CHAPTER 21

Fees and Costs Generally

ARTICLE 1

General Provisions

**SECTION 8‑21‑10.** Only fees and costs prescribed are recoverable.

 The several officers named in this chapter, Article 3 of Chapter 11 of Title 14, Chapter 19 of Title 14, Article 7 of Chapter 23 of Title 14, Chapter 19 of Title 19, Chapter 7 of Title 22, Article 3 of Chapter 9 of Title 22, and Article 1 of Chapter 19 of Title 23, shall be entitled to receive and recover the fees and costs prescribed by this chapter, Article 3 of Chapter 11 of Title 14, Chapter 19 of Title 14, Article 7 of Chapter 23 of Title 14, Chapter 19 of Title 19, Chapter 7 of Title 22, Article 3 of Chapter 9 of Title 22, and Article 1 of Chapter 19 of Title 23, and none other, for the services herein enumerated.

HISTORY: 1962 Code Section 27‑1; 1952 Code Section 27‑1; 1942 Code Section 4920; 1932 Code Section 4921; Civ. C. ‘22 Section 5726; Civ. C. ‘12 Section 4209; Civ. C. ‘02 Section 3100; G. S. 2429; R. S. 2553.

CROSS REFERENCES

Charges for legal advertisements in newspapers, see Sections 15‑29‑80 et seq.

Compensation of receivers, see Section 15‑65‑100.

Coroners’ fees for preliminary examinations, see Section 17‑7‑40.

Costs and fees when judgment by confession entered, see Section 15‑35‑370.

Costs in actions brought in original jurisdiction of Supreme Court, see Section 14‑3‑420.

Costs in civil actions, generally, see Sections 15‑37‑10 et seq.

Costs in proceedings supplementary to execution, see Section 15‑39‑480.

Costs on appeal to circuit or county courts, see Sections 18‑7‑220 et seq.

Fees of officers making judicial sales of real estate, see Sections 15‑39‑770 et seq.

Judgment for costs against married women, see Section 15‑35‑160.

LIBRARY REFERENCES

20 C.J.S., Costs Section 2.

NOTES OF DECISIONS

In general 1

1. In general

Cited in Anderson v. Page (S.C. 1946) 208 S.C. 146, 37 S.E.2d 289.

Applied in Williams v. Kershaw County (S.C. 1900) 56 S.C. 400, 34 S.E. 694.

**SECTION 8‑21‑15.** No fee for performing duty, responsibility, or function of agency unless authorized by statute and regulation; exceptions.

 (A) No state agency, department, board, committee, commission, or authority initially may set a fee for performing any duty, responsibility, or function unless the fee for performing the particular duty, responsibility, or function is authorized by statutory law and set by regulation except as provided in this section.

 (B) This section does not apply to:

 (1) state‑supported governmental health care facilities;

 (2) state‑supported schools, colleges, and universities;

 (3) educational, entertainment, recreational, cultural, and training programs;

 (4) the State Board of Financial Institutions;

 (5) sales by state agencies of goods or tangible products produced for or by these agencies;

 (6) charges by state agencies for room and board provided on state‑owned property;

 (7) application fees for recreational activities sponsored by state agencies and conducted on a draw or lottery basis;

 (8) court fees or fines levied in a judicial or adjudicatory proceeding.

 (C) This section does not prohibit a state agency, department, board, committee, or commission from charging fees for services provided to other state agencies, departments, boards, committees, commissions, or political subdivisions regardless of whether the fee is set by statute.

 (D) Statutory law for purposes of this section does not include regulations promulgated pursuant to the State Administrative Procedures Act.

HISTORY: 1987 Act No. 178 Section 1, eff June 30, 1987.

**SECTION 8‑21‑20.** Mileage shall be computed by shortest practical route.

 Whenever provision is made by law for the payment of mileage of jurors, witnesses or other persons required to attend court or to travel to perform any legal duty, such mileage shall be computed and paid for by the shortest practical route to be traveled over any regularly established highway.

HISTORY: 1962 Code Section 27‑2; 1952 Code Section 27‑2; 1942 Code Sections 632, 3712‑1; 1932 Code Sections 632, 932; Civ. P. ‘22 Section 572; Cr. P. ‘22 Sections 28, 572; Civ. C. ‘12 Section 4040; Civ. C. ‘02 Sections 2738, 2938; G. S. 2269; R. S. 2384; 1874 (15) 608; 1878 (16) 630; 1907 (25) 518; 1911 (27) 86; 1917 (30) 161; 1920 (31) 735; 1925 (34) 233; 1933 (38) 8, 14, 76, 111; 1934 (38) 1598; 1935 (39) 220; 1936 (39) 1304, 1315, 1321, 1472, 1544; 1937 (40) 36, 45, 177, 190, 209, 385; 1938 (40) 1563, 1590, 1602, 1698; 1939 (41) 415; 1940 (41) 1938; 1949 (46) 110.

CROSS REFERENCES

Mileage allowed coroner’s jurors, see Section 17‑7‑340.

Mileage allowed per day for persons attending court, see Section 14‑1‑140.

Provision regarding payment of mileage for service on coroner’s or magistrate’s juries, see Section 22‑2‑160.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Costs Section 33, Witness Expenses.

**SECTION 8‑21‑30.** Liability for ten times fee illegally charged.

 If any officer herein named shall charge any other fee or fees for any services herein mentioned, such officer shall be liable to forfeit ten times the amount so improperly charged, to be recovered by suit in the court of common pleas, by attachment or by sale when the penalty does not exceed twenty dollars.

HISTORY: 1962 Code Section 27‑3; 1952 Code Section 27‑3; 1942 Code Section 4921; 1932 Code Section 4962; Civ. C. ‘22 Section 5764; Civ. C. ‘12 Section 4239; Civ. C. ‘02 Section 3129; G. S. 2446; R. S. 2570; 1878 (16) 631.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Costs Section 52, Liability for Excessive Charges.

NOTES OF DECISIONS

In general 1

1. In general

Applied in Tinsley v Kirby (1877) 8 SC 113. Dean v Todd (1897) 49 SC 461, 27 SE 471.

**SECTION 8‑21‑40.** Bills of costs shall be attached to executions.

 In any case in which the clerk of court or a magistrate shall issue an execution, he shall attach thereto a bill of each item of costs therein charged and also shall tax all costs which accrue to the sheriff for services on such execution.

HISTORY: 1962 Code Section 27‑4; 1952 Code Section 27‑4; 1942 Code Sections 3619, 4921; 1932 Code Sections 3619, 4962; Civ. C. ‘22 Sections 2163, 5764; Civ. C. ‘12 Sections 1339, 4239; Civ. C. ‘02 Sections 941, 3129; G. S. 763, 2446; R. S. 813, 2570; 1827 (6) 336 Section 5; 1878 (16) 631; 1972 (57) 2584.

LIBRARY REFERENCES

20 C.J.S., Costs Sections 279 et seq.

**SECTION 8‑21‑50.** Rules of construction.

 The rule of the common law that statutes in derogation of that law are to be strictly construed has no application to this chapter, Article 3 of Chapter 11 of Title 14, Chapter 19 of Title 14, Article 7 of Chapter 23 of Title 14, Chapter 19 of Title 19, Chapter 7 of Title 22, Article 3 of Chapter 9 of Title 22, and Article 1 of Chapter 19 of Title 23.

HISTORY: 1962 Code Section 27‑6; 1960 (51) 1744.

