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Indicates New Matter

COMMITTEE REPORT

February 21, 2018

**H. 3337**

Introduced by Reps. Ballentine, Funderburk, Bernstein and J.E. Smith

S. Printed 2/21/18--H.

Read the first time January 10, 2017.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3337) to amend Section 8‑21‑310, as amended, Code of Laws of South Carolina, 1976, relating to a schedule of certain filing and recording fees, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Section 8‑21‑310 of the 1976 Code, as last amended by Act 269 of 2012, is further 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 twenty‑five dollars for the following documents:

(1) a deed;

(2) a mortgage;

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

(4) a real estate sales contract;

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

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

(7) an order for partition of real estate;

(8) a lease;

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

(10) a power of attorney or other appointment. 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 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; or

(11) any other document affecting title or possession of real estate and required by law to be recorded, except judicial records.

(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 for the following documents or actions:

(1) an assignment which transfers or affects a real estate mortgage or other instrument affecting title to real property or lien for the payment of money, even if it is part of the original instrument when initially filed;

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

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

(4) a mortgage subordination agreement or lien subordination agreement;

(5) taking and filing bond or security costs;

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

(7) 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;

(8) 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;

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

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

(11) filing and enrolling a judgment by confession;

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

(13) issuing an official certificate under seal of court;

(14) filing notice of discharge in bankruptcy;

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

(16) revocation of power of attorney.

(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 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);

(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; or

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

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

F. GREGORY DELLENEY, JR. for Committee.

**A** **BILL**

TO AMEND SECTION 8‑21‑310, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO A SCHEDULE OF CERTAIN FILING AND RECORDING FEES, SO AS TO REVISE THE FILING AND RECORDING FEES WHICH MAY BE CHARGED, INCLUDING A FLAT FEE OF THIRTY-FIVE DOLLARS FOR CERTAIN DOCUMENTS FILED OR RECORDED WITH THE OFFICES OF THE REGISTER OF DEEDS OR CLERK OF COURT, AND A FLAT FEE OF TEN DOLLARS FOR CERTAIN OTHER DOCUMENTS FILED OR RECORDED WITH THESE OFFICES, 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, as last amended by Act 269 of 2012, is further 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;~~

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~~(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 thirty‑five dollars for the following documents:

(1) a deed;

(2) a mortgage;

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

(4) a real estate sales contract;

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

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

(7) an order for partition of real estate;

(8) a lease;

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

(10) a power of attorney, trustee qualification, memorandum of trust, or other appointment. 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 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; or

(11) any other document affecting title or possession of real estate and required by law to be recorded, except judicial records.

(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 for the following documents or actions:

(1) an assignment which transfers or affects a real estate mortgage or other instrument affecting title to real property or lien for the payment of money, even if it is part of the original instrument when initially filed;

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

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

(4) a mortgage subordination agreement or lien subordination agreement;

(5) taking and filing bond or security costs;

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

(7) 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;

(8) 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;

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

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

(11) filing and enrolling a judgment by confession;

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

(13) issuing an official certificate under seal of court; or

(14) filing notice of discharge in bankruptcy.

(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 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);

(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) filing and enrolling a judgment by confession, ten dollars;

(7) 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;

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

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

(10) issuing an official certificate under seal of court not otherwise specified in this section, ten dollars.”

SECTION 2. This act takes effect July 1, 2017.

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