

## COURT COSTS AND FEES CHART

The costs listed below are effective **December 1, 2011**, and apply to all costs assessed or collected on or after that date, except where otherwise noted. Costs in other legislation that takes effect after December 1, 2011, will be included in a subsequent update to this chart.

Changes to costs and fees for 2011 are shaded and blue. Cost changes for 2011 are tagged according to the dates on which they took effect: [Jul. 1], [Aug. 1], and [Dec. 1]. Legislation enacting new or amended cost items is cited in brackets. Items citing only a bill section (e.g., "[§ 31.23.(a)]") refer to sections of S.L. 2011-145 (House Bill 200).

<b>SPECIAL PROCEEDINGS COSTS</b> G.S. 7A-306, unless otherwise specified		<b>AMOUNT</b>
<b>SPECIAL PROCEEDINGS (except foreclosures). G.S. 7A-306.</b>		
<ul style="list-style-type: none"> <li>• General Court of Justice Fee. [Jul. 1] [§ 31.23.(c)]</li> </ul>	General Fund	104.50
	State Bar Legal Aid Account (LAA)	1.50 <sup>1</sup>
		<b>106.00</b>
<ul style="list-style-type: none"> <li>• Facilities Fee.</li> </ul>		10.00
<ul style="list-style-type: none"> <li>• Phone Systems Fee.</li> </ul>		4.00
<ul style="list-style-type: none"> <li>• <b>NON-FORECLOSURE TOTAL</b></li> </ul>		<b>120.00</b> (+% of FMV)
Additional GCJF for proceedings involving land, except boundary disputes. Maximum additional fee is \$200.00		+0.30/100.00 FMV of land involved <sup>2</sup>
[Aug. 1] Plus \$30.00 service fee for each item of civil process served by the sheriff. G.S. 7A-311(a)(1). [§ 31.26.(d)]		<b>+30.00</b>
<b>FORECLOSURE UNDER POWER OF SALE.</b>		
<ul style="list-style-type: none"> <li>• [Jul. 1] General Court of Justice Fee. G.S. 7A-308(a)(1).<sup>3</sup> [§ 31.23.(e)]</li> </ul>		<b>300.00</b>
<ul style="list-style-type: none"> <li>• Facilities Fee.</li> </ul>		None
<ul style="list-style-type: none"> <li>• Phone Systems Fee.</li> </ul>		None
<ul style="list-style-type: none"> <li>• <b>FORECLOSURE TOTAL</b></li> </ul>		<b>300.00</b> (+% of sale price)
[Aug. 1] Plus \$30.00 service fee for each item of civil process served by the sheriff. G.S. 7A-311(a)(1). [§ 31.26.(d)]		<b>+30.00</b>
Additional GCJF assessed from sale. Minimum additional fee: \$10.00. Maximum additional fee: \$500.00.		+0.45/100.00 of final sale price

<b>OTHER SPECIAL PROCEEDING FEES</b>	<b>AMOUNT</b>
[Jul. 1] Motion fee. G.S. 7A-306(g). <sup>4</sup> [§ 31.23.(c).]	<b>20.00</b>

<sup>1</sup> The portion of the General Court of Justice (GCJF) fee allocated to the State Bar's Legal Aid Account (LAA) has been reduced. The \$2.05 previously designated for the Bar's Access to Civil Justice fund, G.S. 7A-474.4, has been reduced to \$1.50. (Note: The \$0.95 designated in criminal and civil cases for the Bar's Domestic Violence Victim Assistance fund, G.S. 7A-474.19, does not apply to special proceedings or estates cases.) The remainder of the GCJF is remitted to the General Fund. The NCAOC's Financial Management System (FMS) will allocate these portions automatically when using the related code sets to assess costs.

<sup>2</sup> Fair market value is determined by: (i) sale price if there is a sale; (ii) appraiser's valuation if there is no sale; or (iii) appraised value from the property tax records, if there is neither a sale nor an appraiser's valuation.

