~~Indicates Matter Stricken~~

Indicates New Matter

RECALLED

May 7, 2019

**H. 3243**

Introduced by Reps. Bernstein, W. Cox, Fry, Clemmons and Hixon

S. Printed 5/7/19--S.

Read the first time March 26, 2019.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Amended by the House of Representatives on March 20, 2019State Expenditure**

**Local Revenue**

This bill modifies the filing and recording fees collected by county Register of Deeds, Clerks of Court, and county treasurer’s offices by creating a uniform flat fee which is based on the type of document that is being filed. The bill removes the counties’ ability to charge an additional one dollar per page for certain filings that contain more than four pages. In general, the bill sets document filing fees to a flat rate based on each document type, regardless of the number of total pages submitted for the particular filing. This bill will increase some document filing fees while other fees will remain the same. For a detailed listing of fee changes, see Figure 1.

The Revenue and Fiscal Affairs (RFA) Office contacted the South Carolina Association of Counties, the South Carolina Association of Clerks of Court, and the Registers of Deeds regarding the local revenue impact of this bill. Both the Association of Clerks of Court and Registers of Deeds provided information regarding the local revenue impact of this bill. The associations provided information regarding filing and recording fees counties collected; however neither association was able to provide data for all of the filing and recording types listed in this bill.

In addition, because this bill modifies the filing and recording fees a county is allowed to charge for filing documents, RFA contacted the forty-six county administrators regarding the revenue impact of this bill. Clarendon, Florence, Lancaster, Lexington, and Saluda counties all agreed that revenue collected from filings and recording fee changes would result in a net increase; however none of the counties were able to provide data for all of the filing and recording types listed in this bill.

Based on the changes in fees, a county’s fee collection will see a net increase in fee revenue in instances where the fee has increased even though there are a number of document types that will have no increase in fees. Furthermore, based on all the responses received from the Register of Deeds, Clerks of Court Association, and the Association of Counties, RFA expects local revenue to increase. Due to the lack of complete data available, the exact amount of the increase in revenue cannot be estimated. As such, the bill will have an undetermined impact on local revenue. This bill becomes effective on August 1, 2019.

