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VIA FACSIMILE AND U.S. MAIL:

October 18, 2010

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David R. Williams  
Executive Director  
Georgia Superior Court Clerks' Cooperative Authority  
Suite 100  
1875 Century Boulevard  
Atlanta, Georgia 30345

Re: Government Payments for Certificates of Appointment and  
Reappointment of Notaries Public

Dear Mr. Williams:

This responds to your request for informal advice regarding House Bill 1055, Act No. 360. Your request concerns the application of O.C.G.A. § 15-21A-6.1, as enacted by House Bill 1055, to applications for certificates of appointment and reappointment by notaries public where the relevant fee is paid by way of a government-issued check.<sup>1</sup> O.C.G.A. § 15-21A-6.1(a) provides relevantly as follows:

In addition to all other legal costs, there shall be charged to the filing party and collected by the clerk an additional filing fee of \$125.00, to be known as a judicial operations fund fee, in each civil action or case filed in a superior court **except that the state, including, but not limited to, its departments, agencies, boards, bureaus, commissions, public corporations, and authorities, municipalities, counties, and political subdivisions shall be exempt from such fee.** Without limiting the generality of the foregoing, such fee shall apply to all adoptions, certiorari, trade name registrations, applications for change

<sup>1</sup> For the purpose of this unofficial letter of advice, government shall refer to "the state, including, but not limited to, its departments, agencies, boards, bureaus, commissions, public corporations, and authorities, municipalities, counties, and political subdivisions." O.C.G.A. § 15-21A-6.1(a).

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of name, and all other proceedings of a civil nature. Any matter which is docketed upon the official dockets of the superior court and to which a number is assigned shall be subject to such fee, whether such matter is contested or not.

(emphasis added.) As discussed in 2010 Op. Att’y Gen. 2010-3, the judicial operations fund fee imposed by O.C.G.A. § 15-21A-6.1(a) applies to the fee to be remitted to clerks of superior court for the issuance of certificates of appointment and reappointment as notaries public. Certificates of appointment and reappointment are issued to individuals and not to governmental or other entities. O.C.G.A. § 45-17-2. However, the language of O.C.G.A. § 15-21A-6.1(a) expressly excludes the judicial operations fee from applying to “the state, including, but not limited to, its departments, agencies, boards, bureaus, commissions, public corporations, and authorities, municipalities, counties, and political subdivisions.” Thus, where the fee for a certificate of appointment or reappointment of a notary public is paid by the government, the judicial operations fee is precluded from applying.

When the government uses its own funds to pay for a government employee’s notary certificate, the government has apparently determined to do so in order that it may reap the rewards of the employee’s status as a notary. Since the government is exempt from the fee, the judicial operations fee does not apply to notaries who are government employees who pay for their renewal with a government check.

I hope that this informal advice is helpful. If you would like to discuss, please contact me.

Sincerely,



AUDREY M. SEIDLE  
Assistant Attorney General

AMS/wt