<sup>3</sup> Although filed as special proceedings (SP), foreclosure costs are assessed under G.S. 7A-308 (miscellaneous costs), not the special proceeding costs statute, G.S. 7A-306. The facilities fee and phone systems fee are not assessed in G.S. 7A-308, so they are not assessed for foreclosure filings. Nor is any portion of the filing fee diverted to the State Bar's Legal Aid Assistance (LAA) funds.

<sup>4</sup> The motion fee does not apply to any motion listed in G.S. 7A-308; for a list, see "Appendix - Motion Fee Exemptions" at the end of this cost chart. The fee also does not apply to any motion "containing as a sole claim for relief the taxing of costs, including attorneys' fees." Finally, pursuant to G.S. 7A-306(f), the fee does not apply to motions filed in foreclosures under power of sale.

## Appendix - Motion Fee Exemptions

Amended Effective August 1, 2011

- **Motions for Costs and Attorney Fees.** G.S. 7A-305(f), 7A-306(g), and 7A-307(a)(4).

Each of the motion fee provisions in statute provides that the fee is not to be assessed for “a motion containing as a sole claim for relief the taxing of costs, including attorneys' fees.” Therefore if the *only* request(s) for relief in the filing are a motion(s) for costs and/or attorney fees, the fee does not apply.

- **Motions under G.S. 7A-308.**

Currently, there are only three motions for which fees are assessed under G.S. 7A-308, and which therefore are exempt from the motion fee of G.S. 7A-305(f), 7A-306(g), and 7A-307(a)(4). For each of these motions, the clerk should assess the fee specified in G.S. 7A-308.

- (a)(2) Proceedings supplemental to execution [initiated by motion in the cause].
- (a)(14) Substitution of trustee on a deed of trust [in a judicial foreclosure].
- (a)(20) Motion to assert a right of access under G.S. 1-72.1 [to a judicial proceeding or record].

- **Civil Actions - Additional Fee-Exempt Motions.** G.S. 7A-305(f).

### Child Support Proceedings – G.S. Chapter 110

Pursuant to S.L. 2011-145, § 31.23.(g), as enacted by House Bill 22, § 66.1, the fee for motions in civil actions does **not** apply to child support actions under Article 9 of Chapter 110 of the General Statutes, which governs child support cases not filed under Chapter 50 of the General Statutes.

This means that the motion fee shall not be charged in IV-D and non-IV-D motions that request relief solely under Article 9 of Chapter 110. The exemption does not apply to support proceedings under Chapter 50 of the General Statutes, so the fee must be assessed for motions in those cases.

### Domestic Violence Proceedings

Because any motion filed in a proceeding under Chapter 50B of the General Statutes (*e.g.*, for contempt for violation of the order) may be necessary to the enforcement of such order, and because court costs may not be assessed for actions associated with a protective order, pursuant to G.S. 50B-2(a), the civil motion fee should **not** be assessed for motions filed for enforcement or modification of orders under Chapter 50B.

- **Special Proceedings - Additional Fee-Exempt Motions.** G.S. 7A-306(g).

Pursuant to G.S. 7A-306(f), the costs in that statute do not apply to foreclosures under power of sale in a deed of trust or mortgage, so the motion fee is not to be assessed in those proceedings.

- **Estates - Additional Fee-Exempt Motions.** G.S. 7A-307(a)(4).

In addition to exemption for motions under G.S. 7A-308, listed above, the motion fee may be assessed in estates proceedings only when the motion requires a notice of hearing. S.L. 2011-145, § 31.23.(d), as amended by House Bill 22, § 62.

Any motion filed in an estate matter for which the relief requested requires a hearing will require a notice of hearing, so the motion fee must be assessed at the time of filing whenever the relief requested would require a hearing. The requirement of a notice of hearing should **not** be interpreted to mean that only motions that result in an actual hearing require the \$20.00 fee. The fee should be assessed whenever the relief requested would require a hearing, even if no hearing is actually held. Only motions that do not require a hearing are exempt from the fee. These include:

- A motion for emergency removal of a guardian under G.S. 35A-1291.
- A motion for summary revocation of letters testamentary or administration under G.S. 28A-9-2.
- A motion to extend time to file an accounting in an estate file.