clerk of the circuit court in their county to charge and collect a court automation fee of not less than \$1 nor more than \$5 to be charged and collected by the clerk of the court. Such fee

shall be paid at the time of filing the first pleading, paper or other appearance filed by each party * * * provided that the record keeping system which processes the case category for which the fee is charged is automated or has been approved for automation by the county board * * *.

* * *

3. Such fees shall be in addition to all other fees and charges of such clerks, and assessable as costs, and may be waived only if the judge specifically provides for the waiver of the court automation fee. * * * The fund shall be audited by the county auditor, and the board shall make expenditure from the fund in payment of any cost related to the automation of court records, including hardware, software, research and development costs and personnel related thereto, provided that the expenditure is approved by the clerk of the court and by the chief judge of the circuit court or his designate.

* * *

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(Emphasis added.)

Section 27.3a of the Clerks of Courts Act permits a county board to authorize the collection of a court automation fee, which is intended to provide a source of funding for the automation of the circuit court clerk's record-keeping system. (Ill. Att'y Gen. Op. 85-012, issued July 18, 1985.) The language of section 27.3a of the Act expressly provides that the court automation fee, if imposed, is to be collected in addition to any other fees which may be levied under State law or by county ordinance.

Similarly, section 27.3c of the Clerks of Courts Act provides, in pertinent part:

"(a) The expense of establishing and maintaining a document storage system in the

offices of the circuit court clerks in the several counties of this State shall be borne by the county. To defray the expense in any county that elects to establish a document storage system and convert the records of the circuit court clerk to electronic or micrographic storage, the county board may require the clerk of the circuit court in its county to collect a court document fee of not less than \$1 nor more than \$5, to be charged and collected by the clerk of the court. The fee shall be paid at the time of filing the first pleading, paper, or other appearance filed by each party * * *, provided that the document storage system is in place or has been authorized by the county board and further that no additional fee shall be required if more than one party is presented in a single pleading, paper, or other appearance * * *.

* * *

Court document fees shall be in addition to other fees and charges of the clerk, shall be assessable as costs, and may be waived only if the judge specifically provides for the waiver of the court document storage fee. * * * The fund shall be audited by the county auditor, and the board shall make expenditures from the fund in payment of any costs relative to the storage of court records, including hardware, software, research and development costs, and related personnel, provided that the expenditure is approved by the clerk of the circuit court.

* * *

"

(Emphasis added.)

Section 27.3c of the Act provides for the collection of a document storage fee by the circuit clerk, to fund the expenses of electronic or micrographic storage of those documents which are filed with the circuit clerk. The language of section 27.3c expressly provides that the document storage

fee is to be assessed in addition to other fees collected by the clerk.

From the language of the statutes set out above, it is apparent that the General Assembly has determined that additional funding is necessary for the circuit clerk to administer the maintenance and child support payment system, and has authorized the collection by the circuit clerk of an annual fee relating thereto. In addition, the General Assembly has authorized each county board to assess two separate and distinct fees for modernizing the records system in the circuit clerk's office, and, by express provision, has determined that each fee is to be collected in addition to all other fees levied. When statutory language is clear and unambiguous, a statute should be given effect in accordance with its plain meaning. (People v. Drakeford (1990), 139 Ill. 2d 206, 214.) Therefore, because the General Assembly has expressly provided for the imposition of a maintenance and child support fee, a court automation fee and a document storage fee, in addition to all other fees imposed, it is my opinion that three separate and distinct fees may be collected by the circuit clerk pursuant to subsection 27.1(u)(3) and sections 27.3a and 27.3c of the Clerks of Courts Act.

Your second question relates to the use of the proceeds of fees collected by the clerk of the circuit court,

the county clerk and the county recorder to fund the compensation of personnel who enter data into the various record and document storage systems maintained in these offices. As noted above, subsection 27.1(u)(3) of the Clerks of Courts Act authorizes the imposition of an annual fee "* * *" to be used by the clerk to further maintenance and child support collection efforts in his office". The employment of personnel to enter data into the clerk's maintenance and child support electronic data processing system would clearly be in furtherance of the clerk's duty to track maintenance and child support payments. Consequently, it is my opinion that the proceeds from the fee authorized by subsection 27.1(u)(3) of the Act may be used as a source of compensation for data entry personnel engaged in entering data into the clerk's maintenance and child support records.

Section 27.3a of the Clerks of Courts Act authorizes the county board to impose a fee for the automation of the circuit clerk's records. Upon collection, the fees are to be deposited into a special fund from which the board shall make expenditures "* * *" in payment of any cost related to automation of court records, including hardware, software, research and development costs and personnel related thereto * * *". Under the quoted language, express provision is made for disbursements to cover personnel costs related to the automation of court records. Although the term "automation" is

not defined in the Act, a statutory term which is not defined must be given its ordinary and popularly-understood meaning. (Union Electric Co. v. Department of Revenue (1990), 136 Ill. 2d 385, 397.) The term "automation" commonly refers to the process of using mechanical or electronic devices to replace manual labor in doing routine or repetitive work. (See, Webster's New World Dictionary (Second College Edition, 1982), at 95.) To the extent that data entry is a necessary function of implementing and maintaining an automated record keeping system, it is my opinion that data entry personnel may be compensated from the court automation fund created under section 27.3a of the Clerks of Courts Act.

