

CHAPTER 180

H.B. No. 851

An Act relating to fees charged by county clerks and clerks of county courts for certain probate services.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 1, Article 3930(b), Revised Statutes, is amended to read as follows:

Sec. 1. County clerks and clerks of county courts are hereby authorized and required to collect the following fees for services rendered by them to all persons, firms, corporations, legal entities, governmental agencies and/or governmental representatives:

A. Fees for County Civil Court Dockets

(1) For each cause or action, or docket in County Civil Courts: for filing, or filing and registering, or filing and recording, and for docketing and including taxing costs for each and all applications, complaints, petitions, returns, documents, papers, legal instruments, records and/or proceedings; for issuing, including the recording of the return thereon, each and all citations, notices, subpoenas, commissions to take depositions, executions while the docket is still open, garnishments before judgments, orders, writs, processes, or any and all other instruments, documents or papers authorized, permitted or required to be issued by said county clerk or said clerk of county courts on which a return must be recorded; for all attendances in court as clerk of court; for impaneling a jury; for swearing witnesses; for approving bonds involved in court actions; for administering oaths; and for all other clerical duties in connection with such county civil court docket:

(a) For each original cause or suit in a County Civil Court, including, but not limited to, appeals from Justice of the Peace Courts or Corporation Courts and transfers of causes or suits from other jurisdictions, a fee to be due and payable, to be paid by the plaintiff or plaintiffs, or appellant or appellants, at the time said cause or suit is filed, started or initiated, which fee is to be paid but one time in each cause or docket, or suit, and which fee excludes the items listed in Paragraphs B, C, D, and E of this Section 1:

(i) For causes or dockets involving damages, debts, specific performance of contracts and agreements, pleas of privilege, appeals from Justice of the Peace Courts and Corporation courts, for appeals from driver's license suspension, and other causes of action not otherwise listed in this Paragraph A(1)(a): a fee of..... \$30.00

(ii) For eminent domain, or condemnation proceedings, with or without objections: a fee of \$30.00

(iii) For garnishments after judgment: a fee of \$15.00

(b) For each interpleading, or cross-action, or any other action other than the original action, in a cause or suit in a County Civil Court, a fee to be due and payable, and to be paid by the party or parties starting or initiating each such interpleading, or other action, or cross-action, at

the time of starting or initiating each such cross-action or interpleading, or other action, which fee is to be paid but one time for each such cross-action, or interpleading, or other action, but excluding items in Paragraphs B, C, D and E of this Section 1: a fee of \$30.00

B. Fees for Probate Court Dockets

(1) For each cause or action, or docket in Probate Courts: for filing, or filing and registering, or filing and recording, and for docketing and including taxing costs for each and all applications, wills, complaints, petitions, returns, documents, papers, legal instruments, records and/or proceedings; for issuing, including the recording of the return thereon, each and all citations, notices, subpoenas, commissions to take depositions, orders, writs, processes, or any and all other instruments, documents, or papers authorized, permitted or required to be issued by said county clerk or said clerk of probate courts on which a return must be recorded; for all attendances in court as clerk of court; for swearing witnesses; for approving bonds involved in court actions; for administering oaths; and for all other clerical duties in connection with such probate court docket:

(a) For each original cause or action in a Probate Court, a fee to be due and payable and to be paid by the party or parties starting or initiating said cause or estate action, or with the permission of the court, payable at the time of qualifying of the legal or personal representative of such cause or estate action, or when a Veterans' Administration Chief Attorney is attorney of record in a cause, payable when the legal or personal representative of such cause or estate action receives funds with which to make such payment, for such services for the period of time as shown, and which fee excludes the items listed in Paragraphs A, B(1)(b), B(1)(d), C, D, and E of this Section 1:

(i) For probating will with independent executor; for administration with will attached, for administration of an estate, for guardianship or receivership of an estate, for muniment of title, a fee from the starting or initiating such cause of action until either an order approving the inventory and appraisal is filed or until the 90th day after the date on which the action is filed or initiated [the inheritance or estate tax receipt is filed], whichever first occurs: a fee of \$35.00

(ii) For community survivors: a total fee of \$20.00

(iii) For small estates: a total fee of \$10.00

(iv) For affidavits of heirship, including filing of affidavit, after approval by Judge, in Small Estates Records in the Recorder's Office: a total fee of \$10.00

(v) For mentally ill: Total costs for all services listed in Article 5547-13, Article 5547-14, and Article 5547-15, Vernon's Civil Statutes of Texas, shall be in the amount of \$40.00

