

STATE OF TENNESSEE
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Opinion No. 05-079

Registers' Fees

QUESTIONS

1. Does Tenn. Code Ann. § 8-21-1001 establish the maximum, minimum, or exact fees that the Register may charge?
2. Should fees approximate the actual cost of providing services or can the fees be two, three, or more times the actual cost as long as they are the exact fees stated in Tenn. Code Ann. § 8-21-1001?
3. If the revenue generated by the Register's fees should approximate the actual cost, what would be an acceptable approximation?

OPINIONS

1. Tenn. Code Ann. § 8-21-1001 establishes the exact fees a Register may charge.
2. The statute neither requires nor allows the Register to base fee amounts on actual cost.
3. Because of our answers above, we do not reach this question.

ANALYSIS

Tenn. Code Ann. § 8-21-1001 sets the fees Registers are entitled to demand and receive for the filing and recording of documents. Tenn. Code Ann. § 8-21-1001(b) begins, "The registers of this state are entitled to demand and receive for their services in registering documents the following fees, **and none other.**" (Emphasis supplied.). The statute then lists specifically what the Register must charge for a particular filing.¹ Reading the statute in a straightforward and commonsense way,

¹Under Tenn. Code Ann. § 8-21-1001(c), Registers are entitled to demand and receive an additional two-dollar (\$2.00) fee for each instrument recorded or filed, except for filings under the Uniform Commercial Code. This fee must be used for the purchase of computers, software and necessary maintenance and related services. The fee goes into a

the phrase “and none other” means there may not be any deviation from the list. *See, e.g., Bartlik v. U.S. Dept. of Labor*, 62 F.3d 163, 165-66 (6th Cir. 1995).² Tenn. Code Ann. § 8-22-105 buttresses this reading by making a Register individually liable for not collecting the fees.³ Thus the fees listed in Tenn. Code Ann. § 8-21-1001(b) are the exact fees to be collected and charged. The statute does not require or allow the Register to charge a fee based on actual costs.

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restricted account and may be used only as stated in Tenn. Code Ann. § 8-21-1001(d).

² In *Bartlik*, the court stated that to ascertain the intent of the legislative body, “statutes, regulations and rules of court must be read in a ‘straightforward’ and ‘commonsense’ manner.” *Bartlik*, 63 F.2d at 165-66.

³ Tenn. Code Ann. § 8-22-105 reads, in pertinent part, as follows:

Any [Register] . . . failing to charge or collect from the one liable . . . every fee . . . that the county may be entitled to, and which, by the exercise of reasonable diligence could have been collected . . . shall be held individually liable to the county for the amount that should have been collected.