



NEW JERSEY LAW REVISION COMMISSION

Revised Final Report

Relating to

Fee Discrepancies

The work of the New Jersey Law Revision Commission is only a recommendation until enacted. Please consult the New Jersey statutes in order to determine the law of the State.

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Fee Discrepancies

Introduction

In June 1990, the Commission released a Final Report explaining that discrepancies between fees mandated by *N.J.S. 22A:2-29* and those in *N.J.S. 56:1-3*, *N.J.S. 56:1-7*, and *N.J.S. 56:3-16* had been brought to the Commission's attention. The Commission verified the discrepancies and resultant problems: 1) practitioners do not know which fees to pay, and 2) fee-collecting officials and practitioners waste resources responding to incorrectly paid fees and repaying fees, respectively.

The object and policy of *N.J.S. 22A:2-29* is to establish a uniform schedule of fees to be charged by all county clerks for the rendering of services in the performing of their official duties. *Dugan v. Camden County Clerk's Office*, 376 N.J. Super. 271 (App. Div. 2005); *Smith v. Hudson County Register*, 411 N.J. Super. 538 (App. Div. 2010). In order to eliminate conflicting fees, the following statutes should be altered to eliminate references to the fee amount in sections other than *N.J.S. 22A:2-29*. In the Commission's initial Report, the statutory language was changed to require payment of "the fee provided by law". In this revised Report, the language calls for the payment of "the fee provided in *N.J.S. 22A:2-29*" so that individuals unfamiliar with the fee provision can more easily locate it.

The first statute in need of alteration is *N.J.S. 56:1-3*, which requires two \$5.00 fees from a person filing the certificates of name with a county clerk; the county clerk retains \$5.00 and sends \$5.00 to the Secretary of State. The practice, as explained by the Bergen County Clerk, is that the higher, newer fees in *N.J.S. 22A:2-29* are collected. When the fee is paid, the clerk forwards one-half of the fee to the Secretary of State. The Office of the Secretary of State confirmed this procedure.

The second conflicting statute is *N.J.S. 56:1-7* which requires two \$1.00 fees from a person filing a certificate of dissolution of trade name with a county clerk. The county clerk retains \$1.00 and sends \$1.00 to the Secretary of State. Again, the practice is that the higher, newer fee in *N.J.S. 22A:2-29* is collected and half of the fee is retained by the county clerk and half forwarded to the Secretary of State.

The third conflicting statute at the time of the original Commission Report was *N.J.S. 56:3-16* which requires that a person filing names or marks used on bottles and other containers pay a fee of \$20.00 to the Secretary of State and a fee of \$5.00 to the county clerk. This total fee amount of \$25.00 exceeded the \$4.50 fee previously found in *N.J.S. 22A:2-29*. At the time of that earlier Report, the Office of the Secretary of State said that the correct fees are the higher ones of the older statute, *N.J.S. 56:3-16*, and recommended raising the \$4.50 fee in *N.J.S. 22A:2-29* to the total of \$25.00 in *N.J.S. 56:3-16*. This issue was addressed by subsequent revisions to *N.J.S. 22A:2-29*, which eliminated the conflicting language, and no further modification is proposed in this Report.

The revised Commission proposal removes conflicting fees by deleting the fee amounts specified in *N.J.S. 56:1-3*, and *N.J.S. 56:1-7*; and replacing the fee amounts in these sections with

a reference to *N.J.S. 22A:2-29*, which contains a centralized list of the fee amounts. The proposed revisions and the current version of *N.J.S. 22A:2-29* are below. Changes shown in italics below are new to this revised Report.

22A:2-29. Fees for filing, indexing, entering or recording certain documents or papers in the office of county clerk or deputy clerk of Superior Court

Upon the filing, indexing, entering or recording of the following documents or papers in the office of the county clerk or deputy clerk of the Superior Court, such parties, filing or having the same recorded or indexed in the county clerk's office or with the deputy clerk of the Superior Court in the various counties in this State in all civil or criminal causes, shall pay the following fees in lieu of the fees heretofore provided for the filing, recording or entering of such documents or papers:

