

22A:2-30

LEGISLATIVE HISTORY CHECKLIST

NJSA: 22A:2-30 et al (Surrogates-- fees-- change)

LAWS OF: 1988 **CHAPTER:** 109

BILL NO: A593

SPONSOR(S): Haytaian

Date Introduced: Pre-field

Committee: **Assembly:** County Government & Regional Authorities
Senate: County & Municipal Government

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: **Assembly:** February 29, 1988
Senate: June 20, 1988

Date of Approval: August 12, 1988

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: **Assembly** Yes
Senate Yes

Fiscal Note: Yes

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

[FIRST REPRINT]
ASSEMBLY, No. 593

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Assemblyman HAYTAIAN

1 AN ACT concerning fees and costs in probate proceedings and
amending N.J.S. 22A:2-30, N.J.S. 22A:2-35 and N.J.S.
3 22A:2-36 ¹and supplementing Title 22A of the New Jersey
Statutes¹.

5

BE IT ENACTED *by the Senate and General Assembly of the*
7 *State of New Jersey:*

1. N.J.S. 22A:2-30 is amended to read as follows:

9 22A:2-30. Fees of surrogate and deputy clerk of ¹[Probate]¹
[Division] ¹[Part of]¹ [County] ¹[Law Division of]¹ the Superior
11 Court.

Fees for services of the surrogate and deputy clerk of the
13 ¹[Probate]¹ [Division] ¹[Part of the]¹ [County] ¹[Law Division of
the]¹ Superior Court enumerated below shall be as follows and
15 shall be for the use of the county in which the fees are collected:

17 PROBATE OF WILLS AND COPIES

Probate of a will of not more than two pages, [~~\$30.00~~] \$50.00.

19 The above fee is for all services in preparation and execution
of complaint, filing proof of death, deposition of one witness,
21 qualification of executor, filing power of attorney, surrogate's
certificate, judgment for probate, letters testamentary, plain
23 copy of will, binding, recording, microfilming, or photostating,
comparing, docketing, report to the Division of Taxation in the
25 Department of the Treasury, report and transmission to the
Clerk of the Superior Court.

27 Probate of will without letters, [~~\$20.00~~] \$35.00. This fee is
for the same services as are enumerated in the preceding
29 paragraph, except letters, surrogate's certificate and
qualification of executor.

31 Probate of each codicil, not exceeding one page, [~~\$10.00~~]
\$15.00.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
¹ Senate SCM committee amendments adopted May 26, 1988.

- 1 Where codicil requires an additional witness, [\$2.00] \$3.00.
2 To reopen probate proceedings for qualification of executor or
3 taking proof of extra witness, [\$12.00] \$15.00.
4 One witness in the above probate proceedings, no charge.
5 Each additional witness, [\$2.00] \$3.00.
6 Recording and comparing, microfilming or photostating, each
7 additional page of will or codicil, [\$2.00] \$3.00.
8 Filing, entering, issuing and recording, microfilming or
9 photostating, proceedings in commission for deposition of
10 foreign witness to a will or codicil, [\$12.00] \$20.00. Plain extra
11 copy of will, [\$2.00] \$3.00 for each page.
12 Certified extra copy of will, [\$2.00] \$3.00 for each page, plus
13 [\$2.00] \$3.00 for certificate.
14 Certified copy of will with proofs for New Jersey county, not
15 exceeding two pages including will and codicil, [\$12.00] \$20.00.
16 For pages in excess of two, [\$2.00] \$3.00 for each page.
17 Wills filed but not probated (as, where there are no assets),
18 for each page, \$4.00.
19 Exemplifying will for another State, not exceeding two pages
20 including will and codicil, plus cost of certificate of Secretary
21 of State when requisite, [\$15.00] \$25.00. For pages in excess of
22 two, [\$2.00] \$3.00 for each page.
23 Recording, microfilming or photostating, docketing, indexing,
24 filing and reporting to the Division of Taxation in the
25 Department of the Treasury an exemplified copy of will and
26 probate proceedings from another State, [\$2.00] \$3.00 for each
27 page.
28 Recording, microfilming or photostating, docketing, indexing
29 and filing a certified copy of will with proofs from New Jersey,
30 [\$2.00] \$3.00 for each page.
31 Recording, microfilming or photostating certified transcripts
32 of wills admitted to probate and probate proceedings or letters
33 of administration and administration proceedings granted by [the
34 ordinary or] the Superior Court, [\$2.00] \$3.00 for each page.
35

LETTERS OF TRUSTEESHIP

- 37 Acceptance of trustee and letters of trusteeship, including
38 one certificate, [\$15.00] \$25.00.

