



**THE ATTORNEY GENERAL  
OF TEXAS**

December 4, 1990

**JIM MATTOX  
ATTORNEY GENERAL**

Honorable Mike Driscoll  
Harris County Attorney  
1001 Preston, Suite 634  
Houston, Texas 77002

LO-90-104

Dear Mr. Driscoll:

You ask what, if any, effect Rule 14c of the Texas Rules of Civil Procedure has on the provisions of chapter 117 of the Local Government Code, regarding counties' retention of part of the interest earned on trust funds deposited in court. We believe that the rule does not affect the statutory provisions or our interpretation of them in Attorney General Opinion JM-1162 (1990).

Rule 14c of the Texas Rules of Civil Procedure, enacted in 1981, reads in part as follows:

Wherever these rules provide for the filing of a surety bond, the party may in lieu of filing the bond deposit cash or other negotiable obligation . . . . Any interest thereon shall constitute a part of the deposit.  
(Our emphasis.)

Tex. R. Civ. Proc. 14c.

When the Supreme Court adopted this rule, it made no comment about the second sentence, which is the focus of your question, and merely summarized the first sentence as follows:

This new rule authorizes various deposits in lieu of a surety bond.

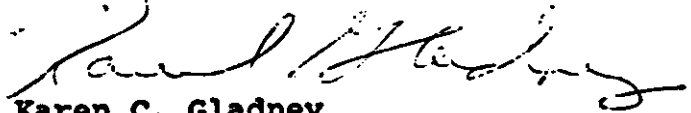
Rules of Court 600 S.W.2d XXXIV.

The second sentence of the rule, which you interpret as mandating the disposition of the interest, merely recognizes that interest may be earned on cash deposits and identifies that interest as being part of the deposit. The rule does not direct the disposition of the interest; thus, the rule

does not conflict with those Local Government Code provisions that assign a part of that interest to the county as reimbursement for its accounting and administrative expenses. Local Gov't Code §§ 117.054, 117.123.

You ask for clarification of Attorney General Opinion JM-1162 (1990) in light of Rule 14c. It is true that JM-1162 did not consider the rule in its general discussion of trust funds held by clerks of courts. Now, however, when reviewing the opinion with the language of the rule in mind, we find that the rule does nothing to change the result of that opinion or to obscure the meaning of the statutes interpreted therein. In fact, both the rule and the statutes recognize that interest accrues to the principal.

Very truly yours,



Karen C. Gladney  
Assistant Attorney General  
Opinion Committee.

KCG/er

APPROVED: Rick Gilpin, Chairman  
Opinion Committee

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