

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**HOUSE DRH80126-LLf-21 (1/8)**

Short Title: Funds Held for Minors and Incompetents/Fee. (Public)

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Sponsors: Representative Moore.

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Referred to:

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A BILL TO BE ENTITLED

AN ACT TO REDUCE THE FEE ASSESSED BY THE CLERK OF COURT FOR FUNDS TO BE INVESTED BY THE CLERK AND TO PROVIDE FOR THE PRIVATE MANAGEMENT OF FUNDS HELD FOR MINORS AND INCOMPETENT ADULTS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 7A-308.1(2) reads as rewritten:

"(2) On all funds to be invested by the clerk pursuant to G.S. 7A-112, a fee equal to ~~five percent (5%)~~ two and one-half percent (2.5%) of each fund shall be assessed and collected, subject to the following conditions:

- a. The fee shall be charged and deducted from each fund before the fund is invested, and only the balance shall be invested;
- b. Over the life of an account, the fees charged on the initial funds and all funds subsequently placed with the clerk for that account shall not exceed the investment earnings on the account or one thousand dollars (\$1,000), whichever is less;
- c. All fees collected pursuant to this subsection shall be remitted to the State Treasurer for the support of the General Court of Justice; and
- d. Any fees charged in excess of the cumulative investment earnings on an account shall be refunded and all investment earnings in excess of the prescribed fee shall be remitted to the beneficial owner or owners when all funds in that account are finally withdrawn and distributed by the clerk."

**SECTION 2.** Chapter 7A of the General Statutes is amended by adding a new section to read:

1 **"§ 7A-114. Private management of funds held for minors and incompetent adults.**

2 Whenever a minor or an incompetent adult is awarded a judgment in a civil action or  
3 is otherwise in receipt of funds:

4 (1) If a general guardian or guardian of the estate has been appointed to  
5 represent the minor or incompetent adult, the court shall direct the  
6 guardian to receive, manage, and control those funds.

7 (2) If no guardian has been appointed to represent the minor or  
8 incompetent adult, the court shall, with the consent of the parties,  
9 direct the clerk to appoint a general guardian or guardian of the estate  
10 under Chapter 35A of the General Statutes to receive, manage, and  
11 control those funds, unless the court finds it would not be in the best  
12 interest of the minor or incompetent adult to do so. If receipt of the  
13 funds by the clerk becomes necessary in advance of the appointment  
14 and bonding of the guardian, the clerk may not invest the funds and  
15 assess a fee under G.S. 7A-308.1(2) but shall hold the funds for the  
16 benefit of the minor or incompetent adult pending disbursement to the  
17 guardian upon appointment.

18 A guardian managing funds under this section has the authority granted, and duties  
19 imposed, under Article 9 of Chapter 35 of the General Statutes to manage and invest the  
20 funds in a reasonable and prudent manner and in the best interest of the minor or  
21 incompetent ward."

22 **SECTION 3.** Section 1 of this act becomes effective July 1, 2007, and  
23 applies to funds invested by the clerk on or after that date. The remainder of this act  
24 becomes effective July 1, 2007.