1 stating, reporting and recording, microfilming or photostating,
 accounts of executors, administrators, guardians, trustees and
 3 assignees, including drawing judgment, but exclusive of
 advertising costs:

5 In estates up to and including \$2,000.00, [~~\$30.00~~] \$50.00.

In estates from \$2,001.00 to and including \$10,000.00, [~~\$50.00~~]
 7 \$70.00.

In estates from \$10,001.00 to and including \$30,000.00,
 9 [~~\$65.00~~] \$85.00.

In estates from \$30,001.00 to and including \$65,000.00,
 11 [~~\$85.00~~] \$100.00.

In estates from \$65,001.00 to and including \$200,000.00, [~~3/20~~]
 13 1/5 of 1%.

In estates exceeding \$200,000.00--1/10 of 1%, but not less
 15 than [~~\$300.00~~] \$400.00.

For each page of accounting in excess of one, [~~\$2.00~~] \$3.00.

17 In computing the amount of an estate for the purpose of fixing
 the fees of a surrogate for auditing and reporting the account,
 19 the balance from the prior account shall be excluded.

For preparing notice of settlement of accounts and copies of
 21 the same, forwarding notice to newspaper, with directions as to
 publication, obtaining proofs of publication, keeping a record of
 23 notices and newspapers to which they are sent and of the
 moneys received to defray the cost of advertising and
 25 transmitting advertising charges to newspaper, [~~\$15.00~~] \$25.00.

No fees herein allowed shall be charged against the recipient
 27 of any pension, bounty or allowance, for services of the
 surrogate and the Probate Part of the Law Division of the
 29 [~~County~~] Superior Court in respect thereof, pursuant to N.J.S.
[3A:29-1 to 3A:29-4] 3B:13-9 to 3B:13-14.

31

MISCELLANEOUS PROCEEDINGS

33 Proceedings relative to presumption of death, filing, entering
 and recording, microfilming or photostating (exclusive of
 35 letters), with additional fee for advertising, [~~\$50.00~~] \$75.00.

Sale of land to pay debts (exclusive of advertising), \$50.00.

37 Sale of land in fulfillment of contract made by decedent,
 [~~\$20.00~~] \$50.00.

39 Sale of lands within 1 year, [~~\$20.00~~] \$50.00.

1 Sale of minor's land, [~~\$30.00~~] \$50.00.

2 Distribution, filing and entering complaint, recording,
3 microfilming or photostating, and filing judgment, [~~\$25.00~~]
\$50.00.

5 Adoption of adults, filing and entering proceedings (all papers)
including one judgment, [~~\$20.00~~] \$75.00.

7 Adoption of minors with one hearing, filing and entering
proceedings (all papers) including one judgment, [~~\$25.00~~] \$75.00.

9 Adoption of minors with two or more hearings, filing and
entering proceedings (all papers) including one judgment,
11 [~~\$30.00~~] \$75.00.

[Extra certificate, \$2.00.]

13 Application and order to limit time to creditors, [~~\$18.00~~]
\$25.00, but exclusive of advertising costs.

15 Preparing notices to creditors to present their claims and
copies of the same, sending notice to newspapers with directions
17 as to publications, obtaining proofs of publication, keeping a
record of notices and newspapers to which they are sent for
19 publication, and of the moneys received to defray the cost of
advertising and transmitting advertising charges to newspapers,
21 \$10.00.

Advertising order of court or notice, when done by the
23 surrogate, \$5.00, in addition to advertising fees.

25 Proceedings for the appointment of a conservator, without
jury trial, \$75.00, with trial by jury, \$75.00.

27 Proceeding for the determination of mental incompetency and
for the appointment of a guardian for an alleged mental
incompetent, without jury trial, [~~\$35.00~~] \$75.00, with trial by
29 jury, [~~\$45.00~~] \$75.00.