(b) For each probate docket remaining open after the filing of the order approving the inventory and appraisal or after the 90th day following the date of the initial filing of the cause [filing of the inheritance or estate tax receipt], whichever occurs first, the following fees shall be paid in cash at the time filed, which fee shall be separate and apart from other fees listed in Paragraphs A, B, C, D, and E of this Section 1 hereof:

(i) For filing, or filing and recording, of each instrument of writing, legal document, paper or record in an open Probate Docket after the filing of the order approving the inventory and appraisal or after the 90th day following the date of the initial filing of the cause, whichever occurs first, [filing of the tax receipt, whichever is applicable] a fee:

(1) For the first page of \$3.00

(2) For each page or part of a page thereafter of \$2.00

(ii) For approving and recording each bond relating only to an open Probate Docket after the filing of the order approving the inventory and appraisal or after the 90th day following the date of the initial filing of the cause, whichever occurs first [filing of the tax receipt, whichever is applicable], a fee of \$3.00

(iii) For administering each oath relating to an open Probate Docket after the filing of the order approving the inventory and appraisal or after the 90th day following the date of the initial filing of the cause, whichever occurs first [filing of the tax receipt, whichever is applicable], a fee of \$2.00

(c) There is no charge for filing an original answer or response that is strictly defensive to a previously filed pleading. However, for each adverse action, contest, or suit in which a movant or applicant filing intervention pleadings seeks any affirmative relief, [For each adverse action or contest,] other than the filing of a claim against an estate, in a cause or docket in a probate court, a fee to be due and payable and to be paid by the party or parties filing, starting, or initiating such adverse action or contest, but excluding other items listed in Paragraphs A, B, C, and D of this Section 1, of \$35.00 [~~\$25.00~~]

(d) For filing and entering each claim against an estate in the claim docket, a fee to be paid by claimant at the time of filing such claim, of \$2.00

(e) For each page or part of a page of an instrument, writing, legal document, exhibit, paper, or record filed by a movant or applicant after the filing of an original answer or response, after the filing of the order approving the inventory and appraisal, or after the 90th day following the date of the initial filing of the cause, whichever occurs first, and before filing an adverse action, contest, suit, or pleading seeking affirmative relief, a fee:

- (1) For the first page of \$3.00
- (2) For each page thereafter of \$2.00

C. Where no cause is pending, as is contemplated in Section 1, Paragraphs A and B hereof, the clerk shall charge as follows for the hereinafter listed services, for issuing (including recording of the returns thereon), each citation, notice, commission to take depositions, execution, order, writ, process, or any other instrument, document, or paper authorized, permitted or required to be issued by said county clerk or said clerk of county courts on which a return must be recorded:

(i) For issuing each such instrument, document, or paper, including the original and one copy and the recording of the return, a fee, to be paid at the time each order is placed, of \$4.00

(ii) For issuing for the same docket at the same time more than one set of one original and one copy of the same instrument, document, or paper, including recording the return thereon, a fee, per set, to be paid at the time the order is placed, of \$4.00

D. For issuing each certificate, certified copy, notice, statement, transcript, or any other instrument, document, or paper authorized, permitted, or required, to be issued by said county clerk or clerk of county courts on which there is no return to be recorded:

For each page, or part of a page, a fee, to be paid at the time each order is placed, of \$1.00 plus \$1.00 for the clerk's certificate.

However, nothing in this Act shall be construed to limit or deny to any person, firm, or corporation, full and free access to any papers, documents, proceedings, and records referred to in this Act, the right of such parties to read and examine the same, and to copy information from any microfilm or other photographic image, or other copy thereof under reasonable rules and regulations of the county clerk at all reasonable times during the hours the county clerk's office is open to the public, and without making payment of any charge, being hereby established and confirmed.

E. For issuing each Letter Testamentary, Letter of Guardianship, Letter of Administration and each Abstract of Judgment a fee of \$2.00

F. For filing and keeping "Wills Held for Safekeeping", a fee, to be paid at the time said wills are filed, of \$5.00

SECTION 2. This Act takes effect September 1, 1985, and applies only to fees relating to a cause filed on or after that date.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on March 28, 1985, by a non-record vote; House concurred in Senate amendments to H.B. No. 851 on May 6, 1985, by a non-record vote; passed by the Senate, with amendments, on May 2, 1985, by the following vote: Yeas 31, Nays 0.

Approved: May 24, 1985

Effective: September 1, 1985