LIBRARY REFERENCES

20 C.J.S., Costs Section 3.

ARTICLE 3

Miscellaneous Officials

**SECTION 8‑21‑110.** Fees of Secretary of State.

 The Secretary of State may charge the following fees:

 (1) For every search, fourteen cents;

 (2) For entering satisfaction on a mortgage, twenty‑one cents;

 (3) For recording a mark or brand, twenty‑one cents;

 (4) For recording any writing, nine cents for every copy sheet containing ninety words;

 (5) For making out a grant of lands, recording and fixing the great seal, two dollars and fourteen cents;

 (6) For a testimonial with the great seal, one dollar and seven cents;

 (7) For registering the certificate of (a) a person becoming a citizen, twenty‑five cents, (b) for a family not exceeding three, fifty cents and (c) for a family exceeding three, one dollar;

 (8) For commissioning a commissioner of deeds, three dollars and twenty‑five cents;

 (9) For filing a limited partnership agreement, five dollars;

 (10) For furnishing a certificate under seal, one dollar;

 (11) For making a certified copy of a charter, two dollars;

 (12) For making a certified copy of a land grant, one dollar and sixty cents;

 (13) For making a certified copy of a plat, (a) tracing, first four corners, one dollar, and five cents per additional corner, plus one dollar for certifying, and (b) copying, per page, thirty‑five cents; and

 (14) For certified copy of any record, one dollar and sixty cents.

 Fees received for these services shall be deposited in the State Treasury to the credit of the General Fund of the State.

HISTORY: 1962 Code Section 27‑501; 1952 Code Section 27‑501; 1942 Code Section 4922; 1932 Code Section 4922; Civ. C. ‘22 Section 5727; Civ. C. ‘12 Section 4210; Civ. C. ‘02 Section 3101; G. S. 2430; R. S. 2454; 1790 (5) 153; 1799 (5) 355; 1901 (23) 754; 1954 (48) 1566; 1961 (52) 621.

CROSS REFERENCES

Fee for registering livestock brand, see Section 47‑9‑260.

Filing fees for cooperative marketing associations, see Sections 33‑47‑90, 33‑47‑260.

Filing fees under Electric Cooperative Act, see Section 33‑49‑100.

**SECTION 8‑21‑120.** Fees of appraisers of homestead and commissioners in dower or partition.

 The fees:

 (1) Of appraisers to set out the homestead shall be two dollars per day; and

 (2) Of commissioners in dower or in partition shall be each one dollar and a half per day and five cents per mile for necessary travel.

HISTORY: 1962 Code Section 27‑502; 1952 Code Section 27‑502; 1942 Code Section 4961; 1932 Code Section 4961; Civ. C. ‘22 Section 5763; Civ. C. ‘12 Section 4238; Civ. C. ‘02 Section 3128; G. S. 2445; R. S. 2568; 1788 (4) 724; 1839 (11) 61; 1868 (14) 21; 1918 (30) 717.

CROSS REFERENCES

Computation of mileage, see Section 8‑21‑20.

**SECTION 8‑21‑130.** Fee of county auditors.

 For every entry and endorsement on any deed of conveyance of real property recorded in his office, each county auditor shall receive a fee of twenty‑five cents.

HISTORY: 1962 Code Section 27‑503; 1952 Code Section 27‑503; 1942 Code Section 4960; 1932 Code Section 4960; Civ. C. ‘22 Section 5762; Civ. C. ‘12 Section 4237; Civ. C. ‘02 Section 3127; G. S. 2444; R. S. 2567; 1871 (15) 621; 1935 (39) 304.

NOTES OF DECISIONS

In general 1

1. In general

Applied in Boggs v. O’Dell (S.C. 1939) 190 S.C. 442, 3 S.E.2d 486.

**SECTION 8‑21‑140.** Fees of notaries public.

 The fees of notaries public shall be as follows:

 (1) For taking a deposition and swearing witnesses, twenty‑five cents per copy sheet;

 (2) For a duplicate of a deposition, protest and certificate, ten cents per copy sheet of one hundred words;

 (3) For each attendance upon any person for proving a matter or thing and certifying the same, fifty cents;

 (4) For every notarial certificate, with seal, fifty cents;

 (5) For administering an oath for an affidavit, twenty‑five cents;

 (6) For taking a renunciation of dower or inheritance, one dollar; and

 (7) For every protest, fifty cents, together with the cost of postage for transmitting notice thereof.

HISTORY: 1962 Code Section 27‑506; 1952 Code Section 27‑506; 1942 Code Section 4957; 1932 Code Section 4957; Civ. C. ‘22 Section 5759; Civ. C. ‘12 Section 4234; Civ. C. ‘02 Section 3123; G. S. 2440; R. S. 2564; 1898 (22) 699.

CROSS REFERENCES

Relief from filing fees, court costs and other probate costs, see Section 8‑21‑800.

**SECTION 8‑21‑150.** Fees of deputy surveyors.

 The fees of deputy surveyors shall be as follows:

 (1) For surveying every acre of land, one cent;

 (2) For making out a fair plat, certifying, signing and returning the same, two dollars and fourteen cents; and

 (3) For running old lines for any person or between parties, or by order of court, while they are on the survey, three dollars per day.

HISTORY: 1962 Code Section 27‑508; 1952 Code Section 27‑508; 1942 Code Section 4959; 1932 Code Section 4959; Civ. C. ‘22 Section 5761; Civ. C. ‘12 Section 4236; Civ. C. ‘02 Section 3126; G. S. 2443; R. S. 2566; 1791 (5) 158.

NOTES OF DECISIONS

In general 1

1. In general

Applied in Hawkins v. Wood (S.C. 1901) 60 S.C. 521, 39 S.E. 9.

ARTICLE 5

Clerks of Court and Registers of Deeds

Code Commissioner’s Note

1997 Act No. 34, Section 1, eff January 1, 1998, directed the Code Commissioner to change all references to “Register of Mesne Conveyances” to “Register of Deeds” wherever appearing in the 1976 Code of Laws.

**SECTION 8‑21‑300.** Salaries of clerks of court and registers of deeds; disposition of fees and costs received.

 The clerks of court and registers of deeds of the several counties shall receive such salaries for performance of their duties as may be fixed by the governing body of the county, which shall not be diminished during their terms of office, and such compensation shall not be measured or affected by the fees and costs received by such officers under the provisions of this article. All such fees and costs received under the provisions of this article by such officials of any county shall be accounted for and paid into the general fund of the county as directed by the governing body thereof.

HISTORY: 1979 Act No. 164 Part I Section 1; 1997 Act No. 34, Section 1, eff January 1, 1998.

Code Commissioner’s Note

1997 Act No. 34, Section 1, directed the Code Commissioner to change all references to “Register of Mesne Conveyances” to “Register of Deeds” wherever appearing in the 1976 Code of Laws.

LIBRARY REFERENCES

14 C.J.S., Clerks of Court Sections 9 to 32.

20 C.J.S., Costs Section 184 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 7, Term of Office and Vacancies.

S.C. Jur. Clerks of Court Section 8, Compensation.

S.C. Jur. Clerks of Court Section 14, Budget.

Attorney General’s Opinions

Because of the strong legislative intent expressed in Section 8‑21‑300 that clerks be placed on a salaried income only, clerks of court should not retain, as compensation, commissions from the sale of South Carolina Tax Commission documentary stamps under Section 12‑21‑30. 1987 Op Atty Gen, No. 87‑1, p 15.