31 Proceedings in connection with payment into court of
proceeds of a judgment in favor of a minor, in lieu of bond,
pursuant to [P.L. 1959, c. 132] N.J.S. 3B:15-16 and N.J.S.
33 3B:15-17 (in addition to fees payable under Letters of
Guardianship), the following [fee is] fees are payable upon
35 withdrawal of funds on deposit:

[Ten dollars for] For each withdrawal including petitions and
37 orders provided and prepared by the surrogate for withdrawal of
funds for court approval:

39 Up to and including \$500.00, \$10.00.

- 1 From \$501.00 to and including \$1,000.00, \$15.00.
2 From \$1,001.00 to and including \$5,000.00, \$20.00.
3 From \$5,001.00 to and including \$10,000.00, \$25.00.
4 From \$10,001.00 to and including \$50,000.00, \$30.00.
5 In excess of \$50,000.00, \$50.00.

7 MISCELLANEOUS CHARGES

- 8 Short certificates, [\$2.00] \$3.00.
9 Validating short certificate within 1 year of issue of date,
10 [\$0.50] \$1.00.
11 Subpenas, each, [\$3.00] \$5.00.
12 Marking true copies, subpenas, each, \$2.00.
13 Marking true copies, orders to show cause, each, \$2.00.
14 Marking true copies of other papers, each, [\$1.00] \$2.00.
15 Authorization of process, [\$1.50] \$3.00.
16 Swearing each witness, \$1.00.
17 Adjournment or continuance, \$3.00.
18 Miscellaneous orders of court, first page, [\$2.00] \$3.00.
19 For each additional page, [\$2.00] \$3.00.
20 Recording, microfilming or photostating all papers not herein
21 provided for, [\$2.00] \$3.00 for each page.
22 For making copies not otherwise provided for, [\$2.00] \$3.00
23 for each page.
24 Filing transcript of death certificate, [\$2.00] \$3.00.
25 Power of attorney, [\$2.00] \$3.00.
26 Proceedings relative to appointment of a guardian ad litem,
27 [\$8.00] \$15.00.
28 Renunciation by one person, filing, entering and recording, or
29 photostating, [\$2.00] \$3.00. Each additional person, [\$0.50]
30 \$1.00.
31 Caveat, filing or withdrawing, [\$5.00] \$10.00.
32 Combined refunding bond and release of not more than two
33 pages, filing, entering, microfilming and recording, or
34 photostating, [\$4.00] \$6.00. For more than two pages, [\$2.00]
35 \$3.00 for each page. Additional charge for county clerk's
36 certificate, [\$1.50] \$2.00.
37 Release of not more than two pages, [\$4.00] \$6.00. For more
38 than two pages, [\$2.00] \$3.00 for each additional page.
39 Additional charge for county clerk's certificate, [\$1.50] \$2.00.

1 Assignments of legacy or interest, [~~\$4.00~~] \$3.00 per page, plus
2 [~~\$1.50~~] \$2.00 where county clerk's certificate is necessary.

3 Filing all papers not herein provided for, [~~\$2.00~~] \$3.00, if
4 microfilming process is used, [~~\$2.00~~] \$3.00 per page.

5 Plain copy of two-page will, [~~\$4.00~~] \$6.00.

Each additional page, [~~\$2.00~~] \$3.00.

7 (cf: P.L. 1977, c. 57, s.2)

2. N.J.S. 22A:2-35 is amended to read as follows:

9 22A:2-35. Fees on assignments for the benefit of creditors.
The surrogate [and officers of the County Court], as surrogate
11 and deputy clerk of the ¹[Probate Part of the Law Division of
12 the]¹ Superior Court, shall receive for services with respect to
13 an assignment for the benefit of creditors [the fees provided for
like services with respect to the administration and settlement
15 of decedents' estates], for the use of the county in which the
16 fees are collected, up to but not including any accounting, a fee
17 of \$75.00.

(cf: P.L. 1953, c. 22, s. 11)

19 3. N.J.S. 22A:2-36 is amended to read as follows:

20 22A:2-36. Fees in other cases and costs in all cases. All
21 other fees payable to the surrogate as a deputy clerk of the
22 [probate division] ¹[Probate Part of the]¹ [County] ¹[Law
23 Division of the]¹ Superior Court, other than for adoption, and all
24 costs to a party in any action, motion or proceeding in that
25 [division] part shall be the same as allowed for similar services
26 in the Chancery Division of the Superior Court [, except that the
27 fees of the clerk shall be two-thirds of the sum allowed for like
service in the Chancery Division of the Superior Court]. All
28 such fees shall be for the use of the county in which the fees are
29 collected.

