

Amendment No.

CHAMBER ACTION

Senate

House

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1 The Conference Committee on HB 5405 offered the following:

2  
3 **Conference Committee Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Paragraph (a) of subsection (1) of section  
6 28.241, Florida Statutes, is amended to read:

7 28.241 Filing fees for trial and appellate proceedings.—

8 (1)(a)1.a. Except as provided in sub-subparagraph b. and  
9 subparagraph 2., the party instituting any civil action, suit,  
10 or proceeding in the circuit court shall pay to the clerk of  
11 that court a filing fee of up to \$395 in all cases in which  
12 there are not more than five defendants and an additional filing  
13 fee of up to \$2.50 for each defendant in excess of five. Of the  
14 first \$280 ~~\$265~~ in filing fees, \$80 must be remitted by the  
15 clerk to the Department of Revenue for deposit into the General  
16 Revenue Fund, \$195 ~~\$180~~ must be remitted to the Department of  
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17 Revenue for deposit into the State Courts Revenue Trust Fund,  
18 \$3.50 must be remitted to the Department of Revenue for deposit  
19 into the Clerks of the Court Trust Fund within the Justice  
20 Administrative Commission and used to fund the Florida Clerks of  
21 Court Operations Corporation created in s. 28.35, and \$1.50  
22 shall be remitted to the Department of Revenue for deposit into  
23 the Administrative Trust Fund within the Department of Financial  
24 Services to fund clerk budget reviews conducted by the  
25 Department of Financial Services. ~~The next \$15 of the filing fee~~  
26 ~~collected shall be deposited in the state courts' Mediation and~~  
27 ~~Arbitration Trust Fund.~~ One third of any filing fees collected  
28 by the clerk of the circuit court in excess of \$100 shall be  
29 remitted to the Department of Revenue for deposit into the  
30 Clerks of the Court Trust Fund within the Justice Administrative  
31 Commission.

32 b. The party instituting any civil action, suit, or  
33 proceeding in the circuit court under chapter 39, chapter 61,  
34 chapter 741, chapter 742, chapter 747, chapter 752, or chapter  
35 753 shall pay to the clerk of that court a filing fee of up to  
36 \$295 in all cases in which there are not more than five  
37 defendants and an additional filing fee of up to \$2.50 for each  
38 defendant in excess of five. Of the first \$180 ~~\$165~~ in filing  
39 fees, \$80 must be remitted by the clerk to the Department of  
40 Revenue for deposit into the General Revenue Fund, \$95 ~~\$80~~ must  
41 be remitted to the Department of Revenue for deposit into the  
42 State Courts Revenue Trust Fund, \$3.50 must be remitted to the  
43 Department of Revenue for deposit into the Clerks of the Court  
44 Trust Fund within the Justice Administrative Commission and used  
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45 to fund the Florida Clerks of Court Operations Corporation  
46 created in s. 28.35, and \$1.50 shall be remitted to the  
47 Department of Revenue for deposit into the Administrative Trust  
48 Fund within the Department of Financial Services to fund clerk  
49 budget reviews conducted by the Department of Financial  
50 Services. ~~The next \$15 of the filing fee collected shall be~~  
51 ~~deposited in the state courts' Mediation and Arbitration Trust~~  
52 ~~Fund.~~

53 c. An additional filing fee of \$4 shall be paid to the  
54 clerk. The clerk shall remit \$3.50 to the Department of Revenue  
55 for deposit into the Court Education Trust Fund and shall remit  
56 50 cents to the Department of Revenue for deposit into the  
57 Clerks of the Court Trust Fund within the Justice Administrative  
58 Commission to fund clerk education. An additional filing fee of  
59 up to \$18 shall be paid by the party seeking each severance that  
60 is granted. The clerk may impose an additional filing fee of up  
61 to \$85 for all proceedings of garnishment, attachment, replevin,  
62 and distress. Postal charges incurred by the clerk of the  
63 circuit court in making service by certified or registered mail  
64 on defendants or other parties shall be paid by the party at  
65 whose instance service is made. No additional fees, charges, or  
66 costs shall be added to the filing fees imposed under this  
67 section, except as authorized in this section or by general law.