County councils do not appear to have authority to reduce salaries of persons appointed to fill vacancies in Office of Clerk of Court for remainder of unexpired terms of office. 1985 Op Atty Gen, No. 85‑107, p 305.

NOTES OF DECISIONS

Construction with other statutes 1

Interim clerks 2

1. Construction with other statutes

Statute prohibiting salary reduction during clerks of court’s terms of office was not repealed by implication by enactment of statute prohibiting reduction of salary during term for which official is elected; statutes were not irreconcilable. Greenwood County Council v. Brooks (S.C. 2005) 362 S.C. 500, 608 S.E.2d 872. Clerks Of Courts 12

2. Interim clerks

County council did not have authority to reduce salary of interim clerk of court; statute prohibiting reduction of salary of clerk of court during term of office included unexpired term, and salary increases should be enacted for benefit of office, not immediate benefit of particular person holding office. Greenwood County Council v. Brooks (S.C. 2005) 362 S.C. 500, 608 S.E.2d 872. Clerks Of Courts 33

**SECTION 8‑21‑310.** Schedule of fees and costs to be collected.

 Except as otherwise expressly provided, the following fees and costs must be collected on a uniform basis in each county by clerks of court and registers of deeds or county treasurers as may be determined by the governing body of the county:

 (1) for recording a deed to or a mortgage on real estate, ten dollars; and an additional one dollar a page for any deed or mortgage containing more than four pages; for entry of a deed or mortgage that covers both real estate and personal property in the indexes for both real and personal property conveyances or mortgages, one dollar additional;

 (2) for recording a chattel mortgage, conditional sale contract, lease or contract of sale of personal property, and any other document required to be recorded under the Uniform Commercial Code (Title 36), the fees provided in Title 36;

 (3) for recording an instrument which assigns, transfers, or affects a single real estate mortgage or other instrument affecting title to real property or lien for the payment of money, unless it is part of the original instrument when initially filed, six dollars; and if the instrument assigns, transfers, or affects more than one real estate mortgage, instrument, or lien, six dollars for each mortgage, instrument, or lien assigned, transferred, or affected and referred to in the instrument and an additional one dollar for each page for any instrument exceeding one page;

 (4) for recording any lease, contract of sale, trust indenture, or other document affecting title or possession of real property not otherwise provided for in this section, ten dollars, and an additional one dollar a page for a document containing more than four pages;

 (5) for recording satisfaction on the record of a mortgage of real estate or a chattel mortgage or other recorded lien, and certifying the entry on the original or a copy, five dollars;

 (6) for recording separate probates, affidavits, or certificates which are not part of or attached to another document to be recorded, ten dollars;

 (7) for recording a plat larger than eight and one‑half by fourteen inches, ten dollars; for plats of “legal size” dimensions, or smaller, five dollars;

 (8) for recording decree of foreclosure or partition of real property in mortgage book or deed book, the same fee as for recording deed or mortgage of real estate;

 (9) for recording any other paper affecting title or possession of real estate or personal property and required by law to be recorded, except judicial records, ten dollars, and an additional one dollar a page for a document containing more than four pages;

 (10) for filing power of attorney, trustee qualification, or other appointment, fifteen dollars, and an additional one dollar a page for a document containing more than four pages. However, upon presentation of a copy of deployment orders to a combat zone by or on behalf of a member of the Armed Forces of the United States, the filing fee for a power of attorney for the person deployed is waived. In addition, the filing fee for a revocation of power of attorney filed by or on behalf of a member of the armed forces of the United States is waived if the revocation is filed: (i) within three years from the date of filing the power of attorney; and (ii) a copy of the deployment orders to a combat zone is presented. For purposes of this item, “combat zone” has the meaning provided in Internal Revenue Service Publication 3 and includes service in a qualified hazardous duty area;

 (11)(a) For filing first complaint or petition, including application for a remedial and prerogative writ and bond on attachment or other bond, in a civil action or proceeding, in a court of record, one hundred dollars. There is no further fee for filing an amended or supplemental complaint or petition nor for filing any other paper in the same action or proceeding. An original application for post conviction relief may be filed without fee upon permission of the court to which the application is addressed. There is no further fee for entering and filing a verdict, judgment, final decree, or order of dismissal, and enrolling a judgment thereon, for signing, sealing, and issuance of execution, or for entering satisfaction or partial satisfaction on a judgment:

 (b) for filing, recording, and indexing lis pendens when not accompanied by summons and complaint, ten dollars;

 (c) for receiving and enrolling transcripts of judgment from magistrate’s courts and federal district courts, ten dollars;

 (d) for filing and enrolling a judgment by confession, ten dollars;

 (12) no fee may be charged to a defendant or respondent for filing an answer, return, or other papers in any civil action or proceeding, in a court of record;

 (13) for taking and filing an order for bail with or without bond, one dollar; with bond when surety must be justified, ten dollars;

 (14) for taking and filing bond or security costs, one dollar; with bond when surety must be justified, ten dollars;

 (15) for filing or recording any commission of notary public or other public office, license or permit to practice any profession or trade, notice of formation or dissolution of any partnership, five dollars;

 (16) for filing the charter of any public or private corporation or association required by law to be recorded, ten dollars, and an additional one dollar a page for any such document containing more than four pages;

 (17) for issuing an official certificate under seal of court not otherwise specified in this section, one dollar;

 (18) for holding a hearing for condemnation proceedings, twenty‑five dollars a day;

 (19) for filing notice of discharge in bankruptcy, fifteen dollars;

 (20) for filing and enrolling and satisfaction of South Carolina and United States Government tax liens:

 (a) for filing and enrolling and satisfying executions or warrants for distraint for the South Carolina Department of Employment and Workforce, the South Carolina Department of Revenue, or any other state agency, where costs of the executions or warrants for distraint are chargeable to the persons against whom such executions or warrants for distraint are issued, ten dollars;

 (b) for filing and enrolling and satisfying any tax lien of any agency of the United States Government, where the costs of the executions are chargeable to the persons against whom such executions are issued, ten dollars;

 The clerk shall mark “satisfied” upon receipt of the fees provided in this item for any tax lien or warrant for distraint issued by any agency of this State or of the United States upon receipt of a certificate duly signed by an authorized officer of any agency of this State or the United States to the effect that the execution or warrant for distraint has been paid and satisfied.

 (21) for filing and processing an order for the Destruction of Arrest Records, thirty‑five dollars, which fee must be for each order regardless of the number of cases contained in the order. The fee under the provisions of this item does not apply to cases where the defendant is found not guilty or where the underlying charge is dismissed or nol prossed unless that dismissal or nol prosse is the result of successful completion of a pretrial intervention program;

 (22) for filing, indexing, enrolling, and entering a foreign judgment and an affidavit pursuant to Article 11, Chapter 35, Title 15 of the 1976 Code, one hundred dollars.

 (23) for filing a notice of meter conservation charge as permitted by Section 58‑37‑50, ten dollars.

 (24) for filing court documents by electronic means from an integrated electronic filing (e‑filing) system owned and operated by the South Carolina Judicial Department in an amount set by the Chief Justice of the South Carolina Supreme Court and all fees must be remitted to the South Carolina Judicial Department to be dedicated to the support of court technology.