In general--	
Issuing county clerk's certificate, any instrument.....	\$ 5.00
Comparing and making copies, per sheet.....	\$ 2.00
Copies of all papers, typing and comparing of photostat, per page.....	\$ 2.00
Marking as a true copy, any instrument.....	\$ 2.00
Exemplification, any instrument.....	\$10.00
Plus \$1.00 per page of instrument.	
Recording or filing all instruments not herein stat.....	\$ 7.50
Bonds, bail, recognizances--	
Recording all official bonds with acknowledgment and proof of the execution thereof.....	\$ 9.00
Filing all papers related to recognizance or civil bail.....	\$30.00
Filing discharge, attachment bond.....	\$ 9.00
Filing and recording filiation bond.....	\$ 9.00
Filing satisfaction of or order discharging filiation bond.....	\$ 9.00
Recording or discharging sheriff's bond.....	\$ 9.00
Nonbusiness corporation, recording:	
Certificates of incorporation of churches, religious societies and congregations.....	\$25.00
Amendments to certificates of incorporation of churches, religious societies and congregations, recording.....	\$25.00
Bank merger agreements, recording:	
First sheet.....	\$25.00
Each additional sheet, Certificates, each.....	\$ 5.00
Tradenames, firms, partnerships:	
Certificate of name, filing (see R.S.56:1-1 et seq.).....	\$50.00
Certificate of dissolution of tradename (see R.S.56:1-6 et seq.).....	\$25.00
Partnership agreement (see R.S.42:1-1 et seq.).....	\$50.00
Building and loan or savings and loan associations:	
Change of name.....	\$25.00
Dissolution.....	\$25.00
Certificates for limited-dividend housing associations, recording:	
First page.....	\$20.00
Each additional page.....	\$ 5.00
Certificates for urban renewal associations, recording:	
First page.....	\$20.00
Each additional page.....	\$ 5.00
Judgments, et cetera--	
Recording judgments.....	\$15.00

Filing, entering and recording judgment on bond and warrant by attorney.....	\$37.50
Certificate for docketing Superior Court transcript.....	\$ 9.00
Recording assignment of judgment.....	\$15.00
Issuing transcript of judgment.....	\$ 7.50
Filing or entering on the record of discharge, cancellation, release or satisfaction of a judgment by satisfaction piece, execution returned satisfied or otherwise.....	\$15.00
For recording and indexing postponement of the lien of judgment.....	\$20.00
Filing, indexing and recording mechanic's lien claim.....	\$ 9.00
Recording, filing and noting on the record the discharge, release or satisfaction of a mechanic's lien claim.....	\$ 9.00
Extension of lien claim.....	\$ 3.00
Filing statement in mechanic's lien proceeding.....	\$ 9.00
Filing, recording and indexing mechanic's notice of intention.....	\$ 4.50
Filing a certificate discharging a mechanic's notice of intention and noting the discharge on the record thereof.....	\$ 4.50
Filing certificate from court of commencement of suit.....	\$ 4.50
Filing a court order amending a mechanic's notice of intention.....	\$ 9.00
Construction lien.....	\$15.00
Notice of unpaid balance, discharge.....	\$15.00
Notation.....	\$ 5.00
Bond.....	\$25.00
Filing a court order to discharge notice of intention and noting the discharge on the record thereof..	\$15.00
Filing, recording and indexing stop notice.....	\$ 4.50
Filing a certificate discharging a stop notice and noting the discharge on the record thereof.....	\$ 4.50
Filing a court order discharging a stop notice and noting the discharge on the record thereof.....	\$ 9.00
Filing building contract.....	\$25.00
Filing discharge of building contract.....	\$15.00
Notation.....	\$ 5.00
Filing building specifications.....	\$25.00
Filing building plans.....	\$25.00
Filing each notice of physician's lien.....	\$15.00
Entering upon the record the discharge of a physician's lien.....	\$15.00
Filing each hospital lien claim.....	\$15.00
Discharge of hospital lien.....	\$15.00
Filing satisfaction or order for discharge of attachment.....	\$15.00
Recording collateral inheritance waiver or receipt.....	\$15.00
Recording inheritance tax waiver.....	\$15.00
Subordination, release, partial release or postponement of a lien to lien of mortgage.....	\$20.00
Notation.....	\$ 5.00
Commissions and oaths--	
Administering oaths to notaries public and commissioners of deeds.....	\$15.00
For issuing certificate of authority of notary to take proof, acknowledgment of affidavit.....	\$ 5.00
For issuing each certificate of the commission and qualification of notary public for filing with other county clerks.....	\$15.00
For filing each certificate of the commission and qualification of notary public, in office of county clerk of county other than where such notary has qualified.....	\$15.00
Miscellaneous--Filing and recording proceedings for laying out, vacating or dedicating roads.....	\$25.00
Recording firemen's certificates. No charge.	
Registering physician.....	\$25.00
.....	
Issuing of nonalcoholic beverage identification card to persons under twenty-one years of age.....	\$10.00

