

ENROLLED
 HB 5405, Engrossed 1

2011 Legislature

1 A bill to be entitled
 2 An act relating to trust funds of the state courts system;
 3 amending s. 28.241, F.S.; redirecting proceeds from part
 4 of a filing fee from the state courts' Mediation and
 5 Arbitration Trust Fund to the State Courts Revenue Trust
 6 Fund; amending s. 34.041, F.S.; redirecting the proceeds
 7 from a part of a filing fee from the state courts'
 8 Mediation and Arbitration Trust Fund to the State Courts
 9 Revenue Trust Fund; amending s. 35.22, F.S.; redirecting
 10 the proceeds from a fee from the Mediation/Arbitration
 11 Trust Fund to the State Courts Revenue Trust Fund;
 12 amending s. 44.108, F.S.; redirecting the proceeds from a
 13 part of specified fees from the state courts' Mediation
 14 and Arbitration Trust Fund to the State Courts Revenue
 15 Trust Fund; deleting an obsolete provision relating to use
 16 of moneys in the Mediation and Arbitration Trust Fund;
 17 providing an effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

20
 21 Section 1. Paragraph (a) of subsection (1) of section
 22 28.241, Florida Statutes, is amended to read:

23 28.241 Filing fees for trial and appellate proceedings.—

24 (1)(a)1.a. Except as provided in sub-subparagraph b. and
 25 subparagraph 2., the party instituting any civil action, suit,
 26 or proceeding in the circuit court shall pay to the clerk of
 27 that court a filing fee of up to \$395 in all cases in which
 28 there are not more than five defendants and an additional filing

ENROLLED

HB 5405, Engrossed 1

2011 Legislature

29 fee of up to \$2.50 for each defendant in excess of five. Of the
 30 first \$280 ~~\$265~~ in filing fees, \$80 must be remitted by the
 31 clerk to the Department of Revenue for deposit into the General
 32 Revenue Fund, \$195 ~~\$180~~ must be remitted to the Department of
 33 Revenue for deposit into the State Courts Revenue Trust Fund,
 34 \$3.50 must be remitted to the Department of Revenue for deposit
 35 into the Clerks of the Court Trust Fund within the Justice
 36 Administrative Commission and used to fund the Florida Clerks of
 37 Court Operations Corporation created in s. 28.35, and \$1.50
 38 shall be remitted to the Department of Revenue for deposit into
 39 the Administrative Trust Fund within the Department of Financial
 40 Services to fund clerk budget reviews conducted by the
 41 Department of Financial Services. ~~The next \$15 of the filing fee~~
 42 ~~collected shall be deposited in the state courts' Mediation and~~
 43 ~~Arbitration Trust Fund.~~ One third of any filing fees collected
 44 by the clerk of the circuit court in excess of \$100 shall be
 45 remitted to the Department of Revenue for deposit into the
 46 Clerks of the Court Trust Fund within the Justice Administrative
 47 Commission.

48 b. The party instituting any civil action, suit, or
 49 proceeding in the circuit court under chapter 39, chapter 61,
 50 chapter 741, chapter 742, chapter 747, chapter 752, or chapter
 51 753 shall pay to the clerk of that court a filing fee of up to
 52 \$295 in all cases in which there are not more than five
 53 defendants and an additional filing fee of up to \$2.50 for each
 54 defendant in excess of five. Of the first \$180 ~~\$165~~ in filing
 55 fees, \$80 must be remitted by the clerk to the Department of
 56 Revenue for deposit into the General Revenue Fund, \$95 ~~\$80~~ must

ENROLLED

HB 5405, Engrossed 1

2011 Legislature

57 | be remitted to the Department of Revenue for deposit into the
58 | State Courts Revenue Trust Fund, \$3.50 must be remitted to the
59 | Department of Revenue for deposit into the Clerks of the Court
60 | Trust Fund within the Justice Administrative Commission and used
61 | to fund the Florida Clerks of Court Operations Corporation
62 | created in s. 28.35, and \$1.50 shall be remitted to the
63 | Department of Revenue for deposit into the Administrative Trust
64 | Fund within the Department of Financial Services to fund clerk
65 | budget reviews conducted by the Department of Financial
66 | Services. ~~The next \$15 of the filing fee collected shall be~~
67 | ~~deposited in the state courts' Mediation and Arbitration Trust~~
68 | ~~Fund.~~

