

1978 WL 34963 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 27, 1978

*1 Lieutenant J. V. Morris
State Law Enforcement Division
Box 99
Union, South Carolina 29379

Dear Lt. Morris:

This is in response to your request concerning whether moneys posted as bail with an arresting officer pursuant to the Uniform Traffic Ticket Law, §§ 56-7-10 [et seq. of the Code of Laws of South Carolina \(1976\)](#), constitute 'public funds' within the definition of § 16-13-210 of the Code and are thus susceptible to embezzlement. It is the opinion of this office that such payments are public funds and hence subject to embezzlement.

§ 16-13-210 of the South Carolina Code states that '[a]ll officers and other persons charged with the safekeeping, transfer and disbursements of any public funds who shall embezzle the same shall be guilty of a felony . . .'; however, neither the statutory provisions nor the relevant case law define 'public funds.' Nonetheless, most authorities hold that, in the absence of a statutory definition, the terms 'public funds' and 'revenue' are interchangeable, and '[t]he fact that the State has taken possession of moneys pursuant to law is sufficient to constitute them State funds. . . .' 63 Am.Jur.2d 391, 394. In confronting an identical situation, the Supreme Court of Virginia observed that '[t]he phrase 'public money', in the absence of a statute defining it, must be construed according to its usual meaning and common acceptance. . . . Public funds are those moneys belonging to the State or to any city, county, or political subdivision of the State, _____ or more specifically, taxes, customs, and moneys raised by the operation of law for the support of the government or for the discharge of its obligations.' [Beckner v. Commonwealth](#), 174 Va. 454, 5 S.E.2d 525, 527 (1939). Moreover, the South Carolina Supreme Court has held that the statute respecting the offense of embezzlement should be broadly construed for the protection of the public. [State v. Gregory](#), 198 S.C. 98, 16 S.E.2d 532 (1942). Thus, fines and bonds received by an officer pursuant to traffic citations constitute public funds and are subject to embezzlement.

Kindest personal regards,

C. Tolbert Goolsby, Jr.
Deputy Attorney General

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