68 2.a. Notwithstanding the fees prescribed in subparagraph  
69 1., a party instituting a civil action in circuit court relating  
70 to real property or mortgage foreclosure shall pay a graduated  
71 filing fee based on the value of the claim.

72 b. A party shall estimate in writing the amount in  
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73 controversy of the claim upon filing the action. For purposes of  
74 this subparagraph, the value of a mortgage foreclosure action is  
75 based upon the principal due on the note secured by the  
76 mortgage, plus interest owed on the note and any moneys advanced  
77 by the lender for property taxes, insurance, and other advances  
78 secured by the mortgage, at the time of filing the foreclosure.  
79 The value shall also include the value of any tax certificates  
80 related to the property. In stating the value of a mortgage  
81 foreclosure claim, a party shall declare in writing the total  
82 value of the claim, as well as the individual elements of the  
83 value as prescribed in this sub-subparagraph.

84 c. In its order providing for the final disposition of the  
85 matter, the court shall identify the actual value of the claim.  
86 The clerk shall adjust the filing fee if there is a difference  
87 between the estimated amount in controversy and the actual value  
88 of the claim and collect any additional filing fee owed or  
89 provide a refund of excess filing fee paid.

90 d. The party shall pay a filing fee of:

91 (I) Three hundred and ninety-five dollars in all cases in  
92 which the value of the claim is \$50,000 or less and in which  
93 there are not more than five defendants. The party shall pay an  
94 additional filing fee of up to \$2.50 for each defendant in  
95 excess of five. Of the first \$280 ~~\$265~~ in filing fees, \$80 must  
96 be remitted by the clerk to the Department of Revenue for  
97 deposit into the General Revenue Fund, \$195 ~~\$180~~ must be  
98 remitted to the Department of Revenue for deposit into the State  
99 Courts Revenue Trust Fund, \$3.50 must be remitted to the  
100 Department of Revenue for deposit into the Clerks of the Court  
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101 Trust Fund within the Justice Administrative Commission and used  
102 to fund the Florida Clerks of Court Operations Corporation  
103 created in s. 28.35, and \$1.50 shall be remitted to the  
104 Department of Revenue for deposit into the Administrative Trust  
105 Fund within the Department of Financial Services to fund clerk  
106 budget reviews conducted by the Department of Financial  
107 Services. ~~The next \$15 of the filing fee collected shall be~~  
108 ~~deposited in the state courts' Mediation and Arbitration Trust~~  
109 ~~Fund;~~

110 (II) Nine hundred dollars in all cases in which the value  
111 of the claim is more than \$50,000 but less than \$250,000 and in  
112 which there are not more than five defendants. The party shall  
113 pay an additional filing fee of up to \$2.50 for each defendant  
114 in excess of five. Of the first \$785 ~~\$770~~ in filing fees, \$80  
115 must be remitted by the clerk to the Department of Revenue for  
116 deposit into the General Revenue Fund, \$700 ~~\$685~~ must be  
117 remitted to the Department of Revenue for deposit into the State  
118 Courts Revenue Trust Fund, \$3.50 must be remitted to the  
119 Department of Revenue for deposit into the Clerks of the Court  
120 Trust Fund within the Justice Administrative Commission and used  
121 to fund the Florida Clerks of Court Operations Corporation  
122 described in s. 28.35, and \$1.50 shall be remitted to the  
123 Department of Revenue for deposit into the Administrative Trust  
124 Fund within the Department of Financial Services to fund clerk  
125 budget reviews conducted by the Department of Financial  
126 Services. ~~The next \$15 of the filing fee collected shall be~~  
127 ~~deposited in the state courts' Mediation and Arbitration Trust~~  
128 ~~Fund; or~~

