

ACT 140

A Bill for an Act Relating to District and Circuit Court Costs and Fees.

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

SECTION 1. The legislature finds that the current multitude of small fees charged by the district and circuit courts as court costs constitute a burdensome and inefficient practice for both the parties involved as well as for the State. The purpose of this Act is to remedy this problem by increasing certain basic fees and completely eliminating many smaller ones. This will reduce the number and types of fees which must be accounted for and collected, thereby enabling the court staff to devote more time to more pressing concerns, such as monitoring child support payments, rather than bookkeeping.

SECTION 2. Section 607-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(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)] (6) .....[\$15] \$25
  - (2) Intervention; answer containing one or more cross-claims or counterclaims; third-party complaint, for each such matter.....\$10
  - [(3)] (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.....\$10
  - (4) For the issuance of garnishee summons; writ of possession, attachment, or execution; or any other writ, for each such matter .....\$5
  - (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)] (3) Demand for jury trial.....Fee prescribed by section 607-5
  - [(8)] (4) Filing of notice of appeal to the supreme court, to be paid in addition to the deposit of appellate court costs .....\$30
  - [(9)] (5) Search of records by the clerk .....\$2
  - [(10)] (5) Making of a copy; comparing of copy with original .....Fees prescribed by section 92-21
  - [(11)] (6) 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 paragraph (1).....\$1
  - [(13)] (6) Posting notice; service fees; garnishee fees; mileage charges; or other services actually performed .....Amounts necessary to cover actual costs or disbursements.”

SECTION 3. Section 607-5, Hawaii Revised Statutes, is amended to read as follows:

**“§607-5 Costs; circuit courts.** (a) The fees prescribed by the [below] schedule in this section 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 333F 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] part II [and III] unless otherwise provided.

**PART I**

(b)

Action or proceeding, general:

- (1) Civil action or special proceeding, unless another item in this part I applies .....[~~\$30~~] **\$100**
- (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
- (8a) Registration of a trust, or release of registration, under chapter 560 .....\$3
- (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 appointment of special administrator by order of the court, 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
- (15a) Informal probate or appointment proceeding under chapter 560, this fee to be paid instead of the fee prescribed by item (15) .....\$10
- (15b) Application under chapter 560 for formal testacy proceedings, or for supervised administration, this fee to be paid once only for each decedent's estate as an addition to the fee prescribed by item (15a) .....\$20

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

[(c) **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

(d) **PART III] (c) PART II**

The fees prescribed by this part apply without exception.

Jury trial:

- [(29)] (21) Demand for jury trial, including without limitation probate cases, 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] \$100

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- [(30)] (22) Remand to district court in cases transferred to circuit court from district court on demand for jury trial, where jury trial is waived and a remand of such cases to district court is allowed....\$50
- [Subpoena:
  - (31) Issuance of a subpoena, for each witness to be served .....\$3
- Deposition; examination:
  - (32) 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:
  - [(33)] (23) Filing of notice of appeal to supreme court, to be paid in addition to the deposit of supreme court costs .....\$30
  - [(34)] (24) Search of records by the clerk .....\$2
  - [(35)] (25) Making of copy; comparing of copy with original; certification or authentication of notaries .....Fees prescribed by section 92-21
  - [(36)] (26) 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
  - [(37)] (27) Exemplification, instead of item [(36)] (26) .....\$2
  - [(38)] (28) Filing of copy of notice of completion of contract, with affidavit of publication.....\$3
  - [(39)] (29) 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
  - [(40)] (30) Filing of any other paper not in a pending proceeding .....\$3
  - [(41)] (31) 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 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval, except that section 2 shall take effect one year after its approval.

(Approved May 22, 1991.)