69 | c. An additional filing fee of \$4 shall be paid to the
70 | clerk. The clerk shall remit \$3.50 to the Department of Revenue
71 | for deposit into the Court Education Trust Fund and shall remit
72 | 50 cents to the Department of Revenue for deposit into the
73 | Clerks of the Court Trust Fund within the Justice Administrative
74 | Commission to fund clerk education. An additional filing fee of
75 | up to \$18 shall be paid by the party seeking each severance that
76 | is granted. The clerk may impose an additional filing fee of up
77 | to \$85 for all proceedings of garnishment, attachment, replevin,
78 | and distress. Postal charges incurred by the clerk of the
79 | circuit court in making service by certified or registered mail
80 | on defendants or other parties shall be paid by the party at
81 | whose instance service is made. No additional fees, charges, or
82 | costs shall be added to the filing fees imposed under this
83 | section, except as authorized in this section or by general law.

84 | 2.a. Notwithstanding the fees prescribed in subparagraph

ENROLLED

HB 5405, Engrossed 1

2011 Legislature

85 1., a party instituting a civil action in circuit court relating
86 to real property or mortgage foreclosure shall pay a graduated
87 filing fee based on the value of the claim.

88 b. A party shall estimate in writing the amount in
89 controversy of the claim upon filing the action. For purposes of
90 this subparagraph, the value of a mortgage foreclosure action is
91 based upon the principal due on the note secured by the
92 mortgage, plus interest owed on the note and any moneys advanced
93 by the lender for property taxes, insurance, and other advances
94 secured by the mortgage, at the time of filing the foreclosure.
95 The value shall also include the value of any tax certificates
96 related to the property. In stating the value of a mortgage
97 foreclosure claim, a party shall declare in writing the total
98 value of the claim, as well as the individual elements of the
99 value as prescribed in this sub-subparagraph.

100 c. In its order providing for the final disposition of the
101 matter, the court shall identify the actual value of the claim.
102 The clerk shall adjust the filing fee if there is a difference
103 between the estimated amount in controversy and the actual value
104 of the claim and collect any additional filing fee owed or
105 provide a refund of excess filing fee paid.

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

107 (I) Three hundred and ninety-five dollars in all cases in
108 which the value of the claim is \$50,000 or less and in which
109 there are not more than five defendants. The party shall pay an
110 additional filing fee of up to \$2.50 for each defendant in
111 excess of five. Of the first \$280 ~~\$265~~ in filing fees, \$80 must
112 be remitted by the clerk to the Department of Revenue for

ENROLLED

HB 5405, Engrossed 1

2011 Legislature

113 deposit into the General Revenue Fund, \$195 ~~\$180~~ must be
 114 remitted to the Department of Revenue for deposit into the State
 115 Courts Revenue Trust Fund, \$3.50 must be remitted to the
 116 Department of Revenue for deposit into the Clerks of the Court
 117 Trust Fund within the Justice Administrative Commission and used
 118 to fund the Florida Clerks of Court Operations Corporation
 119 created in s. 28.35, and \$1.50 shall be remitted to the
 120 Department of Revenue for deposit into the Administrative Trust
 121 Fund within the Department of Financial Services to fund clerk
 122 budget reviews conducted by the Department of Financial
 123 Services. ~~The next \$15 of the filing fee collected shall be~~
 124 ~~deposited in the state courts' Mediation and Arbitration Trust~~
 125 ~~Fund;~~

