

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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HOUSE DRH10529-LL-75 (2/11)

Short Title: Fee for Probate Payment to Clerk. (Public)

Sponsors: Representatives Spear and Randleman (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED
AN ACT TO PROVIDE FOR THE CHARGING OF A FEE WHEN PAYMENT OF DEBTS
OWED TO A DECEDENT IS MADE DIRECTLY TO THE CLERK OF SUPERIOR
COURT WHEN THE DECEDENT'S ESTATE IS SETTLED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-307 reads as rewritten:

"(a) In the administration of the estates of decedents, minors, incompetents, of missing persons, and of trusts under wills and under powers of attorney, in trust proceedings under G.S. 36A-23.1, and in collections of personal property by affidavit, the following costs shall be assessed:

- (1) For the use of the courtroom and related judicial facilities, the sum of ten dollars (\$10.00), to be remitted to the county. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.
- (1a) For the upgrade, maintenance, and operation of the judicial and county courthouse phone systems, the sum of one dollar (\$1.00), to be credited to the Court Information Technology Fund.
- (2) For support of the General Court of Justice, the sum of fifty dollars (\$50.00), plus an additional forty cents (40¢) per one hundred dollars (\$100.00), or major fraction thereof, of the gross estate, not to exceed six thousand dollars (\$6,000). Gross estate shall include the fair market value of all personality when received, and all proceeds from the sale of realty coming into the hands of the fiduciary, but shall not include the value of realty. In collections of personal property by affidavit, the fee based on the gross estate shall be computed from the information in the final affidavit of collection made pursuant to G.S. 28A-25-3 and shall be paid when that affidavit is filed. In all other cases, this fee shall be computed from the information reported in the inventory and shall be paid when the inventory is filed with the clerk. If additional gross estate, including income, comes into the hands of the fiduciary after the filing of the inventory, the fee for such additional value shall be assessed and paid upon the filing of any account or report disclosing such additional value. For each filing the minimum fee shall be fifteen dollars (\$15.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of two dollars and five cents (\$2.05) of each fifty-dollar (\$50.00) General Court of Justice



1 fee collected under this subdivision to the North Carolina State Bar for the
2 provision of services described in G.S. 7A-474.4.

3 (2a) Notwithstanding subdivision (2) of this subsection, the fee of forty cents
4 (40¢) per one hundred dollars (\$100.00), or major fraction, of the gross
5 estate, not to exceed six thousand dollars (\$6,000), shall not be assessed on
6 personality received by a trust under a will when the estate of the decedent
7 was administered under Chapters 28 or 28A of the General Statutes. Instead,
8 a fee of twenty dollars (\$20.00) shall be assessed on the filing of each annual
9 and final account. However, the fee shall be assessed only on newly
10 contributed or acquired assets, all interest or other income that accrues or is
11 earned on or with respect to any existing or newly contributed or acquired
12 assets, and realized gains on the sale of any and all trust assets. Newly
13 contributed or acquired assets do not include assets acquired by the sale,
14 transfer, exchange, or otherwise of the amount of trust property on which
15 fees were previously assessed.

16 ~~(2b) Notwithstanding subdivisions (1) and (2) of this subsection, no costs shall be~~
17 ~~assessed when the estate is administered or settled pursuant to~~
18 ~~G.S. 28A-25-6.~~

19 (2c) Notwithstanding subdivision (2) of this subsection, the fee of forty cents
20 (40¢) per one hundred dollars (\$100.00), or major fraction, of the gross
21 estate shall not be assessed on the gross estate of a trust that is the subject of
22 a proceeding under G.S. 36A-23.1 if there is no requirement in the trust that
23 accountings be filed with the clerk.

24 (3) For probate of a will without qualification of a personal representative, the
25 clerk shall assess a facilities fee as provided in subdivision (1) of this
26 subsection and shall assess for support of the General Court of Justice, the
27 sum of twenty dollars (\$20.00).

28 (4) For an estate administered or settled pursuant to G.S. 28A-25-6 and for
29 which the amount owed to the decedent exceeds two hundred fifty dollars
30 (\$250.00), the clerk shall assess a facilities fee as provided in subdivision (1)
31 of this subsection and shall assess for support of the General Court of Justice
32 the sum of twenty dollars (\$20.00). No costs shall be assessed under this
33 subsection for an estate administered under G.S. 28A-25-6 when the amount
34 owed to the decedent is two hundred fifty dollars (\$250.00) or less."

35 **SECTION 2.** This act becomes effective October 1, 2009, and applies to estates of
36 decedents dying on or after that date.