~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 23, 2012

**H. 4570**

Introduced by Rep. J.E. Smith

S. Printed 2/23/12--H.

Read the first time January 11, 2012.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4570) to amend Section 8‑21‑770, as amended, and 8‑21‑800, Code of Laws of South Carolina, 1976, relating to probate court costs and fees, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, Section 8-21-770 on page 3, after line 6 by inserting:

/(E) In emergency admission proceedings and petitions for judicial admission pursuant to Chapters 17, 20, 24, or 52 of Title 44, a fee may not be charged by the probate court. /

Renumber sections to conform.

Amend title to conform.

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND SECTION 8‑21‑770, AS AMENDED, AND 8‑21‑800, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROBATE COURT COSTS AND FEES AND THE RELIEF FROM THESE COSTS AND FEES THAT MAY BE ALLOWED BY PROBATE JUDGES, SO AS TO REVISE THE REFERENCE FROM FEES TO COSTS IN THE CALCULATION OF THE GROSS VALUE OF A DECEDENT’S ESTATE AND TO INCREASE FROM SIX DOLLARS AND SEVENTY‑FIVE CENTS TO THIRTY‑FIVE DOLLARS THE FEE FOR REFORMING OR CORRECTING A MARRIAGE RECORD, TO PROVIDE FOR THE FEE FOR FILING FORMAL PETITIONS IN ANY ACTION IN THE PROBATE COURT INCLUDING ESTATE AND CONSERVATORSHIP PROCEEDINGS AND PROVIDE A MOTION FILING FEE OF TWENTY‑FIVE DOLLARS WITH CERTAIN EXCEPTIONS, AND TO PROVIDE THAT A PROBATE JUDGE MAY NOT RELIEVE ANY PERSON FROM FILING FEES, COSTS, AND OTHER PROBATE COSTS EXCEPT IN SPECIFIC INSTANCES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 8‑21‑770 of the 1976 Code, as last amended by Act 15 of 1995, is further amended to read:

“Section 8‑21‑770. (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~~ court costs are 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~~ $35.00;

(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~~ formal petition in any action or proceeding ~~other than (B) above~~, the 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~~ is one‑half the amount otherwise provided; and

(13) Filing motions, with the exception of motions for extension, motions for appointment of a guardian ad litem, and motions for order of publication, the fee is $25.00.

(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.”

SECTION 2. Section 8‑21‑800 of the 1976 Code is amended to read:

“Section 8‑21‑800. The probate judge may not relieve any ~~party to any proceeding in the Probate Court~~ person from filing fees, 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~~ and other probate costs except as follows:

(1) the probate judge may relieve any person from the fees of notaries public provided for in Section 8‑21‑140;

(2) the probate judge shall relieve the fees as required under Section 8‑21‑810; and

(3) the probate judge may relieve any party from the filing fee associated with a formal petition upon a showing of indigency to the satisfaction of the probate judge.”

SECTION 3. This act takes effect July 1, 2012, and applies for probate court filings on and after that date.

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