

ACT 145

S.B. NO. 1791-74

A Bill for an Act Relating to Costs of Judicial Proceedings, Amending Chapters 607, and Sections 91-14, 92-21, 232-22, 386-88, and 664-8, Hawaii Revised Statutes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Subsection (b) of section 91-14, Hawaii Revised Statutes, is amended to read as follows:

“(b) Except as otherwise provided herein, proceedings for review shall be instituted in the circuit court within thirty days after the preliminary

ruling or within thirty days after service of the certified copy of the final decision and order of the agency pursuant to the provisions of the Hawaii Rules of Civil Procedure, except where a statute provides for a direct appeal to the supreme court and in such cases the appeal shall be in like manner as an appeal from the circuit court to the supreme court, including payment of the fee prescribed by section 607-5 for filing the notice of appeal (except in cases appealed under sections 11-51 and 40-91). The court in its discretion, may permit other interested persons to intervene.”

SECTION 2. Section 92-21, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 92-21 Copies of records; other costs and fees.** Except as otherwise provided by law, a copy of any public document or record, including any map, plan, diagram, photograph, or photostat, which is open to the inspection of the public shall be furnished to any person applying for the same by the public officer having charge or control thereof upon the payment of the following:

- (1) \$1 for every hundred words or fraction thereof contained in any written document, record, entry, or other paper when the copy is made in writing or when typewritten or the like by the public officer having charge or control thereof;
- (2) \$1 per page or fraction thereof for reproducing any written document, record, entry, or other paper when the copy is made by the public officer having charge or control thereof by the use of any photostat, or other similar means of reproduction;
- (3) \$1 per page or sheet for making a copy of any map, plan, diagram, or photograph, which copy may be made by any method of reproduction;
- (4) 25 cents for every hundred words or fraction thereof for comparing any copy of a written document, record, entry, or other paper with the original thereof, when comparison is required or requested;
- (5) \$1 for the certification to any copy, when certification is required or requested;
- (6) Printed forms; certified copies:

Marriage certificates	\$1.50
Comparing and certifying of printed or photostatic copies, first copy full charge, all others certifying charge only.	
Exemplification	\$1.50
Certification or authentication of notaries	\$1.00
Legal notices, affidavits of publication	\$1.00;
- (7) All such fees shall be paid in by the public officer receiving or collecting the same to the state director of finance or county director of finance or by which the officer is employed as government realizations.”

SECTION 3. Section 232-22, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 232-22 Costs; deposit for an appeal. The costs to be deposited by the taxpayer on appeal to the board of review shall be \$3 for each real property tax appeal. No costs shall be charged on appeal to the board of review in other cases.

The costs to be deposited by the taxpayer on any appeal to the tax appeal court shall be five per cent of the amount of taxes in dispute but not more than \$100 nor less than \$5 in any one case.

On appeal to the supreme court, the deposit for costs, and costs chargeable, shall be the same as in appeals to the supreme court from decisions of circuit courts, as provided by sections 607-5 and 607-6. If the decision of the supreme court is in favor of the taxpayer, he shall pay no costs for the appeal and any payment or deposit therefor shall be returned to him. If the decision is only partly in favor of the taxpayer, the costs shall be prorated in the manner provided by section 232-23. No costs shall be payable by, and no deposit shall be required from, the assessor or the county in any case.”

SECTION 4. Section 386-88, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 386-88 Judicial review. The decision or order of the appellate board shall be final and conclusive, except as provided in section 386-89, unless within thirty days after mailing of a certified copy of the decision or order, the director or any other party appeals to the supreme court by filing a written notice of appeal with the appellate board. A fee in the amount prescribed by section 607-5 for filing a notice of appeal from a circuit court shall be paid to the appellate board for filing the notice of appeal from the board, which together with the supreme court costs shall be deemed costs of the supreme court proceeding. The appeal shall be on the record and the court shall review the appellate board’s decision on matters of law only. No new evidence shall be introduced in the supreme court, except that the court may, if evidence is offered which is clearly newly discovered evidence and material to the just decision of the appeal, admit the same.”

SECTION 5. Section 607-1, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 607-1 Power of supreme court with respect to costs and fees. The supreme court shall have power by rule of court, from time to time, to revise, amend, add to, or eliminate any of the items of costs and fees provided in this chapter, to prescribe such costs and fees as it deems reasonable in all cases not therein provided for, and to prescribe the amount to be paid in advance to the clerk of any court in any proceeding on account of the costs and fees.”

