

HB 5405

2011

1 A bill to be entitled

2 An act relating to trust funds of the state courts system;
3 amending s. 25.384, F.S.; conforming provisions to changes
4 made by the act; amending s. 28.2401, F.S.; redirecting
5 proceeds from a specified service charge from the Court
6 Education Trust Fund to the State Courts Revenue Trust
7 Fund; amending s. 28.241, F.S.; redirecting proceeds from
8 part of a filing fee from the state courts' Mediation and
9 Arbitration Trust Fund to the State Courts Revenue Trust
10 Fund; redirecting the proceeds from certain additional
11 filing fees from the Court Education Trust Fund to the
12 State Courts Revenue Trust Fund; amending s. 34.041, F.S.;
13 redirecting the proceeds from a part of a filing fee from
14 the state courts' Mediation and Arbitration Trust Fund to
15 the State Courts Revenue Trust Fund; redirecting the
16 proceeds from a part of an additional filing fee from the
17 Court Education Trust Fund to the State Courts Revenue
18 Trust Fund; amending s. 35.22, F.S.; redirecting the
19 proceeds from a fee from the Mediation/Arbitration Trust
20 Fund to the State Courts Revenue Trust Fund; amending s.
21 44.108, F.S.; redirecting the proceeds from a part of
22 specified fees from the state courts' Mediation and
23 Arbitration Trust Fund to the State Courts Revenue Trust
24 Fund; deleting an obsolete provision relating to use of
25 moneys in the Mediation and Arbitration Trust Fund;
26 providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

Page 1 of 11

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb5405-00

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Section 1. Subsection (4) of section 25.384, Florida Statutes, is renumbered as subsection (3), and present subsection (3) of that section is amended to read:

25.384 Court Education Trust Fund.—

~~(3) The trust fund shall be funded with moneys generated from fees assessed pursuant to ss. 28.241(1) and 28.2401(3).~~

Section 2. Subsection (3) of section 28.2401, Florida Statutes, is amended to read:

28.2401 Service charges and filing fees in probate matters.—

(3) An additional service charge of \$4 on petitions seeking summary administration, formal administration, ancillary administration, guardianship, curatorship, and conservatorship shall be paid to the clerk. The clerk shall transfer \$3.50 to the Department of Revenue for deposit into the State Courts Revenue Court Education Trust Fund and shall transfer 50 cents to the Department of Revenue for deposit into the Department of Financial Services' Administrative Trust Fund to fund clerk education. No additional fees, charges, or costs shall be added to the service charges or filing fees imposed under this section, except as authorized by general law.

Section 3. Paragraph (a) of subsection (1) of section 28.241, Florida Statutes, is amended to read:

28.241 Filing fees for trial and appellate proceedings.—

(1)(a)1.a. Except as provided in sub-subparagraph b. and subparagraph 2., the party instituting any civil action, suit, or proceeding in the circuit court shall pay to the clerk of

HB 5405

2011

57 that court a filing fee of up to \$395 in all cases in which
 58 there are not more than five defendants and an additional filing
 59 fee of up to \$2.50 for each defendant in excess of five. Of the
 60 first \$280 ~~\$265~~ in filing fees, \$80 must be remitted by the
 61 clerk to the Department of Revenue for deposit into the General
 62 Revenue Fund, \$195 ~~\$180~~ must be remitted to the Department of
 63 Revenue for deposit into the State Courts Revenue Trust Fund,
 64 \$3.50 must be remitted to the Department of Revenue for deposit
 65 into the Clerks of the Court Trust Fund within the Justice
 66 Administrative Commission and used to fund the Florida Clerks of
 67 Court Operations Corporation created in s. 28.35, and \$1.50
 68 shall be remitted to the Department of Revenue for deposit into
 69 the Administrative Trust Fund within the Department of Financial
 70 Services to fund clerk budget reviews conducted by the
 71 Department of Financial Services. ~~The next \$15 of the filing fee~~
 72 ~~collected shall be deposited in the state courts' Mediation and~~
 73 ~~Arbitration Trust Fund.~~ One third of any filing fees collected
 74 by the clerk of the circuit court in excess of \$100 shall be
 75 remitted to the Department of Revenue for deposit into the
 76 Clerks of the Court Trust Fund within the Justice Administrative
 77 Commission.