HISTORY: 1979 Act No. 164 Part I Section 1; 1983 Act No. 139 Sections 1, 2; 1988 Act No. 619, eff June 2, 1988; 1990 Act No. 531, Section 1, eff June 4, 1990; 1990 Act No. 612, Section 43, amending (11)(a) eff July 1, 1990 (became law without the Governor’s signature); 1991 Act No. 153, Section 1, eff June 12, 1991; 1991 Act No. 171, Part II, Section 53A, eff July 1, 1991; 1993 Act No. 80, Section 2, eff June 11, 1993; 1993 Act No. 175, Section 1, eff June 16, 1993; 1993 Act No. 181, Section 74, eff July 1, 1993; 1994 Act No. 497, Part II, Section 36H, eff January 1, 1995; 1996 Act No. 244, Section 1, eff March 4, 1996; 1997 Act No. 34, Section 1, eff January 1, 1998; 1997 Act No. 155, Part II, Section 36A, eff July 1, 1997; 2002 Act No. 329, Section 3A, eff July 1, 2002; 2010 Act No. 141, Section 2, eff March 31, 2010; 2010 Act No. 256, Section 1, eff June 11, 2010; 2012 Act No. 269, Section 1, eff June 20, 2012.

Code Commissioner’s Note

1997 Act No. 34, Section 1, directed the Code Commissioner to change all references to “Register of Mesne Conveyances” to “Register of Deeds” wherever appearing in the 1976 Code of Laws.

At the direction of the Code Commissioner in 2010 to correct an inadvertent paragraph placement, the undesignated paragraph beginning with “The clerk shall mark” was moved from the end of the section to item (20), and in that paragraph, “for” was inserted after “the fees provided in this item”.

Pursuant to the directive to the Code Commissioner in 2010 Act No. 146, Section 122, “Department of Employment and Workforce” was substituted for all references to “Employment Security Commission”, and “Executive Director of the Department of Employment and Workforce” or “executive director” was substituted for all references to the “Chairman of the Employment Security Commission” or “chairman” that refer to the Chairman of the Employment Security Commission, as appropriate.

Effect of Amendment

The 1988 amendment, in paragraph (11), subparagraph (a), increased the fee from twenty‑five dollars to thirty‑five dollars; and made grammatical changes.

The 1990 amendment by Act No. 531, Section 1, increased the amount of various fees, and deleted obsolete language.

The 1990 amendment by Act No. 612, Part II, Section 43A, raised the filing fee for a first complaint or petition in a civil action or proceeding in a court of record in paragraph (11), subparagraph (a), from thirty‑five dollars to fifty dollars.

The 1991 amendment by Act No. 171, Part II, Section 53A, increased the filing fee in paragraph (11), subparagraph (a), from “fifty” to “fifty‑five” dollars; and provided that the increase in this fee must be deposited to the credit of the general fund.

The 1991 amendment, by Act No. 153 Section 1, added paragraph (21), pertaining to the expungement of criminal records.

The 1993 amendment, by Act 80, added paragraph (22), pertaining to the filing, etc. of foreign judgments.

The 1993 amendment, by Act 175, revised paragraph (21), which formerly read “for expunging criminal records as provided by law, twenty‑five dollars”.

The 1993 amendment, by Act 181, in paragraph (20), subparagraph (a), substituted “Department of Revenue” for “Tax Commission”.

The 1994 amendment, in paragraph (11), subparagraph (a), deleted the requirement reading “Of the fifty‑five dollar fee thirty‑five dollars is subject to the disposition provision of Section 20‑7‑1510 and the remaining twenty dollars must be remitted to the State and deposited to the credit of the general fund of the State”.

The 1996 amendment added in paragraph (11) subparagraph (d).

The 1997 amendment (by Act No. 155), in the first sentence of paragraph (11)(a), increased the filing fee from fifty‑five dollars to seventy dollars.

The 2002 amendment, in paragraphs (6), (13), (14) and items (11)(b) through (11)(d), and (20)(a), substituted “ten” for “five”; in paragraphs (10) and (19), substituted “fifteen” for “ten”; in item 11(a), substituted “one hundred dollars” for “seventy”; in paragraph (15), substituted “five” for “two”; and in paragraph (22), substituted “one‑hundred” for “fifty‑five”.

The first 2010 amendment, 2010 Act No. 141, Section 2, added paragraph (23), relating to filing a notice of meter conservation charge.

The second 2010 amendment, 2010 Act No. 256, Section 1, rewrote subsection (10).

The 2012 amendment added item (24) relating to electronic filing.

CROSS REFERENCES

Clerk’s costs for taking a prosecutor’s or witness’ own recognizance, see Section 17‑15‑140.

Distribution of filing fee collected under this section, see Section 14‑1‑204.

Fee for cancellation of notice of lis pendens, see Section 15‑11‑40.

Fee for enrolling appointments and revocations of agents for service of process on judgment creditors, see Section 15‑35‑860.

Fees for hearing applications of debtors for release from civil arrest, see Section 15‑17‑530.

Payment of filing fees, Uniform Real Property Recording Act, see S.C. Code of Regulations R. 113‑345.

LIBRARY REFERENCES

14 C.J.S., Clerks of Court Sections 9‑32.

20 C.J.S., Costs Sections 184 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 11, Fees and Costs.

S.C. Jur. Costs Section 28, Filing Fees.

S.C. Jur. Costs Section 46, Condemnation Actions.

S.C. Jur. Costs Section 63, Security for Costs.

S.C. Jur. Guardian and Conservator Section 31, Letters.

Attorney General’s Opinions

The Horry County is correct in charging its assessment pursuant to Section 8‑21‑310(10) if the “certificate of trust” or “memorandum of trust” makes reference only to individuals being appointed as trustees and their power and has nothing to do with real estate. S.C. Op.Atty.Gen. (Oct. 7, 2010) 2010 WL 4391640.

Appropriate fee for filing lien under Section 42‑7‑200 appears to be $6 under Section 8‑21‑310(3). 1992 Op Atty Gen No 92‑63.

If lien were placed by lis pendens as permitted by Section 42‑7‑200, fee would be $5 under Section 8‑21‑310(11)(b). 1992 Op Atty Gen No 92‑63.

The $25.00 fee for expunging criminal records should be imposed for each offense regardless of whether the order addresses only one offense or multiple offenses, but is not subject to the distribution formula of Section 20‑7‑1510. 1992 Op Atty Gen No. 92‑19.

Additional fees should not be charged for recording amended transcriptions of judgments from magistrate’s courts and federal district courts. 1992 Op Atty Gen 92‑05.

Fee for filing modification of mortgage affecting single mortgage is $6 unless it is part of original mortgage when initially filed. Larger fee of $10 in Section 8‑21‑310(1) applies to filing of original mortgage. 1991 Op Atty Gen No 91‑29, p 82.

The collection of a one dollar ($1.00) fee for taking and filing an order for bail with or without bond by a magistrate on behalf of a clerk of court is permissible so long as there is an understanding as to how such a fee is to be collected and that the fee is ultimately to be paid to the clerk of court. 1989 Op Atty Gen, No. 89‑104, p 284.

A $4.00 fee should be charged for recording a document releasing a portion of mortgaged premises, commonly called a mortgage release. 1987 Op Atty Gen, No. 87‑61, p 154.

Inasmuch as no statute expressly provides for a filing fee for Commission Orders, no fee should be charged. The fee set forth in Section 8‑21‑310(9) should be charged for the filing of letters of conservatorship under Section 62‑5‑421. 1987 Op Atty Gen, No. 87‑91, p 245.