SECTION 6. Subsections (a) and (b) of section 607-4, Hawaii Revised Statutes, are amended to read as follows: (a) The fees prescribed by subsection (b) shall be paid to the clerk of the district court as costs of court by the person instituting the action or proceeding, or offering the paper for filing, or causing the document to be issued or the services to be performed in the district court; provided that nothing in subsection (b) shall apply to

cases of adults charged with commission of a crime, or minors referred to the district court by the family court; provided further that for the purposes of subsection (b) "judgment" includes an order from which an appeal lies.

(b) The fees referred to in subsection (a) are:

- (1) For the institution of each action or proceeding, to include all charges except as provided by paragraphs (2) to (13) \$10
- (2) Intervention; answer containing one or more cross claims or counter-claims; third-party complaint, for each such matter \$5
- (3) Motion or other application for: change of venue; involuntary dismissal, or preliminary hearing of a defense which may lead to involuntary dismissal; judgment on the pleadings; summary judgment; new trial; vacating, altering, or amending judgment, for each such matter, provided that an application in the alternative shall be treated as one matter \$3
- (4) For the issuance of garnishee summons; writ of possession, attachment, or execution; or any other writ, for each such matter \$3
- (5) Issuance of a subpoena, for each witness to be served \$1
- (6) Deposition upon oral examination or written questions, or physical or mental examination, or examination of judgment debtor or other person under section 636-4, to be paid by the party filing the first paper in the matter, for each person whom the party seeks to question or examine \$3
- (7) Demand for jury trial Fee prescribed by section 607-5
- (8) Filing of notice of appeal to supreme court, to be paid in addition to the deposit of supreme court costs \$30
- (9) Search of records by the clerk \$2
- (10) Making of a copy; comparing of copy with original Fees prescribed by section 92-21
- (11) Certification under seal of copy of pleading or other paper subsequent to the initial filing of the pleading or paper, except record on appeal \$1
- (12) Exemplification, instead of item (11) \$1
- (13) Posting notice; service fees; garnishee fees; mileage charges; or other services actually performed Amounts necessary to cover actual costs or disbursements."

SECTION 7. Section 607-5, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 607-5 Costs, circuit courts.

The fees prescribed by the below schedule shall be paid to the clerk of the circuit court as costs of court by the person instituting the action or proceeding, or offering the paper for filing, or causing the document to be issued or the services to be performed in the circuit court; provided that nothing in the schedule shall apply to cases of adults charged with commission of a

crime, or to proceedings under section 571-11(1) or (2), or to proceedings under chapter 333 or 334, or to small estates (including decedents' estates and protection of property of minors and persons under disability) when the amount payable is fixed by another statute.

For the purpose of this section, "judgment" includes a decree and any order from which an appeal lies.

SCHEDULE

In the application of this schedule, each case assigned a new number or filed under the number previously assigned to a probate, trust, guardianship, or conservatorship, shall carry a fee for the institution or transfer of the action or proceeding as prescribed by part I, and in addition the fees prescribed by parts II and III unless otherwise provided.

PART I

Action or proceeding, general:

- (1) Civil action or special proceeding, unless another item in this part I applies \$30
- (2) Appeal to a circuit court \$30
- (3) Transfer of action to circuit court from district court, in addition to district court fees \$20

Trusts:

- (4) Proceeding for (A) appointment of trustee; (B) appointment of successor; (C) resignation of trustee; (D) instructions; (E) approval of investment; (F) approval of sale, mortgage, lease, or other disposition of property; (G) approval of compromise of claim, for each such matter \$15
- (5) Proceeding for (A) removal of trustee; (B) order requiring accounting; (C) invalidation of action taken by trustee; (D) termination of trust, for each such matter \$15
- (6) Accounting, this fee to be paid for each account filed and to include the settlement of the account \$10
- (7) Vesting order no charge under part I
- (8) Allowance of fees of trustees, attorneys, or other fees for services incurred in a proceeding for which a fee has been paid under this section. no charge under part I
- (9) Any other proceeding relating to a trust. \$15

Guardianship of estate, or conservatorship:

- (10) Proceeding for (A) appointment; (B) appointment of successor; (C) resignation; (D) instructions, unless included in one of the foregoing proceedings; (E), (F), (G) approval of any matter listed in (E), (F), or (G) of item (4) in relation to a trust, for each such matter \$15
- (11) Proceeding of the nature listed in (A), (B), (C), or (D) of item (5) in relation to a trust, for each such matter. \$15
- (12) Accounting, same as provided by item (6) in relation to a trust. \$10