78 b. The party instituting any civil action, suit, or
 79 proceeding in the circuit court under chapter 39, chapter 61,
 80 chapter 741, chapter 742, chapter 747, chapter 752, or chapter
 81 753 shall pay to the clerk of that court a filing fee of up to
 82 \$295 in all cases in which there are not more than five
 83 defendants and an additional filing fee of up to \$2.50 for each
 84 defendant in excess of five. Of the first \$180 ~~\$165~~ in filing

85 fees, \$80 must be remitted by the clerk to the Department of
 86 Revenue for deposit into the General Revenue Fund, \$95 ~~\$80~~ must
 87 be remitted to the Department of Revenue for deposit into the
 88 State Courts Revenue Trust Fund, \$3.50 must be remitted to the
 89 Department of Revenue for deposit into the Clerks of the Court
 90 Trust Fund within the Justice Administrative Commission and used
 91 to fund the Florida Clerks of Court Operations Corporation
 92 created in s. 28.35, and \$1.50 shall be remitted to the
 93 Department of Revenue for deposit into the Administrative Trust
 94 Fund within the Department of Financial Services to fund clerk
 95 budget reviews conducted by the Department of Financial
 96 Services. ~~The next \$15 of the filing fee collected shall be~~
 97 ~~deposited in the state courts' Mediation and Arbitration Trust~~
 98 ~~Fund.~~

99 c. An additional filing fee of \$4 shall be paid to the
 100 clerk. The clerk shall remit \$3.50 to the Department of Revenue
 101 for deposit into the State Courts Revenue ~~Court Education~~ Trust
 102 Fund and shall remit 50 cents to the Department of Revenue for
 103 deposit into the Clerks of the Court Trust Fund within the
 104 Justice Administrative Commission to fund clerk education. An
 105 additional filing fee of up to \$18 shall be paid by the party
 106 seeking each severance that is granted. The clerk may impose an
 107 additional filing fee of up to \$85 for all proceedings of
 108 garnishment, attachment, replevin, and distress. Postal charges
 109 incurred by the clerk of the circuit court in making service by
 110 certified or registered mail on defendants or other parties
 111 shall be paid by the party at whose instance service is made. No
 112 additional fees, charges, or costs shall be added to the filing

HB 5405

2011

113 fees imposed under this section, except as authorized in this
114 section or by general law.

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

119 b. A party shall estimate in writing the amount in
120 controversy of the claim upon filing the action. For purposes of
121 this subparagraph, the value of a mortgage foreclosure action is
122 based upon the principal due on the note secured by the
123 mortgage, plus interest owed on the note and any moneys advanced
124 by the lender for property taxes, insurance, and other advances
125 secured by the mortgage, at the time of filing the foreclosure.
126 The value shall also include the value of any tax certificates
127 related to the property. In stating the value of a mortgage
128 foreclosure claim, a party shall declare in writing the total
129 value of the claim, as well as the individual elements of the
130 value as prescribed in this sub-subparagraph.

131 c. In its order providing for the final disposition of the
132 matter, the court shall identify the actual value of the claim.
133 The clerk shall adjust the filing fee if there is a difference
134 between the estimated amount in controversy and the actual value
135 of the claim and collect any additional filing fee owed or
136 provide a refund of excess filing fee paid.

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

138 (I) Three hundred and ninety-five dollars in all cases in
139 which the value of the claim is \$50,000 or less and in which
140 there are not more than five defendants. The party shall pay an

HB 5405

2011

141 additional filing fee of up to \$2.50 for each defendant in
 142 excess of five. Of the first \$280 ~~\$265~~ in filing fees, \$80 must
 143 be remitted by the clerk to the Department of Revenue for
 144 deposit into the General Revenue Fund, \$195 ~~\$180~~ must be
 145 remitted to the Department of Revenue for deposit into the State
 146 Courts Revenue Trust Fund, \$3.50 must be remitted to the
 147 Department of Revenue for deposit into the Clerks of the Court
 148 Trust Fund within the Justice Administrative Commission and used
 149 to fund the Florida Clerks of Court Operations Corporation
 150 created in s. 28.35, and \$1.50 shall be remitted to the
 151 Department of Revenue for deposit into the Administrative Trust
 152 Fund within the Department of Financial Services to fund clerk
 153 budget reviews conducted by the Department of Financial
 154 Services. ~~The next \$15 of the filing fee collected shall be~~
 155 ~~deposited in the state courts' Mediation and Arbitration Trust~~
 156 ~~Fund;~~