**Figure 1. Filings and Recordings Fees Table**

**Filing or Recording Original Amount New Fee Amount**

Recording a deed on real estate $10 and $1 for every $15

page over four pages

Recording a mortgage on real

estate $10 and $1 for every $25

page over four pages

Entry of a deed or mortgage that $11 and $1 for every $10

covers both real estate and page over four pages

personal property in the indexes

for both real and personal

property conveyances or

mortgages

Recording a chattel mortgage, $10 and $1 for every $25

conditional sale contract, lease page over four pages

or contract of sale of personal

property, and any other document

required to be recorded under the

Uniform Commercial Code

Recording an instrument which $6 and $1 for every $10

assigns, transfers, or affects a page over one page

single real estate mortgage or other

instrument affecting title to real

property or lien for the payment

of money

Recording any lease, contract $10 and $1 for every $25

of sale, trust indenture, or other page over one page

document affecting title or

possession of real property

**Filing or Recording Original Amount New Fee Amount**

Recording satisfaction on the $5 $10

record of a mortgage of real

estate or a chattel mortgage or

other recorded lien

Recording separate probates, $10 $10

affidavits, or certificates which

are not part of or attached to

another document to be recorded

Recording a plat larger than eight $5 $25

and one-half by fourteen inches,

ten dollars; for plats of "legal

size" dimensions, or smaller

Recording any other paper $10 and $1 for every $25

affecting title or possession of page over four pages

real estate or personal property

and required by law to be recorded,

except judicial records

Filing power of attorney, trustee $15 and $1 for every $25

qualification, or other page over four pages

appointment

Filing first complaint or $150 $150

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

Filing, recording, and indexing $10 $10

lis pendens when not

accompanied by summons and

complaint

Receiving and enrolling $10 $35

transcripts of judgment from

magistrate's courts and federal

district courts

Filing and enrolling a judgment $10 $10

by confession

Taking and filing an order for $1 $10

bail with or without bond

Filing an order for bail with $10 $10

bond when surety must be

justified

Taking and filing an bond or $1 $10

security costs

Taking and filing an bond $10 $10

or security costs with bond

when surety must be justified

**Filing or Recording Original Amount New Fee Amount**

Filing or recording any $5 $10

commission of notary public o

r other public office, license or

permit to practice any profession

or trade, notice of formation or

dissolution of any partnership

Filing the charter of any public $10 and $1 for every $10

or private corporation or page over four pages

association required by law to

be recorded

Issuing an official certificate $1 $10

under seal of court

Filing notice of discharge in $15 $10

bankruptcy

Filing and enrolling and $10 $10

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

Filing and enrolling and $10 $10

satisfying any tax lien of any

agency of the United States

Government

Filing and processing an order $35 $35

for the Destruction of Arrest

Records

Filing, indexing, enrolling, $100 $100

and entering a foreign judgment

and an affidavit

Filing a notice of meter $10 $10

conservation charge

**Introduced on January 8, 2019**

**Local Revenue**

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that covers both real estate and page over four pages

personal property in the indexes

for both real and personal property

conveyances or mortgages

Recording a chattel mortgage, $10 and $1 for every $25

conditional sale contract, lease or page over four pages

contract of sale of personal

property, and any other document

required to be recorded under the

Uniform Commercial Code

**Filing or Recording Original Amount New Fee Amount**

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other instrument affecting title to

real property or lien for the payment

of money

Recording any lease, contract of $10 and $1 for every $25

sale, trust indenture, or other page over four pages

document affecting title or

possession of real property

Recording satisfaction on the $5 $10

record of a mortgage of real

estate or a chattel mortgage or

other recorded lien

Recording separate probates, $10 $10

affidavits, or certificates which

are not part of or attached to

another document to be recorded

Recording a plat larger than $5 $25

eight and one-half by fourteen

inches, ten dollars; for plats of

"legal size" dimensions, or smaller

Recording any other paper $10 and $1 for every $25

affecting title or possession of page over four pages

real estate or personal property

and required by law to be recorded,

except judicial records

Filing power of attorney, trustee $15 and $1 for every $25

qualification, or other appointment page over four pages

Filing first complaint or petition, $150 $150

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

Filing, recording, and indexing $10 $10

lis pendens when not accompanied

by summons and complaint

Receiving and enrolling $10 $35

transcripts of judgment from

magistrate's courts and federal

district courts

Filing and enrolling a judgment $10 $10

by confession

Taking and filing an order for $1 $10

bail with or without bond

**Filing or Recording Original Amount New Fee Amount**

Filing an order for bail with $10 $10

bond when surety must be

justified

Taking and filing an bond or $1 $10

security costs

Taking and filing an bond or $10 $10

security costs with bond when

surety must be justified

Filing or recording any $5 $10

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

Filing the charter of any public $10 and $1 for every $10

or private corporation or page over four pages

association required by law to

be recorded

Issuing an official certificate $1 $10

under seal of court

Filing notice of discharge $15 $10

in bankruptcy

Filing and enrolling and $10 $10

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

Filing and enrolling and $10 $10

satisfying any tax lien of any

agency of the United States

Government

Filing and processing an order $35 $35

for the Destruction of Arrest

Records

Filing, indexing, enrolling, and $100 $100

entering a foreign judgment and

an affidavit

Filing a notice of meter $10 $10

conservation charge

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 8‑21‑310, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO A SCHEDULE OF SPECIFIED FILING AND RECORDING FEES, SO AS TO REVISE AND FURTHER PROVIDE FOR VARIOUS FILING FEES, INCLUDING A FLAT FEE OF TWENTY‑FIVE DOLLARS FOR CERTAIN DOCUMENTS FILED OR RECORDED WITH THE REGISTER OF DEEDS OR CLERKS OF COURT, AND A FLAT FEE OF TEN DOLLARS FOR CERTAIN OTHER DOCUMENTS FILED OR RECORDED WITH THE REGISTER OF DEEDS OR CLERKS OF COURT, AS APPROPRIATE, AND TO PROVIDE EXCEPTIONS.

