

## 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>ESTATES COSTS AND FEES</b> G.S. 7A-307, unless otherwise specified		<b>AMOUNT</b>
<b>ESTATES. G.S. 7A-307(a).<sup>1</sup></b>		
<ul style="list-style-type: none"> <li>• General Court of Justice Fee. [Jul. 1] [§ 31.23.(d)]</li> </ul>	General Fund	104.50
	State Bar Legal Aid Account (LAA)	1.50 <sup>2</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>ESTATES TOTAL</b></li> </ul>		<b>120.00</b> (+% of gross estate, below)
<ul style="list-style-type: none"> <li>• Separate GCJF based on value of the gross estate (at inventory and each accounting). Minimum fee per filing: \$15.00. Maximum cumulative fee: \$6,000.00.</li> </ul>		+0.40/100.00 of gross estate <sup>3</sup>
<b>TRUST UNDER WILL – ESTABLISHMENT.<sup>4</sup></b>		
<ul style="list-style-type: none"> <li>• General Court of Justice Fee. [Jul. 1] [§ 31.23.(d)]</li> </ul>	General Fund	104.50
	State Bar Legal Aid Account (LAA)	1.50 <sup>2</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>TRUST UNDER WILL – ESTABLISHMENT TOTAL</b></li> </ul>		<b>120.00</b>
<b>TRUST UNDER WILL – ANNUAL ACCOUNTINGS/RECEIPT OF NEW PERSONAL PROPERTY ASSETS.</b> G.S. § 7A-307(a)(2a). Minimum fee: \$20.00. Maximum fee: \$6,000.00.		20.00 per accounting <b>or</b> 0.40/100.00 of gross value of assets (if new personal property) <sup>5</sup>

<sup>1</sup> The estate fees set forth here apply at the filing of the inventory, if not previously collected. Other fees apply at the filing of accountings. **Do not** assess estate costs for payments to the clerk of debts owed the decedent pursuant to G.S. 28A-25-6.

<sup>2</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>3</sup> "Gross estate" is the value of all personal property when received, plus the proceeds of any sale of realty coming into the hands of the fiduciary. Gross estate does not include fair market value of realty not sold. The fee is to be computed from the inventory and paid when the inventory is filed, except for collection of personal property by affidavit, described on the next page. Additional amounts will be due upon filing of an accounting.

<sup>4</sup> When a trust is established under a will, the basic estates costs are assessed twice: once for establishment of the decedent's estate file for probate of the will, and once for establishment of the trust file. The initial costs shown are to be assessed only **once** in the trust file; thereafter, costs for the trust are assessed only at the filing of accountings for new personal property received by the trust.

<sup>5</sup> The gross-value percentage "shall be assessed only on newly contributed or acquired assets, all interest or other income that accrues or is earned on or with respect to any existing or newly contributed or acquired assets, and realized gains on the sale of any and all trust assets. Newly contributed or acquired assets do not include assets acquired by the sale, transfer, exchange, or otherwise of the amount of trust property on which fees were previously assessed." G.S. 7A-307(a)(2a). This fee is **not** to be assessed on assets for which the gross-value fee was assessed in administration of the original decedent's estate proceeding. If no new assets were acquired by the trust, the minimum fee of \$20.00 must be assessed for the filing of the accounting.

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<b>ESTATES COSTS AND FEES</b> G.S. 7A-307, unless otherwise specified		<b>AMOUNT</b>
<b>PROBATE OF A WILL WITHOUT QUALIFICATION OF PERSONAL REPRESENTATIVE. G.S. 7A-307(a)(3).</b>		
• General Court of Justice Fee (no State Bar share).		20.00
• Facilities Fee.		10.00
• <b>PROBATE WITHOUT QUALIFICATION TOTAL</b>		<b>30.00</b>
<b>QUALIFICATION OF LIMITED PERSONAL REPRESENTATIVE. G.S. 7A-307(a)(2d) &amp; G.S. 28A-29-1.</b>		
• Petition Fee. <sup>6</sup>		20.00
<b>COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT. G.S. 7A-307(b).<sup>7</sup></b>		
• General Court of Justice Fee. [Jul. 1] [§ 31.23.(d)]	General Fund	104.50
	State Bar Legal Aid Account (LAA)	1.50 <sup>9</sup>
		<b>106.00<sup>8</sup></b>
• Facilities Fee.		10.00
• Phone systems Fee.		4.00
• <b>COLLECTION BY AFFIDAVIT TOTAL</b>		<b>120.00</b>
Separate GCJF based on value of the gross estate. Minimum fee per filing: \$15.00. Maximum fee: \$6,000.00. <u>Note:</u> Assessed on the AOC-E-204, Side One, "TOTAL RECEIPTS"		+0.40/100.00 of gross estate <sup>10</sup>

<sup>6</sup> Assess the \$20.00 fee upon filing of the petition to serve as a limited personal representative under Chapter 28A, Article 29. This is the only fee assessed for such petitions; do not assess the GCJF, phone system fee, facilities fee, etc. The fee was effective October 1, 2009, and applies to estates of persons dying on or after that date.

<sup>7</sup> Note that S.L. 2009-175 (House Bill 203) increased the threshold amount for small-estate administration under G.S. 28A-25-1 to \$20,000 (from \$10,000), and \$30,000 for a surviving spouse who is the sole heir (from \$20,000). This increased threshold was effective October 1, 2009, and applies to estates of persons dying on or after that date.

<sup>8</sup> G.S. 7A-307(b) requires that, for collection of personal property by affidavit, "the facilities fee and thirty dollars (\$30.00) of the General Court of Justice fee shall be paid at the time of filing the qualifying affidavit." The phone systems fee, the remainder of the GCJF, and the percentage of the gross estate are assessed at the filing of the final affidavit of collection.

<sup>9</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>10</sup> For collection of personal property by affidavit, "Gross Estate" is the value of all personal property received by the affiant. The fee is assessed based on the final affidavit of collection. See AOC-E-204 (Affidavit Of Collection, Disbursement And Distribution), Side One, "TOTAL RECEIPTS."



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<b>OTHER ESTATE FEES</b> G.S. 7A-307(b1), unless otherwise noted.	<b>AMOUNT</b>
<b>[Jul. 1]</b> Motion fee. G.S. 7A-307(a)(4). <sup>11</sup> <b>[§ 31.23.(d).]</b>	<b>20.00</b>
<b>[Aug. 1]</b> Service fee for civil process served by the Sheriff. G.S. 7A-307(c) and 7A-311(a)(1). <b>[§ 31.26.(d)]</b>	<b>+30.00</b>
Filing and indexing a will without probate.	
First page	1.00
Each additional page or fraction thereof	0.25
Additional fiduciary letters (per letter over 5).	1.00
Safe deposit box inventory (per box, per day).	15.00
Taking a deposition.	10.00
Docketing and Indexing a will probated in another county in the State.	
First page	6.00
Each additional page or fraction thereof	0.25
Hearing petition for year's allowance.	8.00

<sup>11</sup> In estates cases, the motion fee applies only to motions requiring a notice of hearing. However, 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."



## 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.