The fees for filing and satisfying warrants in [1979] Act No. 164 are to be uniformly charged in all counties. 1979 Op Atty Gen, No 79‑104, p 147.

NOTES OF DECISIONS

Waiver of fees 1

1. Waiver of fees

There is no statutory provision that permits the waiver of filing fees for an appeal brought under the Administrative Procedures Act. Sullivan v. South Carolina Dept. of Corrections (S.C. 2003) 355 S.C. 437, 586 S.E.2d 124, certiorari denied 124 S.Ct. 1155, 540 U.S. 1153, 157 L.Ed.2d 1050. Administrative Law And Procedure 726

**SECTION 8‑21‑320.** Motion fees.

 There is assessed for every motion made in the court of common pleas and family court, not including motions made in family court juvenile delinquency proceedings, a fee of twenty‑five dollars. The fee must accompany each motion filed. The Supreme Court has authority to issue administrative rules to exempt from the motion fee certain family court matters involving rules to show cause in child and spousal support matters. The Supreme Court may waive the filing fees imposed by this section upon a proper showing of indigency. The revenue from this fee must be collected by the clerk of court in each court and remitted to the State Treasurer and credited to a separate judicial department support fund for the exclusive use of the judicial department.

 The revenue collected pursuant to this section shall be distributed by the State Treasurer in the following manner:

 (1) The first four hundred fifty thousand dollars of these funds must be transferred to the Prosecution Coordination Commission. The funds shall be distributed equally to the third, fourth, and eleventh judicial circuits to fund drug courts.

 (2) Any remaining funds must be transferred to the Judicial Department for operating purposes.

HISTORY: 2002 Act No. 329, Section 3G, eff June 18, 2002; 2008 Act No. 353, Section 2, Pt 20G, eff July 1, 2009.

Effect of Amendment

The 2008 amendment added the second undesignated paragraph effective July 1, 2009.

ARTICLE 7

Probate Fees and Costs

**SECTION 8‑21‑760.** Salaries of probate judges; disposition of costs and fees received.

 The probate judges must receive salaries for performance of their duties pursuant to Section 8‑21‑765.

 A probate judge who is receiving a salary greater than provided for his position under the provisions of this chapter must not be reduced in salary during his tenure in office. Tenure in office continues at the expiration of a term if that judge is reelected.

 The governing body of the county shall provide the salary, equipment, facilities, and supplies of the support personnel and staff of the probate judge, together with all other costs necessary for the efficient operation of the court, including but not limited to, court reporters, secretaries, clerks, per diem, travel, educational, and other benefits for the judge and his staff. A probate judge is not prohibited from acting as special referee with the agreement of the county governing body, but no probate judge is eligible to serve as a standing master‑in‑equity.

 The probate judge in each county must serve full time and shall carry out all duties assigned by law.

 Fees and costs received under the provisions of this article by the officials of a county must be accounted for and paid into the general fund of the county as directed by the governing body of that county. Any remuneration received by a probate judge for performing duties assigned by the Department of Mental Health must be remitted by the probate judge to the county treasurer for deposit into the general fund of the county.

HISTORY: 1979 Act No. 164 Part I Section 2A; 1988 Act No. 678, Part IV, Section 1, eff July 1, 2002.

Effect of Amendment

The 1988 amendment rewrote this section.

LIBRARY REFERENCES

48A C.J.S., Judges Sections 75, 82, 84 et seq.

Attorney General’s Opinions

Fee schedules for Probate Courts such as those proposed by Allendale County and followed in Bamberg County, which are contrary to the general provision of Code Section 14‑23‑810, are unconstitutional. The only fee schedule available for the probate Courts is to be found under South Carolina Code Section 14‑23‑810 (1976). 1976‑77 Op Atty Gen, No 77‑130, p 110.

The fees collected by the probate courts must be paid over to the county by Article V, Section 6 of Act No. 690, 1976. 1976‑77 Op Atty Gen, No 77‑240, p 178.

The Anderson County Council does not have the authority to raise fees charged by the County Probate Judge. 1976‑77 Op Atty Gen, No 77‑283, p 218.

NOTES OF DECISIONS

In general 1

1. In general

Probate judge’s conduct in charging fees to perform marriage ceremonies and retaining all or a portion of the fees for his personal use warranted public reprimand. In re Anonymous Former Probate Judge (S.C. 2004) 358 S.C. 1, 594 S.E.2d 473. Judges 11(4)

Any judge who has retained compensation for the performance of marriages while serving as a judge in the State unified court system must promptly make a report of having done so to the Office of Disciplinary Counsel, initiate an audit to determine the amount of compensation retained, and repay that compensation to the general fund of their respective county; judges who fail to promptly comply with such directive and who continue to exhibit a cavalier attitude toward the statutory law, the opinions of the Supreme Court, the opinions of the Advisory Committee on Judicial Standards and the provisions of the Code of Judicial Conduct regarding the subject of retaining compensation for performance of marriages will receive a harsher sanction than those who promptly comply. In re Anonymous Former Probate Judge (S.C. 2004) 358 S.C. 1, 594 S.E.2d 473. Judges 11(2)

A judge’s actions in failing to remit to the county funds received from the Department of Mental Health (DMH) for hearings the judge had held for involuntarily committed DMH patients pursuant to an agreement between DMH and the county, was unlawful under Section 8‑21‑760, even though the DMH funds were not among the fees and costs specifically enumerated in Art 7, since the fees were collected in the judge’s capacity as probate judge and were therefore “probate fees” governed by Article 7 whether specifically enumerated therein or not; this conduct therefore violated Canons 1 and 2(A) of the Code of Judicial Conduct. The judge also violated Canons 1 and 2 of the Code of Judicial Conduct by signing a petitioner’s name on a verification of the petition in a probate matter, and then notarizing the purported signature in order to expedite the matter. The judge’s the matter. The judge’s conduct in violation of Canons 1 and 2 of the Code of Judicial Conduct warranted a public reprimand. Matter of Johnson (S.C. 1990) 302 S.C. 532, 397 S.E.2d 522.

**SECTION 8‑21‑765.** Salary schedules.

 (A) The salary of the office of probate judge is based on a salary schedule which uses base salaries determined by population categories according to the latest official United States Decennial Census. The governing body of each county shall pay the probate judge of the county a base salary as follows:

 (1) for those counties with a population of two hundred thousand and above, the base salary is fifty‑nine thousand dollars;

 (2) for those counties with a population of at least one hundred fifty thousand but not more than one hundred ninety‑nine thousand, nine hundred ninety‑nine, the base salary is forty‑nine thousand dollars;

 (3) for those counties with a population of at least one hundred thousand but not more than one hundred forty‑nine thousand, nine hundred ninety‑nine, the base salary is thirty‑eight thousand dollars;

 (4) for those counties with a population of at least fifty thousand but not more than ninety‑nine thousand, nine hundred ninety‑nine, the base salary is thirty‑three thousand dollars;

 (5) for those counties with a population of at least thirty‑five thousand but not more than forty‑nine thousand, nine hundred ninety‑nine, the base salary is thirty‑one thousand, five hundred dollars;

 (6) for those counties with a population of at least twenty thousand but not more than thirty‑four thousand, nine hundred ninety‑nine, the base salary is twenty‑five thousand dollars;

 (7) for those counties with a population less than twenty thousand, the base salary is twenty‑two thousand, five hundred dollars.