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

SECTION 1. Section 8‑21‑310 of the 1976 Code is amended to read:

“Section 8‑21‑310. ~~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.~~

(A) Except as otherwise expressly provided, the clerks of court and registers of deeds or county treasurers, as may be determined by the governing body of the county, shall collect the uniform filing fee of fifteen dollars for a deed and the uniform filing fee of twenty‑five dollars for the following documents:

(1) a mortgage;

(2) a land sale installment contract or contract for deed;

(3) a real estate sales contract;

(4) any document required to be recorded pursuant to the Uniform Commercial Code;

(5) a plat or survey not part of or attached to another document to be recorded;

(6) an order for partition of real estate;

(7) a lease;

(8) an easement agreement or other document affecting title or possession of real property not otherwise provided for in this section;

(9 ) a power of attorney. 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;

(10) a notice of mechanic’s lien; or

(11) any other document affecting title or possession of real estate and required by law to be recorded or filed, except judicial records, including restrictive covenants, by‑laws, and amendments to restrictive covenants and bylaws.

(B) Except as otherwise expressly provided, the clerks of court and register of deeds or county treasurers, as may be determined by the governing body of the county, shall collect the uniform filing fee of ten dollars, unless otherwise stated, for the following documents or actions:

(1) a revocation of power of attorney. However, 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 within three years from the date of filing the power of attorney and 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;

(2) an assignment of leases and rents or cancellation or release of an assignment of leases and rents;

(3) separate probates, acknowledgements, affidavits or certificates which are not part of or attached to another document to be recorded;

(4) a mortgage satisfaction or release including a partial release including entry in the public record;

(5) 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, ten dollars; and if the instrument assigns, transfers, or affects more than one real estate mortgage, instrument, or lien, seven dollars for each mortgage, instrument, or lien assigned, transferred, or affected and referred to in the instrument;

(6) taking and filing bond or security costs;

(7) filing a trustee qualification, memorandum of trust, or certification of trust;

(8) filing a notice of meter conservation charge as permitted by Section 58‑37‑50;

(9) for filing, enrolling, satisfaction or expungement of South Carolina and United States Government liens. The clerk shall mark ‘satisfied’ upon receipt of the fees provided in this item for any 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 of the United States to the effect that the lien or warrant of distraint has been paid;

(10) filing or recording any commission of a notary public or other public office, license or permit to practice any profession or trade required to be filed in the county where the individual permanently resides;

(11) filing the charter of any public or private corporation or association required by law to be recorded;

(12) filing or recording dissolution of any partnership or corporate document required to be filed in the county;

(13) filing and enrolling a judgment by confession;

(14) taking and filing an order for bail with or without bond;

(15) filing a notice of discharge in bankruptcy;

(16) filing, recording, and indexing a lis pendens when not accompanied by a summons and complaint. For cancellation of a lis pendens, a fee may be required as provided in Section 15‑11‑40; or

(17) recording a release or discharge of a mechanic’s lien, or notice of pendency of an action of suit to enforce a mechanic’s lien in accordance with Chapter 5, Title 29;or

(18) filing a document relating to title of an interest in a vacation time sharing plan organized under Title 27, Chapter 32. Provided, however, the document must include clear notice on the first page and be titled “Vacation Timesharing Ownership Deed,” indicating that the document relates to a deeded interest in a vacation time share plan.

(C) Except as otherwise expressly provided, the clerks of court or county treasurers, as may be determined by the governing body of the county, shall collect the following fees or take the following actions:

(1) filing a first complaint or petition, including application for a remedial and prerogative writ and bond in a civil action or proceeding, one hundred dollars plus the added fee of fifty dollars imposed by Section 14‑1‑204 (B)(1). There is no further fee for filing an amended or supplemental complaint or petition nor for filing any other paper in the same action of proceeding with the exception of motions. 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 judgment thereon, for signing, sealing, and issuance of execution, or for entering satisfaction or partial satisfaction on a judgment;

(2) filing, indexing, enrolling, and entering a foreign judgment and an affidavit pursuant to Article 11, Chapter 35, Title 15, one hundred dollars;

(3) 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;

(4) filing and processing an order for the Destruction of Arrest Records 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, thirty‑five dollars;

(5) receiving and enrolling transcripts of judgment from magistrates courts and federal district courts, thirty‑five dollars;

(6) 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;

(7) taking and filing an order for bail whether or not surety must be justified, ten dollars;

(8) taking and filing bond or security costs whether or not surety must be justified, ten dollars;

(9) issuing an official certificate under seal of court not otherwise specified in this section, ten dollars; or

(10) filing fee for a Notice of Project Commencement, fifteen dollars as set forth in Section 25‑5‑23.”

SECTION 2. This act takes effect August 1, 2019.

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