126 (II) Nine hundred dollars in all cases in which the value
 127 of the claim is more than \$50,000 but less than \$250,000 and in
 128 which there are not more than five defendants. The party shall
 129 pay an additional filing fee of up to \$2.50 for each defendant
 130 in excess of five. Of the first \$785 ~~\$770~~ in filing fees, \$80
 131 must be remitted by the clerk to the Department of Revenue for
 132 deposit into the General Revenue Fund, \$700 ~~\$685~~ must be
 133 remitted to the Department of Revenue for deposit into the State
 134 Courts Revenue Trust Fund, \$3.50 must be remitted to the
 135 Department of Revenue for deposit into the Clerks of the Court
 136 Trust Fund within the Justice Administrative Commission and used
 137 to fund the Florida Clerks of Court Operations Corporation
 138 described in s. 28.35, and \$1.50 shall be remitted to the
 139 Department of Revenue for deposit into the Administrative Trust
 140 Fund within the Department of Financial Services to fund clerk

ENROLLED

HB 5405, Engrossed 1

2011 Legislature

141 budget reviews conducted by the Department of Financial
 142 Services. ~~The next \$15 of the filing fee collected shall be~~
 143 ~~deposited in the state courts' Mediation and Arbitration Trust~~
 144 ~~Fund; or~~

145 (III) One thousand nine hundred dollars in all cases in
 146 which the value of the claim is \$250,000 or more and in which
 147 there are not more than five defendants. The party shall pay an
 148 additional filing fee of up to \$2.50 for each defendant in
 149 excess of five. Of the first \$1,785 ~~\$1,770~~ in filing fees, \$80
 150 must be remitted by the clerk to the Department of Revenue for
 151 deposit into the General Revenue Fund, \$1,700 ~~\$1,685~~ must be
 152 remitted to the Department of Revenue for deposit into the State
 153 Courts Revenue Trust Fund, \$3.50 must be remitted to the
 154 Department of Revenue for deposit into the Clerks of the Court
 155 Trust Fund within the Justice Administrative Commission to fund
 156 the Florida Clerks of Court Operations Corporation created in s.
 157 28.35, and \$1.50 shall be remitted to the Department of Revenue
 158 for deposit into the Administrative Trust Fund within the
 159 Department of Financial Services to fund clerk budget reviews
 160 conducted by the Department of Financial Services. ~~The next \$15~~
 161 ~~of the filing fee collected shall be deposited in the state~~
 162 ~~courts' Mediation and Arbitration Trust Fund.~~

163 e. An additional filing fee of \$4 shall be paid to the
 164 clerk. The clerk shall remit \$3.50 to the Department of Revenue
 165 for deposit into the Court Education Trust Fund and shall remit
 166 50 cents to the Department of Revenue for deposit into the
 167 Clerks of the Court Trust Fund within the Justice Administrative
 168 Commission to fund clerk education. An additional filing fee of

ENROLLED

HB 5405, Engrossed 1

2011 Legislature

169 up to \$18 shall be paid by the party seeking each severance that
 170 is granted. The clerk may impose an additional filing fee of up
 171 to \$85 for all proceedings of garnishment, attachment, replevin,
 172 and distress. Postal charges incurred by the clerk of the
 173 circuit court in making service by certified or registered mail
 174 on defendants or other parties shall be paid by the party at
 175 whose instance service is made. No additional fees, charges, or
 176 costs shall be added to the filing fees imposed under this
 177 section, except as authorized in this section or by general law.

178 Section 2. Paragraph (b) of subsection (1) of section
 179 34.041, Florida Statutes, is amended to read:

180 34.041 Filing fees.—

181 (1)

182 (b) The first \$80 of the filing fee collected under
 183 subparagraph (a)4. shall be remitted to the Department of
 184 Revenue for deposit into the General Revenue Fund. The next \$15
 185 of the filing fee collected under subparagraph (a)4., and the
 186 first \$10 of the filing fee collected under subparagraph (a)7.,
 187 shall be deposited in the State Courts Revenue ~~state courts'~~
 188 ~~Mediation and Arbitration~~ Trust Fund. An additional filing fee
 189 of \$4 shall be paid to the clerk. The clerk shall transfer \$3.50
 190 to the Department of Revenue for deposit into the Court
 191 Education Trust Fund and shall transfer 50 cents to the
 192 Department of Revenue for deposit into the Clerks of the Court
 193 Trust Fund within the Justice Administrative Commission to fund
 194 clerk education. Postal charges incurred by the clerk of the
 195 county court in making service by mail on defendants or other
 196 parties shall be paid by the party at whose instance service is