 (B) The South Carolina Court Administration is charged with monitoring compliance with this section. Nothing contained in this section may be construed as prohibiting a county from paying in excess of the minimum base salaries provided for in this section.

 A probate judge is entitled to the same perquisites as those employees of the county of similar position and salary.

 A cost of living increase must be paid by the county in the amount provided classified state employees in the annual state general appropriations act of the previous fiscal year. The base salaries provided for in this Part must be adjusted annually based on the percentage amount of the cost of living increase paid to classified state employees in the annual state general appropriations act of the previous fiscal year.

HISTORY: 1988 Act No. 678, Part IV, Section 2, eff January 1, 1989.

Attorney General’s Opinions

Probate judges whose salaries are in excess of the base salary are not entitled to a cost of living increase pursuant to the terms of this section, but may receive one if their respective counties so decide. S.C. Op.Atty.Gen. (December 21, 2015) 2015 WL 9598641.

**SECTION 8‑21‑770.** Determination of fees and costs; schedule of fees and costs to be collected.

 (A) Fees and costs are payable upon the filing of an application or petition. Payment may, in the discretion of the probate judge, be deferred for a period no greater than the time provided by law for filing the inventory and appraisement. Any adjustment of fees and costs collected at the opening of the estate must be effected before or at the time of final settlement.

 (B) In estate and conservatorship proceedings, the fee shall be based upon the gross value of the decedent’s probate estate or the protected person’s estate as shown on the inventory and appraisement as follows:

|  |  |  |
| --- | --- | --- |
|  |  |  |
| (1) | Property valuation less than $5,000.00 | $25.00 |
| (2) | Property valuation of $5,000.00 but less than $20,000.00 | $45.00 |
| (3) | Property valuation of $20,000.00 but less than $60,000.00 | $67.50 |
| (4) | Property valuation of $60,000.00 but less than $100,000.00 | $95.00 |
| (5) | Property valuation of $100,000.00 but less than $600,000.00 | $95.00 |
|   | plus .15 percent of the property valuation between $100,000.00 and $600,000.00 |   |

 (6) Property valuation of $600,000.00 or higher amount set forth in (5) above plus one‑fourth of one percent of the property valuation above $600,000.00.

 For purposes of this subsection, “decedent’s probate estate” means the decedent’s property passing under the decedent’s will plus the decedent’s property passing by intestacy and “protected person’s estate” means the protected person’s property that vests in a conservator as trustee pursuant to Section 62‑5‑420.

 (C) Other fees of the Probate Court are as follows:

|  |  |  |
| --- | --- | --- |
|  |  |  |
| (1) | Issuing certified copy | $5.00 |
| (2) | Issuing exemplified/authenticated copy | $20.00 |
| (3) | Reforming or correcting marriage record | $6.75 |
| (4) | Filing demands for notice | $5.00 |
| (5) | Filing conservatorship accountings | $10.00 |
| (6) | Recording authenticated or certified record | $20.00 |
| (7) | Reopening closed estates | $22.50 |
| (8) | Appointment of special or temporary fiduciary | $22.50 |
| (9) | Filing and indexing will under Section 62‑2‑901 | $10.00 |
| (10) | Certifying appeal record | $10.00 |

 (11) Filing the initial petition in any action or proceeding other than (B) above, same fee as charged for filing civil actions in circuit court

 (12) Filing affidavit for collection of personal property under Section 62‑3‑1201, the fee pursuant to item (B) above based upon property valuation shown, provided that where the property valuation is less than $100.00, the fee shall be one‑half the amount otherwise provided.

 (D) The costs of the notice to creditors or other legal advertisement are in addition to prescribed court costs and are due and payable prior to publication of advertisement.

HISTORY: 1979 Act No. 164, Part I Section 2A; 1993 Act No. 181, Section 75, eff July 1, 1993; 1994 Act No. 470, Section 3, eff 30 days after July 14, 1994; 1995 Act No. 15, Section 1, eff April 4, 1995, but shall apply retroactively to August 15, 1994.

Editor’s Note

1995 Act No. 15, Section 5, provides as follows:

“SECTION 5. This act takes effect upon approval by the Governor, but Section 1 shall apply retroactively to August 15, 1994. Any person who remitted fees pursuant to Section 3 of Act 470 of 1994 may petition the court within one year of this act’s effective date to obtain a refund of the difference between that which is due pursuant to this act and that which was due pursuant to Section 3 of Act 470 of 1994.” [Note: 1994 Act No. 470 Section 3 amended Section 8‑21‑770].

ARTICLE 5 of Title 62 was rewritten by 2017 Act No. 87, Section 5.A, effective January 1, 2019. For Section 62‑5‑420, referenced in the last undesignated paragraph in (B), see now, Section 62‑5‑417.

Effect of Amendment

The 1993 amendment, in paragraph (b)(1), substituted “Department of Revenue and Taxation” for “Tax Commission”, in two instances.

The 1994 amendment revised certain Probate Court fees and costs.

The 1995 amendment revised subsection (B), to specify that fees in estate and conservatorship proceedings must be based upon the gross value of the decedent’s probate estate or the protected person’s estate; and to provide for a retroactive refund of the difference between the estate and conservatorship fees paid after August 15, 1994 and the reduced fees provided by the 1995 amendment.

CROSS REFERENCES

Relief from filing fees, court costs and other probate costs, see Section 8‑21‑800.

Registration of orders from another state, powers in this state, see Section 62‑5‑716.

Attorney General’s Opinions

There is no apparent basis to conclude that probate court fee is to be computed on all items listed in Recapitulation Section of Form No. 350PC, nor is there apparent basis to conclude that probate court fees be computed on net worth (derived from Recapitulation Section) of estate. To avoid implied repeal of Section 8‑21‑770(a)(1), better course would be to compute probate court fees based on schedules of No. 350PC which are comparable to items (2) and (3) of old Warrant of Appraisement, being Schedules A, B, C, D(1), and F. There appears to be no statute which suggests that encumbrances (which are not listed in above schedules) are to be deducted prior to computing probate court fees. 1990 Op Atty Gen No. 90‑37.

In the administration of a domiciliary decedent’s estate no out‑of‑state property should be included in the property evaluation for the purpose of computing the Probate Court’s fee. 1981 Op Atty Gen, No 81‑1, p 11.

**SECTION 8‑21‑780.** Repealed by 1994 Act No. 470, Section 6, eff 30 days after July 14, 1994.

Editor’s Note

Former Section 8‑21‑780 was derived from 1979 Act No. 164 Part I Section 2A.

Former Section 8‑21‑780 provided for a fee of $1.00 per page for copies of statements furnished to the Department of Revenue and Taxation by the Probate Court and that the fees would be charges against the estate and collected prior to final discharge.

**SECTION 8‑21‑790.** Fees for settlement of estates; disposition of fees by Department of Revenue.

 The office of the probate court must also be paid fees according to the following schedule for each estate settled:

|  |  |
| --- | --- |
|  |  |
| On the first $100.00 of tax collected | 5% |
| Above $100.00 and up to $1,000.00 | 2% |
| Above $1,000.00 and up to $10,000.00 | 1 1/2% |
| Above $10,000.00 and up to $50,000.00 | 1% |
| Above $50,000.00 and up to $100,000.00 | 3/4 of 1% |
| Above $100,000.00 and up to $300,000.00 | 1/2 of 1% |
| Above $300,000.00 | 1/4 of 1% |

 If the probate judge fails or neglects to perform a duty required under Chapter 16 of Title 12, the Department of Revenue may withhold any or all of the fees provided for in the schedule and shall credit the withheld fees to the general fund of the State Treasury. All fees allowed under this schedule must be paid out of the taxes collected by the Department of Revenue no less than monthly upon receipt of them and the receipt of the County Treasurer is sufficient voucher for paying same.