COMMENT

The object and policy of this section is to establish a uniform schedule of fees to be charged by all county clerks for the rendering of services in the performing of their official duties. *Dugan v. Camden County Clerk's Office*, 376 N.J. Super. 271 (App. Div. 2005); *Smith v. Hudson County Register*, 411 N.J. Super. 538 (App. Div. 2010). In order to clarify this objective, the following sections must be altered to reference *N.J.S. 22A:2-29* rather than stating the fees amounts individually.

The above section reflects the language of the statute, including all current fee amounts, as of November 12, 2013.

56:1-3. Index of certificates; filing fees; copies as evidence

The several county clerks and the Secretary of State shall each keep alphabetical indexes of all persons filing the statements or certificates provided for by sections 56:1-1 and 56:1-2 of this Title, ~~and for the indexing and filing of such statements or certificates they shall each receive a fee of \$5.00 from the person who presents the same for filing.~~ Every person who presents for filing any such statement or certificate in the office of the county clerk shall present therewith a duplicate of such statement or certificate for filing with and indexing by the Secretary of State. The county clerk shall, at the time of the filing such statement or certificate with him, collect from the person presenting the same, ~~in addition to the fee payable to him, the fee payable to the Secretary of State~~ the fee provided by law in N.J.S. 22A:2-29 for filing and indexing such duplicate statement or certificate, and shall forward to the Secretary of State such duplicate statement or certificate together with ~~the fee collected for the Secretary of State as aforesaid~~ one half of the fee collected.

A copy of any such statement or certificate, duly certified by the county clerk in whose office the same shall have been filed or by the Secretary of State, shall be presumptive evidence in all courts of law in this State of the facts therein contained.

COMMENT

The language added to this section references the consolidated list of filing, indexing, entering, and recording fees associated with the office of the county clerk and deputy clerk of the Superior Court. *N.J.S. 22A:2-29*. This change will eliminate conflicting fees, and clarify the amounts charged by referring specifically to *N.J.S. 22A:2-29* so that so that individuals unfamiliar with the fee provision can more easily locate it. The language "fee provided in" is consistent with that used in a similar context in *N.J.S. 16:1-19* and *N.J.S. 17:22B-8*.

56:1-7. Place and manner of recording dissolution of partnership; fees

The record of dissolution provided for by section 56:1-6 of this Title shall be made by the county clerk and by the Secretary of State by writing the word "dissolved," together with the date of the certificate of dissolution, in the margin of the book or books used for filing trade-name certificates, at or near the place where such trade-name certificate shall have been indexed. For the filing of such certificates and recording the dissolution of the trade-name the county clerk and the Secretary of State shall each receive ~~a fee of \$1.00~~ one half of the fee provided by law in N.J.S. 22A:2-29. The county clerk, at the time of filing such certificate, shall collect from the person presenting the same, in addition to the fee payable to him, the fee payable to the Secretary of State for filing and recording the same, and shall immediately forward to the Secretary of State

the duplicate of such certificate together with such fee collected for the Secretary of State as aforesaid.

COMMENT

The language added to this section references the consolidated list of filing, indexing, entering, and recording fees associated with the office of the county clerk and deputy clerk of the Superior Court. *N.J.S. 22A:2-29*. This change will eliminate conflicting fees, and clarify the amounts charged by referring specifically to *N.J.S. 22A:2-29* so that so that individuals unfamiliar with the fee provision can more easily locate it. The language “fee provided in” is consistent with that used in a similar context in *N.J.S. 16:1-19* and *N.J.S. 17:22B-8*.