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129 (III) One thousand nine hundred dollars in all cases in  
130 which the value of the claim is \$250,000 or more and in which  
131 there are not more than five defendants. The party shall pay an  
132 additional filing fee of up to \$2.50 for each defendant in  
133 excess of five. Of the first \$1,785 ~~\$1,770~~ in filing fees, \$80  
134 must be remitted by the clerk to the Department of Revenue for  
135 deposit into the General Revenue Fund, \$1,700 ~~\$1,685~~ must be  
136 remitted to the Department of Revenue for deposit into the State  
137 Courts Revenue Trust Fund, \$3.50 must be remitted to the  
138 Department of Revenue for deposit into the Clerks of the Court  
139 Trust Fund within the Justice Administrative Commission to fund  
140 the Florida Clerks of Court Operations Corporation created in s.  
141 28.35, and \$1.50 shall be remitted to the Department of Revenue  
142 for deposit into the Administrative Trust Fund within the  
143 Department of Financial Services to fund clerk budget reviews  
144 conducted by the Department of Financial Services. ~~The next \$15~~  
145 ~~of the filing fee collected shall be deposited in the state~~  
146 ~~courts' Mediation and Arbitration Trust Fund.~~

147 e. An additional filing fee of \$4 shall be paid to the  
148 clerk. The clerk shall remit \$3.50 to the Department of Revenue  
149 for deposit into the Court Education Trust Fund and shall remit  
150 50 cents to the Department of Revenue for deposit into the  
151 Clerks of the Court Trust Fund within the Justice Administrative  
152 Commission to fund clerk education. An additional filing fee of  
153 up to \$18 shall be paid by the party seeking each severance that  
154 is granted. The clerk may impose an additional filing fee of up  
155 to \$85 for all proceedings of garnishment, attachment, replevin,  
156 and distress. Postal charges incurred by the clerk of the  
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157 circuit court in making service by certified or registered mail  
158 on defendants or other parties shall be paid by the party at  
159 whose instance service is made. No additional fees, charges, or  
160 costs shall be added to the filing fees imposed under this  
161 section, except as authorized in this section or by general law.

162 Section 2. Paragraph (b) of subsection (1) of section  
163 34.041, Florida Statutes, is amended to read:

164 34.041 Filing fees.—

165 (1)

166 (b) The first \$80 of the filing fee collected under  
167 subparagraph (a)4. shall be remitted to the Department of  
168 Revenue for deposit into the General Revenue Fund. The next \$15  
169 of the filing fee collected under subparagraph (a)4., and the  
170 first \$10 of the filing fee collected under subparagraph (a)7.,  
171 shall be deposited in the State Courts Revenue ~~state courts'~~  
172 ~~Mediation and Arbitration~~ Trust Fund. An additional filing fee  
173 of \$4 shall be paid to the clerk. The clerk shall transfer \$3.50  
174 to the Department of Revenue for deposit into the Court  
175 Education Trust Fund and shall transfer 50 cents to the  
176 Department of Revenue for deposit into the Clerks of the Court  
177 Trust Fund within the Justice Administrative Commission to fund  
178 clerk education. Postal charges incurred by the clerk of the  
179 county court in making service by mail on defendants or other  
180 parties shall be paid by the party at whose instance service is  
181 made. Except as provided herein, filing fees and service charges  
182 for performing duties of the clerk relating to the county court  
183 shall be as provided in ss. 28.24 and 28.241. Except as  
184 otherwise provided herein, all filing fees shall be remitted to  
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185 the Department of Revenue for deposit into the Clerks of the  
186 Court Trust Fund within the Justice Administrative Commission.  
187 Filing fees imposed by this section may not be added to any  
188 penalty imposed by chapter 316 or chapter 318.

189 Section 3. Subsection (7) of section 35.22, Florida  
190 Statutes, is amended to read:

191 35.22 Clerk of district court; appointment; compensation;  
192 assistants; filing fees; teleconferencing.—

193 (7) The clerk of the district court of appeal is  
194 authorized to collect a fee from the parties to an appeal  
195 reflecting the actual cost of conducting the proceeding through  
196 teleconferencing where the parties have requested that an oral  
197 argument or mediation be conducted through teleconferencing. The  
198 fee collected for this purpose shall be used to offset the  
199 expenses associated with scheduling the teleconference and shall  
200 be deposited in the State Courts Revenue ~~Mediation/Arbitration~~  
201 Trust Fund.