HISTORY: 1979 Act No. 164 Part I Section 2A; 1993 Act No. 181, Section 77, eff July 1, 1993; 1994 Act No. 470, Section 4, eff 30 days after July 14, 1994; 1997 Act No. 114, Section 4, eff June 13, 1997.

Effect of Amendment

The 1993 amendment revised this section by substituting “Department of Revenue” for “Tax Commission” throughout.

The 1994 amendment substituted “must” for “shall” in the opening paragraph and, in the second paragraph, deleted language which had permitted the department to retain certain fees.

The 1997 amendment rewrote the second paragraph.

Attorney General’s Opinions

The Estate Tax Fees collected by the Probate Judge under 1962 Code 27‑303 [1976 Code Section 14‑23‑830], are no longer payable to the Probate Judge, but become the property of the County under Article V, Section 6, of Act No. 690 of 1976, 59 Stat. 1859 (Judicial Reform Act) [1976 Code Section 14‑23‑540]. 1975‑76 Op Atty Gen, No 4523, p 385.

**SECTION 8‑21‑800.** Relief from filing fees, court costs and other probate costs.

Section effective until January 1, 2019. See, also, section 8‑21‑800 effective January 1, 2019.

 The Probate Judge may relieve any party to any proceeding in the Probate Court from court costs in the manner provided in Section 8‑21‑140 but relief from filing fees and other probate costs is prohibited, except as provided in Section 8‑21‑810.

HISTORY: 1979 Act No. 164 Part I Section 2A.

**SECTION 8‑21‑800.** Relief from filing fees, court costs and other probate costs.

Section effective January 1, 2019. See, also, Section 8‑21‑800 effective until January 1, 2019.

 The Probate Judge may relieve any party to a proceeding in the Probate Court from court costs in the manner provided in Section 8‑21‑140, but relief from filing fees and other probate costs is prohibited, except as provided in Section 8‑21‑810.

 (1) The Probate Judge pursuant to Rule 3(b), SCRCP and Section 62‑1‑112, shall grant waivers of filing fees for indigent persons in the same manner as other civil cases.

 (2) The Probate Judge may relieve any party to a proceeding in the Probate Court from court costs related to fees of a notary public as provided in Section 8‑21‑140.

 (3) The Probate Judge is prohibited from waiving fees or court costs associated with the value of an estate or conservatorship as provided in Section 8‑21‑770(B), except as provided in Section 8‑21‑810.

HISTORY: 1979 Act No. 164 Part I Section 2A; 2017 Act No. 87 (S.415), Section 2, eff January 1, 2019.

REPORTER’S COMMENTS

The 2017 amendment to this section clarifies that the Probate Judge may waive filing fees for indigent persons, the same as in other civil cases. While much of the jurisdiction of the Probate Court involves estates or protective orders, where waiving of filing fees would be inappropriate. However, in actions for guardianship, the litigants may be indigent and should have access to the courts and the Probate Court should be able to waive the fees upon a showing of indigency.

Editor’s Note

2017 Act No. 87, Section 6, provides as follows:

“(A) This act takes effect on January 1, 2019.

“(B) Except as otherwise provided in this act, on the effective date of this act:

“(1) this act applies to any conservatorships, guardianships, or protective orders for minors or persons under a disability created before, on, or after its effective date;

“(2) this act applies to all judicial proceedings concerning conservatorships, guardianships, or protective orders for minors or persons under a disability commenced on or after its effective date;

“(3) this act applies to judicial proceedings concerning conservatorships, guardianships, and protective orders for minors or persons under a disability commenced before its effective date unless the court finds that application of a particular provision of this act would substantially interfere with the effective conduct of the judicial proceedings or prejudice the rights of the parties, in which case that particular provision of this act does not apply and the superseded law applies;

“(4) subject to item (B)(5) and subsection (C) of this SECTION, any rule of construction or presumption provided in this act applies to governing instruments executed before the effective date of this act unless there is a clear indication of a contrary intent in the terms of the governing instrument; and

“(5) an act done and any right acquired or accrued before the effective date of the act is not affected by this act.

“(C) If a right is acquired, extinguished, or barred upon the expiration of a prescribed period that has commenced to run under any other statute before the effective date of the act, that statute continues to apply to the right even if it has been repealed or suspended.”

**SECTION 8‑21‑810.** No costs or fees for items requested by county officers or United States Veterans Administration.

 No cost or fee shall be payable to probate courts for any item or copy requested by a county officer or the United States Veterans Administration.

HISTORY: 1979 Act No. 164 Part I Section 2A.

CROSS REFERENCES

Relief from filing fees, court costs and other probate costs, see Section 8‑21‑800.

ARTICLE 9

Magistrates’ and Constables’ Compensation, Fees and Costs

**SECTION 8‑21‑1000.** Magistrates to receive salaries; accounting for fees and costs received.

 All magistrates shall receive salaries in lieu of all fees and costs in civil or criminal actions or proceedings, and all such fees and costs received and recovered under the provisions of this article by any magistrate of any county shall be accounted for and paid into the general fund of the county as directed by the governing body thereof.

HISTORY: 1979 Act No. 164 Part I Section 3.

CROSS REFERENCES

Provision declaring that receipt of fees by magistrates in criminal cases is unlawful, see Section 22‑7‑40.

Provision requiring magistrate to make monthly report of moneys collected, see Section 22‑1‑90.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Costs Section 50, Costs to be Collected by Magistrates.

S.C. Jur. Magistrates and Municipal Judges Section 14, Magistrates’ Courts.

LAW REVIEW AND JOURNAL COMMENTARIES

Annual Survey of South Carolina Law: Magistrates’ Courts; Pecuniary Interest of Magistrates in Litigation, 31 S.C. L. Rev. 36.

**SECTION 8‑21‑1010.** Schedule of fees and costs to be collected by magistrates.

 (A) Except as otherwise expressly provided, the following fees and costs must be collected by the magistrates and deposited in the general fund of the county:

 (1) for taking civil recognizance, with or without sureties, five dollars;

 (2) for granting an order for civil special bail, with or without sureties, five dollars;

 (3) for receiving and filing bond in claim and delivery, attachment, five dollars; if justification of sureties required, an additional five dollars;

 (4) for administering and certifying oaths or documents in writing, two dollars;

 (5) for issuing any prerogative writ, five dollars;

 (6) in all civil actions, for issuing a summons and a copy for defendant, and for giving judgment with or without a hearing, forty‑five dollars;

 (7) for issuing execution and renewal thereof, ten dollars;

 (8) for making up, certifying, and forwarding a transcript of record and judgment in a case for purpose of appeal, ten dollars;

 (9) for proceedings by a landlord or lessor against a tenant or lessee, including notices to quit, eviction orders, or recovery of rents, twenty dollars;

 (10) for proceedings on a coroner’s inquest, as prescribed by law, ten dollars, if inquest is demanded by a party other than the State or county or authorized officer of either;

 (11) for proceeding on estrays, including judgment for possession, sale, or damages, ten dollars;

 (12) for qualifying appraisers to set off homestead or qualifying sureties on a bond posted in a case, including bail bonds, five dollars;

 (13) for each tax execution collected, five dollars; and

 (14) for filing or issuing any other paper not provided for in this section, five dollars.