31 (cf: P.L. 1953, c. 22, s. 11)

32 ¹4. (New Section) a. The county treasurer shall return to the
33 county surrogate \$2.00 of each fee received for the probate of a
34 will; for the grant of general administration; for the grant of
35 letters of guardianship for a minor and for the grant of letters
36 of trusteeship. Such sums shall be returned within 10 days of
37 receipt by the county treasurer.

38 b. Monies received by the county surrogates pursuant to the
39 provisions of subsection a. of this section shall be used to

1 upgrade and modernize the services provided by their offices.¹

3 ¹[4.]¹ 5. This act shall take effect on the first day of the
calendar month occurring not less than 30 days after enactment.

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COUNTIES

7

Property and Estates

9 Amends various fees charged by the surrogates.

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STATEMENT

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This bill increases various fees, except for affidavits of surviving spouse or next of kin in small estates, charged by the surrogates, as surrogate and deputy clerk of the Law Division of the Superior Court, corrects various citations and references and clarifies that these fees are for the use of the county in which the fees are collected.

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COUNTIES

Property and Estates

13

Amends various fees charged by the surrogates.

ASSEMBLY COUNTY GOVERNMENT
AND
REGIONAL AUTHORITIES COMMITTEE

STATEMENT TO

ASSEMBLY BILL, No. 593

STATE OF NEW JERSEY

DATED: JANUARY 28, 1988

The Assembly County Government and Regional Authorities Committee favorably reports A-593.

This bill increases various fees, except for affidavits of surviving spouse or next of kin in small estates, charged by the surrogates, as surrogate and deputy clerk of the Law Division of the Superior Court, corrects various citations and references and clarifies that these fees are for the use of the county in which the fees are collected. The fees were last increased in 1977.

This bill was pre-filed for introduction in the 1988 session pending technical review. As reported the bill includes the changes required by technical review which has been performed.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 593

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MAY 26, 1988

The Senate County and Municipal Government Committee reports favorably and with committee amendments Assembly Bill No. 593.

Assembly Bill No. 593, as amended by the Committee, increases various fees, except for affidavits of surviving spouse or next of kin in small estates, charged by the surrogates, as surrogate and deputy clerk of the Law Division of the Superior Court, corrects various citations and references and clarifies that these fees are for the use of the county in which the fees are collected.

The Committee amended the bill to direct that \$2.00 of each fee collected for entering a will for probate and for issuing letters of administration, guardianship and trusteeship shall be returned to the surrogate for the purpose of upgrading and modernizing the services provided by their office. The amendments also make language changes in the references to the Superior Court.

Assembly Bill No. 593 Sca is identical to Senate Bill No. 2365.

FISCAL NOTE TO
[FIRST REPRINT]
ASSEMBLY, No. 593

STATE OF NEW JERSEY

DATED: July 6, 1988

Assembly Bill No. 593 [1R] of 1988 would increase various court fees, except for affidavits of surviving spouse or next of kin in small estates, charged by the county surrogates as surrogates and deputy clerks of the Law Division of the Superior Court. The bill also corrects various citations and references and clarifies that these fees are for the use of the counties in which the fees are collected.

The bill also directs that \$2.00 of each fee collected for entering a will for probate and for issuing letters of administration, guardianship and trusteeship shall be returned to the surrogates for the purpose of upgrading and modernizing the services provided by their offices.

According to the Administrative Office of the Courts (AOC), this legislation would increase present fees by a mean average of 76.0 percent. The AOC used the 76.0 percent figure to project the fee increases because precise data were not always available for each fee category.

Using that methodology and using 2.0 percent as the annual rate of increase, the AOC estimates that this legislation will raise an additional \$2,281,250 in FY 1989, \$2,326,875 in FY 1990 and \$2,373,413 in FY 1991.

The AOC also notes that no additional costs will be incurred by either the State or the county in order to collect the additional revenue.

The Office of Legislative Services concurs.

This fiscal note has been prepared pursuant to P.L. 1980, c. 67.