157 (II) Nine hundred dollars in all cases in which the value
 158 of the claim is more than \$50,000 but less than \$250,000 and in
 159 which there are not more than five defendants. The party shall
 160 pay an additional filing fee of up to \$2.50 for each defendant
 161 in excess of five. Of the first \$785 ~~\$770~~ in filing fees, \$80
 162 must be remitted by the clerk to the Department of Revenue for
 163 deposit into the General Revenue Fund, \$700 ~~\$685~~ must be
 164 remitted to the Department of Revenue for deposit into the State
 165 Courts Revenue Trust Fund, \$3.50 must be remitted to the
 166 Department of Revenue for deposit into the Clerks of the Court
 167 Trust Fund within the Justice Administrative Commission and used
 168 to fund the Florida Clerks of Court Operations Corporation

169 described in s. 28.35, and \$1.50 shall be remitted to the
 170 Department of Revenue for deposit into the Administrative Trust
 171 Fund within the Department of Financial Services to fund clerk
 172 budget reviews conducted by the Department of Financial
 173 Services. ~~The next \$15 of the filing fee collected shall be~~
 174 ~~deposited in the state courts' Mediation and Arbitration Trust~~
 175 ~~Fund;~~ or

176 (III) One thousand nine hundred dollars in all cases in
 177 which the value of the claim is \$250,000 or more and in which
 178 there are not more than five defendants. The party shall pay an
 179 additional filing fee of up to \$2.50 for each defendant in
 180 excess of five. Of the first \$1,785 ~~\$1,770~~ in filing fees, \$80
 181 must be remitted by the clerk to the Department of Revenue for
 182 deposit into the General Revenue Fund, \$1,700 ~~\$1,685~~ must be
 183 remitted to the Department of Revenue for deposit into the State
 184 Courts Revenue Trust Fund, \$3.50 must be remitted to the
 185 Department of Revenue for deposit into the Clerks of the Court
 186 Trust Fund within the Justice Administrative Commission to fund
 187 the Florida Clerks of Court Operations Corporation created in s.
 188 28.35, and \$1.50 shall be remitted to the Department of Revenue
 189 for deposit into the Administrative Trust Fund within the
 190 Department of Financial Services to fund clerk budget reviews
 191 conducted by the Department of Financial Services. ~~The next \$15~~
 192 ~~of the filing fee collected shall be deposited in the state~~
 193 ~~courts' Mediation and Arbitration Trust Fund.~~

194 e. An additional filing fee of \$4 shall be paid to the
 195 clerk. The clerk shall remit \$3.50 to the Department of Revenue
 196 for deposit into the State Courts Revenue ~~Court Education~~ Trust

HB 5405

2011

197 Fund and shall remit 50 cents to the Department of Revenue for
 198 deposit into the Clerks of the Court Trust Fund within the
 199 Justice Administrative Commission to fund clerk education. An
 200 additional filing fee of up to \$18 shall be paid by the party
 201 seeking each severance that is granted. The clerk may impose an
 202 additional filing fee of up to \$85 for all proceedings of
 203 garnishment, attachment, replevin, and distress. Postal charges
 204 incurred by the clerk of the circuit court in making service by
 205 certified or registered mail on defendants or other parties
 206 shall be paid by the party at whose instance service is made. No
 207 additional fees, charges, or costs shall be added to the filing
 208 fees imposed under this section, except as authorized in this
 209 section or by general law.

