



[HF 360](#) – Probate Fees (LSB1242HV)
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Fiscal Note Version – New

Description

[House File 360](#) relates to the court costs that the clerk of probate court charges and collects in connection with probate matters. The Bill provides that the clerk of court shall charge and collect court costs based on the probate assets listed in the report and inventory for services performed in a decedent's estate administered by Iowa Code chapter [633](#) or [635](#). The court costs charged on the value of those assets shall be 0.2% of the value of the probate assets. In addition, the Bill excludes all nonprobate assets from the calculation of court costs.

House File 360 also provides that court costs shall not be charged or collected on assets transferred to an estate from a conservatorship that had been administered in the State and for which court costs have previously been charged and collected in the conservatorship. For services performed in a conservatorship, the clerk shall charge and collect court costs based on the gross value of the assets listed in the inventory minus the value of the life insurance. The Bill provides that the court costs charged on the value of those assets shall be 0.2% of the value of the assets.

House File 360 takes effect January 1, 2022. The Bill applies to conservatorships, court-administered trusts, guardianships, and estates of decedents for which the petition is filed and other probate matters in which filings are made and actions are taken on and after January 1, 2022.

Background

Under current law, Iowa Code section [633.31\(2\)\(k\)](#) provides a sliding scale fee for services performed in connection with the settlement of an estate based upon the value of the estate. The probate fees collected by clerks of court are deposited in the State General Fund pursuant to Iowa Code section [602.8108](#). In FY 2020, the revenue from fees on estate values under Iowa Code section 633.31(2)(k) was \$11.8 million. Currently, the value of the assets may include both probate and nonprobate assets for the purpose of calculating court costs.

Assumptions

- The removal of nonprobate assets will reduce the overall estate value subject to fees pursuant to Iowa Code section 633.31(2)(k) by at least 50.0%, reducing revenue by 50.0%.
- From FY 2015 to FY 2020, the revenue from fees charged pursuant to Iowa Code section 633.31(2)(k) decreased by a total of 7.9%, an average decline of 1.6% per year. In FY 2020, \$11.8 million was collected in fees on the estate value. This analysis assumes revenues will decline by 1.6% each year starting in FY 2021. The estimated FY 2021 probate fee revenue is \$11.6 million.
- The current fee on estate values in Iowa Code section 633.31(2)(k) equals \$50 for each \$25,000 in applicable estate values, or 0.002%. The estimated estate value required to produce the probate fee revenue is the actual or estimated fees collected divided by 0.002.

Fiscal Impact

[House File 360](#) is estimated to reduce fee revenue to the General Fund by the amounts listed in the following table beginning FY 2022 through FY 2024.

HF 360 — Estimated Change in Probate Fee Revenue

State General Fund

	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
HF 360	\$ 8,610,000	\$ 5,664,000	\$ 5,574,000
<u>Current Law</u>	<u>11,480,000</u>	<u>11,327,000</u>	<u>11,148,000</u>
Estimated Reduction	<u>\$ -2,870,000</u>	<u>\$ -5,663,000</u>	<u>\$ -5,574,000</u>

It is important to note that in recent years many probate attorneys have been filing motions in estate cases to exclude most or all the types of assets that this Bill will remove from the calculation of the estate value subject to probate fees. Some of the motions have been granted, but not all. Depending on how judges continue to rule on these motions going forward, the fiscal impact of this Bill may be less than initially estimated.

Sources

Judicial Branch
LSA analysis

/s/ Holly M. Lyons

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The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.