

OFFICE OF THE ATTORNEY GENERAL

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District Attorneys - Worthless
Checks - Fees

District Attorneys may
requisition entire 65% of
worthless check fund at one
time and place it in District
Attorneys fund.

County is to receive 35% of the
worthless check fund for admin-
istration and operation costs.
Any surplus may be used by the
District Attorney for the
worthless check unit.

Dear Mr. Carlton:

Reference is made to your request for an opinion from the
Attorney General regarding the distribution of fees collected
from the processing of worthless checks by district attorneys
under Code of Alabama 1975, Section 12-17-224. The following
questions were set out in your request:

"The implementation of Act 84-704
regarding the establishment of Special
Service Divisions in District Attorneys'
offices raises the following questions:

1. May District Attorneys requisition
the entire 65% (as opposed to a
part thereof) of the funds author-
ized by Act 84-704 and deposit said

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funds into the District Attorneys fund or other funds which would be subject to audit by the Examiners of Public Accounts?

2. Act 84-704 authorizes counties to use 35% for 'the reasonable expenses incurred in the administration' of the Worthless Check program. For what expense does this section authorize payment?"

Your first question is to be answered in the affirmative.

Act No. 84-704, 1984 First Special Session of the Legislature is codified at Code of Alabama 1975, Section 12-17-224 and authorizes the district attorneys of this state to establish a special services division with a worthless check unit in each division. Regarding the collection and distribution of fees collected by the worthless check unit, Section 12-17-224(a)(2)e.2.(iii) provides:

Fees. -- All fees or charges, other than court costs, collected by the worthless check unit in accordance with this section shall be paid to the county treasurer of said county in a fund to be known as the worthless check fund. Sixty-five percent of funds collected pursuant to subsection (a)(2)e.1.(i)I of this section shall be used and expended by the district attorney to defray the reasonable expenses incurred by the office of the district attorney. The district attorney is hereby authorized to requisition and expend these funds for those purposes. The treasurer of the county shall make disbursements of said funds upon requisition of the district attorney. Provided further this paragraph shall not reduce the amount payable to the district attorney under any local act, specifically Act No. 83-483. Thirty-five percent of said funds shall be used by the county for the reasonable expenses incurred in the administration of said program. All of the funds collected pursuant to subsections (a)(2)e.1.(i)II and (a)(2)e.1.(ii) shall be deposited in the general fund of the county

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and shall be expended only for the reasonable and necessary expenses of law enforcement.

The above provision states that the fees and charges other than court costs collected by the worthless check unit shall be paid to the county treasury and placed in a fund known as the worthless check fund. Sixty-five percent (65%) of these funds shall be spent by the district attorney to defray reasonable expenses incurred by his office. The district attorney is to requisition the funds for this purpose. The provision further provides that the county treasurer is to make disbursements of such funds when requisitioned by the district attorney. It is the opinion of the Attorney General that the language of the above provision permits a District Attorney to requisition the entire 65% of the worthless check fund and deposit it into the District Attorneys fund or some other fund which is subject to audit by the Examiners of Public Accounts.

Turning to your second question, Section 12-17-224(a)(2)e.2 (iii) as quoted above states that thirty-five percent (35%) of the fees and charges collected by the worthless check unit shall be used by the county for reasonable expenses occurring in the administration of the worthless check program. Thus, any expenses incurred by the county in the operation or administration of such program are to be paid out of the 35% portion of the worthless check fund. However, any surplus which may occur after paying the expenses of administering the program by the county may be used by the district attorney for the worthless check unit.

I hope your questions have been adequately answered.

If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

CHARLES A. GRADDICK
Attorney General

By:



LYNDA K. OSWALD
Assistant Attorney General