

OFFICE OF THE ATTORNEY GENERAL



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Honorable R. J. Stembridge
Judge of Probate
The County of Houston
P. O. Box 6406
Dothan, Alabama 36302

Judges of Probate - Filing Fees -
Social and Literary Clubs

Judge of Probate to receive same
compensation for filing certifi-
cate involving corporation
organized under Code of Alabama
1975, §10-4-300 (Social and
Literary Clubs) which is formed
for nonpecuniary purpose, as he
would receive for nonprofit
corporations under Code of Alabama
1975, §10-3-9.

Dear Judge Stembridge:

You have requested an opinion regarding the collection of the proper compensation by probate judges for a corporation filed under Code of Alabama 1975, §10-4-300, et seq., referring specifically to a Certificate of Incorporation filed with your office pursuant to said statute which contains therein a statement that it is formed for nonpecuniary purposes.

Code of Alabama 1975, §§10-4-300 through 307, set out the manner in which social or literary clubs may become incorporated. In Section 10-4-32(b), it states:

"The judge of probate for such re-
cording and other services in, and
about, the organization of such
corporation under this article shall

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be entitled to the same compensation he receives for similar services under existing laws, and he may charge the usual recording fees for recording the declaration, constitution and the bylaws."

This provision would clearly refer us to the appropriate filing fee schedule for private corporations generally. But as Your Honor has noted in his letter of request, there is a different filing fee schedule for nonprofit corporations (§10-3-9) as opposed to private corporations in general (§12-19-90).

Clearly, §10-4-302(a) anticipates the incorporation of a social club or literary society for either pecuniary or nonpecuniary purposes. Therefore, it is my opinion that the compensation received by the probate judge under §10-4-302(b) should be the same as for a business corporation if the declaration required in subsection (a) states that the club or society is formed for pecuniary purposes; and conversely, the compensation shall be the same as for a nonprofit corporation if the declaration states a nonpecuniary purpose.

Sincerely,

CHARLES A. GRADDICK
Attorney General
By-



R. FRANK USSERY
Assistant Attorney General

RFU:bb