- (13) Any other proceeding relating to guardianship of an estate, or a conservatorship no charge under part I

Probate (decedents' estates). These fees include all matters of the nature listed in items (4) to (9), without additional charge:

- (14) Application for letters of temporary administration, in addition to fee prescribed by item (15) \$10
- (15) Probate, administration, or ancillary administration, this fee to be paid once only for each decedent's estate \$30

Family court cases:

- (16) Matrimonial action (annulment, divorce, separation, or separate maintenance) \$30
- (17) Adoption \$15
- (18) Guardianship of the person, including all matters of the nature listed in items (4) to (9) \$15
- (19) Termination of parental rights no charge under part I
- (20) Any other family court proceeding, including without limitation custody proceedings even if in the form of an habeas corpus proceeding \$15

PART II

The fees prescribed by this part do not apply to decedents' estates, guardianships, or conservatorships.

Intervention; affirmative relief:

- (21) Intervention \$15
- (22) Answer containing one or more cross-claims, cross-complaints, or counterclaims \$15
- (23) Third-party complaint \$15

Motions:

- (24) Motion or other application for: (A) preliminary injunction including temporary restraining order; (B) change of venue; (C) involuntary dismissal, or preliminary hearing of a defense which may lead to involuntary dismissal; (D) judgment on the pleadings; (E) summary judgment; (F) new trial; (G) vacating, altering, or amending judgment, for each such matter, provided that an application in the alternative shall be treated as one matter \$15

Writs; garnishee summons. For the issuance of the following:

- (25) Garnishee summons \$10
- (26) Writ of possession, attachment, or execution \$10
- (27) Temporary restraining order or other injunction no charge except for the motion
- (28) Any other writ \$10

PART III

The fees prescribed by this part apply without exception.

Jury trial:

- (29) Demand for jury trial, including without limitation probate cases,

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appeals to the circuit court, and cases transferred to the circuit court from the district court, this fee to be paid to the court in which the demand is filed by the party first making the demand \$50

Subpoena:

(30) Issuance of a subpoena, for each witness to be served \$3

Deposition; examination:

(31) Deposition upon oral examination or written questions, or physical or mental examination, or examination of judgment debtor or other person under section 636-4, to be paid by the party filing the first paper in the matter, for each person whom the party seeks to question or examine \$10

Miscellaneous:

- (32) Filing of notice of appeal to supreme court, to be paid in addition to the deposit of supreme court costs \$30
- (33) Search of records by the clerk \$2
- (34) Making of copy; comparing of copy with original; certification or authentication of notaries Fees prescribed by section 92-21
- (35) Certification under seal of copy of pleading or other paper subsequent to the initial filing of the pleading or paper, except record on appeal \$1
- (36) Exemplification, instead of item (35) \$2
- (37) Filing of copy of notice of completion of contract, with affidavit of publication \$3
- (38) Filing of initial paper under section 507-43 by person asserting mechanic's or materialman's lien (this fee to be additional to the fee prescribed by part I for bringing an action under section 507-47) \$15
- (39) Filing of any other paper not in a pending proceeding \$3
- (40) Printing, publishing, or posting notice; service fees; garnishee fees; mileage charges; or other services actually performed Amounts necessary to cover actual costs or disbursements."

SECTION 8. Section 607-6, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 607-6 Supreme court costs. (a) Upon the filing of any appeal, or the institution of any original suit, action, or other proceeding in the supreme court, there shall be paid to the clerk of the supreme court by the person filing such appeal, or instituting the suit, action, or other proceeding, as costs of court, the sum of \$50.

(b) In addition to the costs of court enumerated in subsection (a), the clerk of the supreme court shall charge and collect, for miscellaneous service performed by him, the following sums:

- (1) For filing any paper not in a pending suit, action, or other proceeding \$3
- (2) For issuing any subpoena, for each witness to be served \$3

- (3) All amounts necessary to cover actual costs or disbursements for printing, publishing, or posting notice, service fees, mileage charges, or other services actually performed.”

SECTION 9. Section 664-8, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 664-8 Appeal.** Any party deeming himself aggrieved by the decision of the commissioner of boundaries may appeal therefrom to the supreme court within thirty days from the rendition of the decision and within the period shall pay all costs accrued and shall pay or deposit costs for appeal as provided in sections 607-5, 607-6, and 607-7; provided that any land owner absent from the State and not represented by an authorized agent within the State, shall have the right of appeal for one year from the rendition of the decision.”

SECTION 10. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 11. This Act shall take effect July 1, 1974.

(Approved June 4, 1974.)

*Edited accordingly.