 (B) Fees or costs may not be assessed against a party for summoning jurors or expense of jury service in a criminal case in which a trial by jury is had.

HISTORY: 1979 Act No. 164 Part I Section 3; 1988 Act No. 678, Part I, Section 1, eff July 25, 1988; 2000 Act No. 226, Section 2, eff April 1, 2000.

Editor’s Note

2000 Act No. 226 Section 1, effective July 1, 2000, reads as follows:

“This act is known and may be cited as the ‘Magistrates Court Reform Act of 2000’.”

Effect of Amendment

The 1988 amendment made grammatical changes throughout this section, increased the fees in items (6) and (9), deleted item (12), redesignated items (13) through (15) as items (12) through (14), and deleted the designation of the final paragraph as item (16).

The 2000 amendment inserted subsection designators (A) and (B); in (A) (6), increased the fee for issuing a summons and copy and for giving judgment in civil actions from $25 to $40; in (A) (9), increased the fee for proceedings by a landlord or lessor against a tenant or lessee from $10 to $25; and made minor language changes.

CROSS REFERENCES

Fee for issuing warrant for ejectment of trespasser, see Section 15‑67‑630.

Provision requiring magistrate to make monthly report of moneys collected, see Section 22‑1‑90.

LIBRARY REFERENCES

80 C.J.S., Sheriffs and Constables Sections 217 et seq., 226 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Costs Section 50, Costs to be Collected by Magistrates.

NOTES OF DECISIONS

In general 1

1. In general

Magistrates have no right or interest in the disposition of magisterial fees or in the manner in which the funds are raised for payment of their salaries, so long as compensation is in fact provided; accordingly, they have no standing to question the constitutionality of Section 8‑21‑1000 or Section 8‑21‑1010. Douglas v. McLeod (S.C. 1981) 277 S.C. 76, 282 S.E.2d 604. Constitutional Law 709

**SECTION 8‑21‑1020.** Relief from payment of magistrate court costs.

 Any person may be relieved from payment of magistrate court costs herein provided, including costs of constables performing duties in magistrate court proceedings, upon the showing and finding by the magistrate as provided in Section 8‑21‑1040; provided, no party except as provided in Section 8‑21‑1050 shall be relieved of fees for filing and recording documents.

HISTORY: 1979 Act No. 164 Part I Section 3.

**SECTION 8‑21‑1030.** Compensation of constables.

 The compensation of all constables in the several counties, including constables appointed by magistrates, shall be fixed by the governing body of the county which shall not be diminished during their terms of office, and such compensation shall not be measured or affected by the fees and costs received and recovered by such officers under the provisions of this article. The compensation need not be the same for each constable but may be determined by the governing body of the county based upon the time spent and the area and the population served by each constable in the performance of his duties.

HISTORY: 1979 Act No. 164 Part I Section 3.

CROSS REFERENCES

Provisions for county to deduct from constables’ salaries amounts paid in certain cases, see Section 22‑9‑320.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Costs Section 50, Costs to be Collected by Magistrates.

**SECTION 8‑21‑1040.** Payment of mileage to constables.

 No mileage shall be payable to constables for travel in service of any process or papers in any action, or performance of any official duty, when traveling in state, county, or other publicly‑owned vehicles; but a record of such mileage shall be kept for reporting and taxing as provided in Section 8‑21‑1020; provided, further, that actual mileage at the current county rate per mile for travel by privately‑owned vehicle, or actual cost of travel by common carrier, and subsistence as provided by law may be paid to constables traveling in performance of duty, but shall be paid from the general funds of the county on warrant of the magistrate (or clerk of the court) before which the case or proceeding is pending to the county treasurer.

HISTORY: 1979 Act No. 164 Part I Section 3.

CROSS REFERENCES

Requirement that mileage be computed by shortest practicable route, see Section 8‑21‑20.

**SECTION 8‑21‑1050.** Accounting for fees and costs received by constables.

 All fees and costs received or recovered by constables, including mileage, shall be accounted for and paid into the general fund of the county as directed by the governing body thereof; except that mileage at the current county rate per mile shall be taxable and recovered in the same manner as other costs for the actual mileage traveled by constables in serving process or other papers in any civil action, but such mileage or travel costs shall be payable personally to constables only as provided in Section 8‑21‑1040.

HISTORY: 1979 Act No. 164 Part I Section 3.

**SECTION 8‑21‑1060.** Schedule of fees and costs to be collected by magistrate or his officers.

 Except as otherwise expressly provided, the following fees and costs must be collected by the magistrate or his officers and deposited in the general fund of the county:

 (1) for summoning a witness to magistrate court in a civil action, three dollars, plus mileage at the current state rate;

 (2) for summoning the jury panel to try a civil action in magistrate court, five dollars, to be taxed against the losing party;

 (3) for summoning a coroner’s jury and witnesses, five dollars, and mileage, to be paid only if inquest is demanded by person other than the State, county, or authorized officer thereof;

 (4) for serving a summons, rule, order, or notice by a magistrate in a civil action, five dollars, plus mileage;

 (5) for serving an attachment or civil arrest on a person and making return thereof, five dollars, plus mileage;

 (6) for selling an estray, five percent of the sale proceeds;

 (7) for levying execution, posting notice of sale, conducting sale, and paying over proceeds in a magistrate court action, ten dollars;

 (8) for serving warrants, or any other criminal process, and for conveying prisoners by order of the magistrate or other court, mileage as permitted under Section 8‑21‑1040.

HISTORY: 1979 Act No. 164 Part I Section 3; 1988 Act No. 678, Part I, Section 2, eff July 25, 1988.

Effect of Amendment

The 1988 amendment made grammatical changes, and increased the fee from five to ten dollars in item (7).

CROSS REFERENCES

Provision requiring magistrate to make monthly report of moneys collected, see Section 22‑1‑90.

LIBRARY REFERENCES

80 C.J.S., Sheriffs and Constables Sections 217 et seq., 226 et seq.

Attorney General’s Opinions

Sheriff or his deputy executing process issued by magistrate’s court should continue to collect fees typically collected by magistrates’ constables, at least until Legislature has opportunity to clarify Sheriff’s general fee schedule established by 1985 amendment of Section 23‑19‑10. 1985 Op Atty Gen, No. 85‑103, p 286.

**SECTION 8‑21‑1070.** Constables’ fees and mileage for performance of duties outside county.

 When empowered by law to serve process or perform other duties outside the county in which they are employed or appointed to serve, constables shall be allowed the same fees and mileage as though duties were performed within the county.

HISTORY: 1979 Act No. 164 Part I Section 3.

CROSS REFERENCES

Requirement that mileage be computed by shortest practicable route, see Section 8‑21‑20.

**SECTION 8‑21‑1080.** Fees prescribed for magistrates and constables to be exclusive.

 Notwithstanding any other provisions of law, except as provided in Section 34‑11‑70, beginning on July 1, 1979, the fees prescribed in this article shall be the only legal fees charged for services of magistrates and constables in all counties of the State.

HISTORY: 1979 Act No. 164 Part I Section 3.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Magistrates and Municipal Judges Section 14, Magistrates’ Courts.