

HOUSE BILL REPORT

ESB 5013

As Passed House - Amended:
April 14, 2009

Title: An act relating to fees collected by county clerks.

Brief Description: Concerning fees collected by county clerks.

Sponsors: Senators Hargrove, Brandland, Fraser, Hatfield and Parlette.

Brief History:

Committee Activity:

Judiciary: 3/16/09, 3/19/09 [DPA].

Floor Activity

Passed House - Amended: 4/14/09, 63-34.

**Brief Summary of Engrossed Bill
(As Amended by House)**

- Changes various fees collected by county clerks for certain services.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 8 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Flannigan, Kelley, Kirby, Ormsby and Roberts.

Minority Report: Do not pass. Signed by 3 members: Representatives Shea, Assistant Ranking Minority Member; Ross and Warnick.

Staff: Courtney Barnes (786-7194)

Background:

Overview of County Clerk Fees.

County clerks are elected officials who oversee all record keeping matters pertaining to the superior courts, including receipting fees, fines, court-ordered moneys, and disbursement of

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funds. In addition to supporting the superior court system, the county clerk provides public access to court records and assists the public with information and forms.

County clerks collect civil filing fees and other fees for court services as prescribed by statute. Depending on the fee assessed, the fee may or may not be divided with the state. The following table gives the current fee schedule for certain services provided by county clerks. By statute, the fees outlined below are not divisible with the state.

Service	Current Fee
Issuance of a certificate of qualification, certified copy of letters of administration, letters testamentary, or letters of guardianship	Required fee of \$2
Processing ex parte orders, performing historical searches, compiling statistical reports, and conducting exceptional records searches	Permissive fee of \$20 per hour or portion of an hour
Receiving faxed documents	Required fee of \$3 for the first page, \$1 for each additional page
Collecting unpaid legal financial obligations	A monthly or annual fee for the actual costs of collection (permissive fee)
Providing services to parties involved in dissolutions and legal separations filed under Title 26 RCW	Permissive surcharge of up to \$20

Legal Financial Obligations.

When a person is convicted of a crime, the court may order the payment of legal financial obligations as part of the offender's sentence. Legal financial obligations may include restitution, costs, fines, and other assessments required by law. By statute, county clerks are authorized to assess a monthly or annual fee for the actual cost of collecting all unpaid legal financial obligations.

Summary of Amended Bill:

Overview of County Clerk Fees.

The various fees collected by county clerks are modified for certain services. The following table outlines the changes made to the fees collected by county clerks.

Service	Current Fee	Modified Fee
Issuance of a certificate of qualification, certified copy of letters of administration, letters testamentary, or letters of guardianship	Required fee of \$2	Required fee of \$5
Performing historical searches, compiling statistical reports, and conducting exceptional records searches	Permissive fee of \$20 per hour or portion of an hour	Permissive fee of \$30 per hour
Processing ex parte orders	Permissive fee of \$20 per hour or portion of an hour	Permissive fee of \$30
Receiving faxed documents	Required fee of \$3 for the first page, \$1 for each additional page	Required fee of \$5 for the first page, \$1 for each additional page
Collecting unpaid legal financial obligations	A monthly or annual fee for the actual costs of collection (permissive fee)	Permissive fee of \$100
Providing services to parties involved in dissolutions and legal separations filed under Title 26 RCW	Permissive surcharge of up to \$20	Permissive surcharge of up to \$20 only in dissolution and legal separation actions (technical change for clarity)

The county clerk may waive all or part of the fees for copying instruments, documents, or files without a seal, including copies made electronically or on compact discs, if the person requesting the item is a member of the news media.

Legal Financial Obligations.

Although county clerks may collect an annual fee, no fee may be assessed when an abstract of a judgment is filed by the county clerk of another county for the purposes of collecting legal financial obligations.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The bill is mostly a clean-up bill. In 2005 a fee bill was passed that did not address the fees raised by this bill. The fee for collecting legal financial obligations is already authorized by statute. The bill includes the fee for collecting outstanding legal financial obligations in the same chapter as other clerk fees for the ease of public use. The ex parte order fee needs to be raised to be concurrent with the actual costs of processing ex parte orders. The creditor's claim fee could be reduced to \$30, which would be a compromise. Processing creditor's claims takes time. The clerks should be paid for this service. The other fees raised by the bill have not been changed for at least 20 years. The fees should be adjusted to reflect the actual costs associated with providing these services.

(Opposed) The bill creates a brand new fee for filing a creditor's claim in a probate proceeding, which requires no action on the part of the clerk. The creditor's claim filing is required by statute, but action is taken by the personal representative. Creditors should not be paid less because a debtor dies before paying his or her bill. Raising the hourly fee for processing ex parte orders is questionable; however, the increase is consistent with the cost of inflation.

Persons Testifying: (In support) Berry Gould, Thurston County Clerk's Office; Joel McAllister, King County Clerk's Office; and Debbie Wilke, Washington Association of County Officials.

(Opposed) Mellani McAleenan, Board for Judicial Administration; and Beth McCaw, Washington State Bar Association.

Persons Signed In To Testify But Not Testifying: None.