You have also asked whether the payment of compensation for those persons entering data into the clerk's document storage system may be paid from the proceeds of the court records fee imposed under section 27.3c of the Clerk of Courts Act. As previously noted, section 27.3c of the Act authorizes the county board to make expenditures from the special fund into which those fees are deposited "* * * in payment of any costs relative to the storage of court records, including hardware, software, research and development costs, and related personnel * * *". It is a primary rule in the interpretation and construction of statutes that legislative language must be given its plain and ordinary meaning. (Schutzenhofer v. Granite City Steel Co. (1982), 98 Ill. 2d 208, 211-212.) The

language of section 27.3c of the Act specifically contemplates that the proceeds of these fees are to be used, inter alia, for the payment of personnel costs related to the implementation and maintenance of an electronic document storage system. Therefore, to the extent that data entry personnel are engaged in acts which are in furtherance of establishing and maintaining the clerk's electronic document storage system, it is my opinion that the data entry personnel may be compensated from the proceeds of fees collected under the authority of section 27.3c of the Clerks of Courts Act.

You next inquire whether the proceeds of fees collected pursuant to section 3-5018 of the Counties Code (Ill. Rev. Stat. 1990 Supp., ch. 34, par. 3-5018) may be used to compensate data entry personnel in the county recorder's office. Section 3-5018 of the Code provides, in pertinent part:

" * * *

The county board of any county may provide for an additional charge of \$3 for filing every instrument, paper, or notice for record, in order to defray the cost of converting the county recorder's document storage system to computers or micrographics.

A special fund shall be set up by the treasurer of the county and such funds collected pursuant to Public Act 83-1321 shall be used solely for a document storage system to provide the equipment, materials and necessary expenses incurred to help defray the costs of implementing and maintaining such a document records system.

* * *

(Emphasis added.)

Under the language of section 3-5018 of the Code, a county board may impose an additional charge of \$3 on each document filed with the county recorder. The monies collected are to be deposited into a special fund, the proceeds of which are to be used solely to cover the costs and necessary expenses incurred by the recorder in implementing and maintaining a document storage system.

In order to convert the county recorder's documents to computers or micrographics, some person or persons must enter the information into the computer or micrographic system. Thus, services of data entry personnel are necessary to implement and maintain the system. Therefore, to the extent that data entry personnel are engaged in entering information into the recorder's document storage system, it is my opinion that their compensation may properly be paid from the proceeds of the document storage system fee.

Lastly, you have inquired whether the salaries of data entry personnel may be paid from the proceeds of fees collected by a county clerk pursuant to section 4-4001 of the Counties Code (Ill. Rev. Stat. 1989, ch. 34, par. 4-4001), which provides, in pertinent part:

" * * *

The county board of any county of the first or second class may by ordinance authorize the county clerk to impose an additional \$2 charge for certified copies of vital records as defined

in Section 1 of the Vital Records Act, for the sole purpose of defraying the cost of converting the county clerk's document storage system for vital records as defined in Section 1 of the Vital Records Act to computers or micrographics, and for maintaining such system.

* * *

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(Emphasis added.)

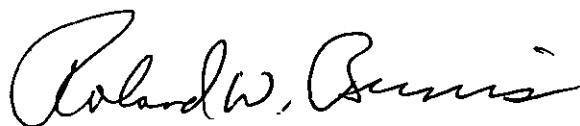
Section 4-4001 of the Code clearly authorizes the imposition of a fee to be used "for the sole purpose of defraying the cost of converting the county clerk's document storage system for vital records * * * to computers or micrographics * * *". Payment for clerical support for the purpose of converting the records of the clerk's office to a computer system would be a permissible use of the money. Therefore, assuming that the data entry personnel in question are entering information into the computer system for the purpose of assisting in the conversion of the county clerk's vital records document storage system to computers or micrographics, it is my opinion that the proceeds from fees collected under section 4-4001 of the Code may be used to compensate data entry personnel.

I would further note, however, that while I have concluded that data entry personnel may be compensated from the proceeds of the fees set forth above, the use of the proceeds of the specified fees is limited to the specific purposes for which the fees are imposed. Therefore, the proceeds are not available for compensating data entry personnel for entering

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data into systems other than those to which each fee relates, or for performing acts which are not in furtherance of the specified statutory purpose. Consequently, if a data entry employee provides services other than those which are compensable from the proceeds of the fees in question, the portion of the employee's compensation representing time expended in other activities must be paid from other funding sources.

Respectfully yours,

A handwritten signature in cursive script that reads "Roland W. Burris". The signature is written in dark ink and is centered below the closing phrase.

ROLAND W. BURRIS
ATTORNEY GENERAL