202 Section 4. Section 44.108, Florida Statutes, is amended to  
203 read:

204 44.108 Funding of mediation and arbitration.—

205 (1) Mediation and arbitration should be accessible to all  
206 parties regardless of financial status. A filing fee of \$1 is  
207 levied on all proceedings in the circuit or county courts to  
208 fund mediation and arbitration services which are the  
209 responsibility of the Supreme Court pursuant to the provisions  
210 of s. 44.106. The clerk of the court shall forward the moneys  
211 collected to the Department of Revenue for deposit in the State  
212 Courts Revenue ~~state courts' Mediation and Arbitration~~ Trust

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213 Fund.

214 (2) When court-ordered mediation services are provided by  
215 a circuit court's mediation program, the following fees, unless  
216 otherwise established in the General Appropriations Act, shall  
217 be collected by the clerk of court:

218 (a) One-hundred twenty dollars per person per scheduled  
219 session in family mediation when the parties' combined income is  
220 greater than \$50,000, but less than \$100,000 per year;

221 (b) Sixty dollars per person per scheduled session in  
222 family mediation when the parties' combined income is less than  
223 \$50,000; or

224 (c) Sixty dollars per person per scheduled session in  
225 county court cases.

226

227 No mediation fees shall be assessed under this subsection in  
228 residential eviction cases, against a party found to be  
229 indigent, or for any small claims action. Fees collected by the  
230 clerk of court pursuant to this section shall be remitted to the  
231 Department of Revenue for deposit into the State Courts Revenue  
232 ~~state courts' Mediation and Arbitration~~ Trust Fund to fund  
233 court-ordered mediation. The clerk of court may deduct \$1 per  
234 fee assessment for processing this fee. The clerk of the court  
235 shall submit to the chief judge of the circuit and to the Office  
236 of the State Courts Administrator, no later than 30 days after  
237 the end of each quarter of the fiscal year, ~~beginning July 1,~~  
238 ~~2008,~~ a report specifying the amount of funds collected and  
239 remitted to the State Courts Revenue ~~state courts' Mediation and~~  
240 ~~Arbitration~~ Trust Fund under this section and any other section

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241 during the previous quarter of the fiscal year. In addition to  
242 identifying the total aggregate collections and remissions from  
243 all "statutory sources, the report must identify collections and  
244 remissions by each statutory source.

245 ~~(3) For the 2010-2011 fiscal year only and notwithstanding~~  
246 ~~any other provision of law to the contrary, moneys in the~~  
247 ~~Mediation and Arbitration Trust Fund may be used as specified in~~  
248 ~~the General Appropriations Act. This subsection expires July 1,~~  
249 ~~2011.~~

250 Section 5. This act shall take effect June 1, 2011.

251  
252 -----  
253 **T I T L E A M E N D M E N T**

254 Remove the entire title and insert:

255 A bill to be entitled

256 An act relating to trust funds of the state courts system;  
257 amending s. 28.241, F.S.; redirecting proceeds from part  
258 of a filing fee from the state courts' Mediation and  
259 Arbitration Trust Fund to the State Courts Revenue Trust  
260 Fund; amending s. 34.041, F.S.; redirecting the proceeds  
261 from a part of a filing fee from the state courts'  
262 Mediation and Arbitration Trust Fund to the State Courts  
263 Revenue Trust Fund; amending s. 35.22, F.S.; redirecting  
264 the proceeds from a fee from the Mediation/Arbitration  
265 Trust Fund to the State Courts Revenue Trust Fund;  
266 amending s. 44.108, F.S.; redirecting the proceeds from a  
267 part of specified fees from the state courts' Mediation  
268 and Arbitration Trust Fund to the State Courts Revenue

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269 Trust Fund; deleting an obsolete provision relating to use  
270 of moneys in the Mediation and Arbitration Trust Fund;  
271 providing an effective date.