ENROLLED

HB 5405, Engrossed 1

2011 Legislature

197 made. Except as provided herein, filing fees and service charges
 198 for performing duties of the clerk relating to the county court
 199 shall be as provided in ss. 28.24 and 28.241. Except as
 200 otherwise provided herein, all filing fees shall be remitted to
 201 the Department of Revenue for deposit into the Clerks of the
 202 Court Trust Fund within the Justice Administrative Commission.
 203 Filing fees imposed by this section may not be added to any
 204 penalty imposed by chapter 316 or chapter 318.

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

207 35.22 Clerk of district court; appointment; compensation;
 208 assistants; filing fees; teleconferencing.—

209 (7) The clerk of the district court of appeal is
 210 authorized to collect a fee from the parties to an appeal
 211 reflecting the actual cost of conducting the proceeding through
 212 teleconferencing where the parties have requested that an oral
 213 argument or mediation be conducted through teleconferencing. The
 214 fee collected for this purpose shall be used to offset the
 215 expenses associated with scheduling the teleconference and shall
 216 be deposited in the State Courts Revenue ~~Mediation/Arbitration~~
 217 Trust Fund.

218 Section 4. Section 44.108, Florida Statutes, is amended to
 219 read:

220 44.108 Funding of mediation and arbitration.—

221 (1) Mediation and arbitration should be accessible to all
 222 parties regardless of financial status. A filing fee of \$1 is
 223 levied on all proceedings in the circuit or county courts to
 224 fund mediation and arbitration services which are the

ENROLLED
 HB 5405, Engrossed 1

2011 Legislature

225 responsibility of the Supreme Court pursuant to the provisions
 226 of s. 44.106. The clerk of the court shall forward the moneys
 227 collected to the Department of Revenue for deposit in the State
 228 Courts Revenue ~~state courts' Mediation and Arbitration~~ Trust
 229 Fund.

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

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

237 (b) Sixty dollars per person per scheduled session in
 238 family mediation when the parties' combined income is less than
 239 \$50,000; or

240 (c) Sixty dollars per person per scheduled session in
 241 county court cases.

242
 243 No mediation fees shall be assessed under this subsection in
 244 residential eviction cases, against a party found to be
 245 indigent, or for any small claims action. Fees collected by the
 246 clerk of court pursuant to this section shall be remitted to the
 247 Department of Revenue for deposit into the State Courts Revenue
 248 ~~state courts' Mediation and Arbitration~~ Trust Fund to fund
 249 court-ordered mediation. The clerk of court may deduct \$1 per
 250 fee assessment for processing this fee. The clerk of the court
 251 shall submit to the chief judge of the circuit and to the Office
 252 of the State Courts Administrator, no later than 30 days after

ENROLLED

HB 5405, Engrossed 1

2011 Legislature

253 | the end of each quarter of the fiscal year, ~~beginning July 1,~~
 254 | ~~2008,~~ a report specifying the amount of funds collected and
 255 | remitted to the State Courts Revenue ~~state courts' Mediation and~~
 256 | ~~Arbitration~~ Trust Fund under this section and any other section
 257 | during the previous quarter of the fiscal year. In addition to
 258 | identifying the total aggregate collections and remissions from
 259 | all "statutory sources, the report must identify collections and
 260 | remissions by each statutory source.

261 | ~~(3) For the 2010-2011 fiscal year only and notwithstanding~~
 262 | ~~any other provision of law to the contrary, moneys in the~~
 263 | ~~Mediation and Arbitration Trust Fund may be used as specified in~~
 264 | ~~the General Appropriations Act. This subsection expires July 1,~~
 265 | ~~2011.~~

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

267 |