210 Section 4. Paragraph (b) of subsection (1) of section
 211 34.041, Florida Statutes, is amended to read:

212 34.041 Filing fees.—

213 (1)

214 (b) The first \$80 of the filing fee collected under
 215 subparagraph (a)4. shall be remitted to the Department of
 216 Revenue for deposit into the General Revenue Fund. The next \$15
 217 of the filing fee collected under subparagraph (a)4., and the
 218 first \$10 of the filing fee collected under subparagraph (a)7.,
 219 shall be deposited in the State Courts Revenue ~~state courts'~~
 220 ~~Mediation and Arbitration~~ Trust Fund. An additional filing fee
 221 of \$4 shall be paid to the clerk. The clerk shall transfer \$3.50
 222 to the Department of Revenue for deposit into the State Courts
 223 Revenue ~~Court Education~~ Trust Fund and shall transfer 50 cents
 224 to the Department of Revenue for deposit into the Clerks of the

HB 5405

2011

225 Court Trust Fund within the Justice Administrative Commission to
 226 fund clerk education. Postal charges incurred by the clerk of
 227 the county court in making service by mail on defendants or
 228 other parties shall be paid by the party at whose instance
 229 service is made. Except as provided herein, filing fees and
 230 service charges for performing duties of the clerk relating to
 231 the county court shall be as provided in ss. 28.24 and 28.241.
 232 Except as otherwise provided herein, all filing fees shall be
 233 remitted to the Department of Revenue for deposit into the
 234 Clerks of the Court Trust Fund within the Justice Administrative
 235 Commission. Filing fees imposed by this section may not be added
 236 to any penalty imposed by chapter 316 or chapter 318.

237 Section 5. Subsection (7) of section 35.22, Florida
 238 Statutes, is amended to read:

239 35.22 Clerk of district court; appointment; compensation;
 240 assistants; filing fees; teleconferencing.-

241 (7) The clerk of the district court of appeal is
 242 authorized to collect a fee from the parties to an appeal
 243 reflecting the actual cost of conducting the proceeding through
 244 teleconferencing where the parties have requested that an oral
 245 argument or mediation be conducted through teleconferencing. The
 246 fee collected for this purpose shall be used to offset the
 247 expenses associated with scheduling the teleconference and shall
 248 be deposited in the State Courts Revenue ~~Mediation/Arbitration~~
 249 Trust Fund.

250 Section 6. Section 44.108, Florida Statutes, is amended to
 251 read:

252 44.108 Funding of mediation and arbitration.-

253 (1) Mediation and arbitration should be accessible to all
 254 parties regardless of financial status. A filing fee of \$1 is
 255 levied on all proceedings in the circuit or county courts to
 256 fund mediation and arbitration services which are the
 257 responsibility of the Supreme Court pursuant to the provisions
 258 of s. 44.106. The clerk of the court shall forward the moneys
 259 collected to the Department of Revenue for deposit in the State
 260 Courts Revenue ~~state courts' Mediation and Arbitration~~ Trust
 261 Fund.

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

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

269 (b) Sixty dollars per person per scheduled session in
 270 family mediation when the parties' combined income is less than
 271 \$50,000; or

272 (c) Sixty dollars per person per scheduled session in
 273 county court cases.

274
 275 No mediation fees shall be assessed under this subsection in
 276 residential eviction cases, against a party found to be
 277 indigent, or for any small claims action. Fees collected by the
 278 clerk of court pursuant to this section shall be remitted to the
 279 Department of Revenue for deposit into the State Courts Revenue
 280 ~~state courts' Mediation and Arbitration~~ Trust Fund to fund

HB 5405

2011

281 court-ordered mediation. The clerk of court may deduct \$1 per
282 fee assessment for processing this fee. The clerk of the court
283 shall submit to the chief judge of the circuit and to the Office
284 of the State Courts Administrator, no later than 30 days after
285 the end of each quarter of the fiscal year, ~~beginning July 1,~~
286 ~~2008,~~ a report specifying the amount of funds collected and
287 remitted to the State Courts Revenue ~~state courts' Mediation and~~
288 ~~Arbitration~~ Trust Fund under this section and any other section
289 during the previous quarter of the fiscal year. In addition to
290 identifying the total aggregate collections and remissions from
291 all "statutory sources, the report must identify collections and
292 remissions by each statutory source.

293 ~~(3) For the 2010-2011 fiscal year only and notwithstanding~~
294 ~~any other provision of law to the contrary, moneys in the~~
295 ~~Mediation and Arbitration Trust Fund may be used as specified in~~
296 ~~the General Appropriations Act. This subsection expires July 1,~~
297 ~~2011.~~

298 Section 7. This act shall take effect July 1, 2011.