



NORTH CAROLINA
ADMINISTRATIVE OFFICE
of the COURTS

Legal and Legislative
Services Division

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MEMORANDUM

(via E-Mail)

TO: Clerks of Superior Court¹
Magistrates
Superior Court Judges
District Court Judges
District Attorneys
Public Defenders

FROM: Amy L. Funderburk, Associate Legal Counsel

DATE: December 29, 2011

RE: Legislative Changes to Court Costs and Fees,
Effective for Decedents dying on or after 1/1/2012
Clarification of Continuous Alcohol Monitoring (CAM) Fee (post-conviction)

The 2011 General Assembly considered and passed a number of bills affecting a wide variety of topics within the court system, including the assessment of various fees. In addition to the cost changes that took effect on July 1, August 1, and December 1, 2011, three cost changes in estate proceedings will take effect on January 1, 2012: a new filing fee for caveats, changes to the fees assessed in re-opened estate administrations and implementation of a fee for the filing of an “estate proceeding.”

The changes to estate costs are the only cost changes for January 1, 2012.² Distributed along with this memo is an updated cost and fee chart, effective January 1, 2012. This chart replaces previous charts provided to you in November 2011, and July 2011, and June 2011.

Caveat Proceedings

Previously, G.S. 31-33 required a caveator to post a bond of \$200.00 prior to the matter being transferred to the superior court for trial. This bond requirement will remain in effect as to

¹ We ask that clerks provide a copy of this memo to personnel in your offices and to other agencies as needed.

² The updated cost chart also includes a footnote to clarify the imposition of fees for continuous alcohol monitoring (CAM) for defendants convicted of impaired driving offenses that are committed on or after December 1, 2011, and sentenced in Level Two, Level One, or the new Aggravated Level One. For those offenders, the \$1,000.00 cap on fees for CAM imposed as a condition of probation has been repealed. *See* S.L. 2011-191 (HB 49, Laura’s Law).

decedents who died on or before December 31, 2011. Pursuant to S-432 (SL 2011-344), G.S. 7A-307(4) now requires that a caveator pay a filing fee of \$200.00 for caveats filed as to decedents dying on or after January 1, 2012. There is no bond required for caveats as to decedents dying on or after January 1, 2012. However, upon motion of an aligned party, the court may order that a caveator provide a bond in a amount the court deems proper.

Re-opened Estate Administrations

If an estate administration is re-opened, the estate is to be assessed at the rate of 40 cents per \$100.00 or major fraction thereof of new property coming into the hands of the fiduciary. A minimum filing fee per accounting of \$15.00 will apply to the estates of decedents dying on or before December 31, 2011. The \$15.00 minimum fee will not apply to the estates of decedents dying on or after January 1, 2012. No other charges – including general court of justice fees – apply to the re-opening of the estate administration. There have been no changes made as to the maximum cumulative fee which may be collected across all estate administrations.

Estate Proceedings

S-432 (SL 2011-344) modified Article 2 of Chapter 28A of the General Statutes to allow for the filing of an Estate Proceeding. As defined by G.S. 28A-1-1, estate proceedings include matters “initiated by petition related to the administration, distribution, or settlement of an estate, other than a special proceeding.” The filing of an estate proceeding requires the payment of a filing fee under G.S. 7A-307.

The new statutory provisions creating estate proceedings go into effect January 1, 2012 for decedents dying on or after that date. They do not apply to decedents dying on or before December 31, 2012.

If you have any questions about the new costs, please contact NCAOC’s Court Services Analyst or Financial Management Analyst (FMA) for your county.

cc Judge John W. Smith, Director	Ann Anderson, SOG
Gregg Stahl, Senior Deputy Director	Michael Crowell, SOG
Basil McVey, Deputy Director	Shea Denning, SOG
McKinley Wooten, Deputy Director	Jim Drennan, SOG
Sharon Gladwell, Communications Director	Bob Farb, SOG
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	Dona Lewandowski, SOG
	Jamie Markham, SOG
	John Rubin, SOG
	Jessie Smith, SOG
	Jeff Welty, SOG

/Attachments (Court Costs and Fees Chart)