

1 A bill to be entitled
2 An act relating to clerks of court; amending s. 28.13,
3 F.S.; providing requirements for storage of electronic
4 filings; requiring papers and electronic filings to be
5 electronically time stamped; amending s. 28.222, F.S.;
6 authorizing the clerk to remove sealed or expunged
7 court records from the Official Records; amending s.
8 28.24, F.S.; revising language concerning an exemption
9 from charges for services provided to specified
10 officials and their staffs; amending s. 28.244, F.S.;
11 increasing the threshold amount for automatic
12 repayment of overpayments; amending s. 28.345, F.S.;
13 providing for access to clerks' files by state
14 agencies and an exemption from copying fees and
15 charges; limiting the application of an exemption from
16 payment of fees and charges assessed by clerks of
17 circuit courts to official use; amending s. 50.041,
18 F.S.; authorizing the use of electronic proof of
19 publication affidavits; amending s. 119.0714, F.S.;
20 requiring certain persons to provide specific
21 information to the clerk to maintain the public
22 records exemption status of certain information under
23 specified provisions; amending s. 197.542, F.S.;
24 authorizing the clerk to issue a refund to the
25 depositor for redeemed property subject to a tax sale;
26 providing an effective date.

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

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Section 1. Section 28.13, Florida Statutes, is amended to read:

28.13 ~~To keep~~ Papers and electronic filings.—The clerk of the circuit court shall keep all papers and electronic filings ~~filed~~ in the clerk's office with the utmost care and security, storing them in association with related case arranged in appropriate files and affixing a stamp to the submission indicating ~~(endorsing upon each~~ the date and time when the submission ~~same~~ was filed. The clerk ~~),~~ and shall not permit any attorney or other person to remove documents, ~~take papers~~ once filed, from the control or custody ~~out of the office of the~~ clerk without leave of the court, except as otherwise is ~~hereinafter~~ provided by law.

Section 2. Subsections (4) through (6) of section 28.222, Florida Statutes, are renumbered as subsections (5) through (7), respectively, and a new subsection (4) is added to that section to read:

28.222 Clerk to be county recorder.—

(4) The county recorder shall remove recorded court documents from the Official Records pursuant to a sealing or expunction order.

Section 3. Section 28.24, Florida Statutes, is amended to read:

28.24 ~~Service charges by clerk of the circuit court.~~—The clerk of the circuit court shall charge for services rendered by the clerk's office in recording documents and instruments and in performing the duties enumerated in amounts not to exceed those

57 | specified in this section, except as provided in s. 28.345.
 58 | ~~Notwithstanding any other provision of this section, the clerk~~
 59 | ~~of the circuit court shall provide without charge to the state~~
 60 | ~~attorney, public defender, guardian ad litem, public guardian,~~
 61 | ~~attorney ad litem, criminal conflict and civil regional counsel,~~
 62 | ~~and private court-appointed counsel paid by the state, and to~~
 63 | ~~the authorized staff acting on behalf of each, access to and a~~
 64 | ~~copy of any public record, if the requesting party is entitled~~
 65 | ~~by law to view the exempt or confidential record, as maintained~~
 66 | ~~by and in the custody of the clerk of the circuit court as~~
 67 | ~~provided in general law and the Florida Rules of Judicial~~
 68 | ~~Administration. The clerk of the circuit court may provide the~~
 69 | ~~requested public record in an electronic format in lieu of a~~
 70 | ~~paper format when capable of being accessed by the requesting~~
 71 | ~~entity.~~

Charges

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 73 | (1) For examining, comparing, correcting, verifying, and
 74 | certifying transcripts of record in appellate proceedings,
 75 | prepared by attorney for appellant or someone else other than
 76 | clerk, per page 5.00

77 | (2) For preparing, numbering, and indexing an original
 78 | record of appellate proceedings, per instrument 3.50

79 | (3) For certifying copies of any instrument in the public
 80 | records 2.00

81 | (4) For verifying any instrument presented for
 82 | certification prepared by someone other than clerk, per page
 83 | 3.50

84 | (5) (a) For making copies by photographic process of any

85 instrument in the public records consisting of pages of not more
 86 than 14 inches by 8 1/2 inches, per page 1.00
 87 (b) For making copies by photographic process of any
 88 instrument in the public records of more than 14 inches by 8 1/2
 89 inches, per page 5.00
 90 (6) For making microfilm copies of any public records:
 91 (a) 16 mm 100' microfilm roll 42.00
 92 (b) 35 mm 100' microfilm roll 60.00
 93 (c) Microfiche, per fiche 3.50
 94 (7) For copying any instrument in the public records by
 95 other than photographic process, per page 6.00
 96 (8) For writing any paper other than herein specifically
 97 mentioned, same as for copying, including signing and sealing
 98 7.00
 99 (9) For indexing each entry not recorded 1.00
 100 (10) For receiving money into the registry of court:
 101 (a)1. First \$500, percent 3
 102 2. Each subsequent \$100, percent 1.5
 103 (b) Eminent domain actions, per deposit 170.00
 104 (11) For examining, certifying, and recording plats and
 105 for recording condominium exhibits larger than 14 inches by 8
 106 1/2 inches:
 107 (a) First page 30.00
 108 (b) Each additional page 15.00
 109 (12) For recording, indexing, and filing any instrument
 110 not more than 14 inches by 8 1/2 inches, including required
 111 notice to property appraiser where applicable:
 112 (a) First page or fraction thereof 5.00

113 (b) Each additional page or fraction thereof 4.00

114 (c) For indexing instruments recorded in the official
 115 records which contain more than four names, per additional name
 116 1.00

117 (d) An additional service charge shall be paid to the
 118 clerk of the circuit court to be deposited in the Public Records
 119 Modernization Trust Fund for each instrument listed in s.

120 28.222, except judgments received from the courts and notices of
 121 lis pendens, recorded in the official records:

- 122 1. First page 1.00
- 123 2. Each additional page 0.50

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 125 Said fund shall be held in trust by the clerk and used
 126 exclusively for equipment and maintenance of equipment,
 127 personnel training, and technical assistance in modernizing the
 128 public records system of the office. In a county where the duty
 129 of maintaining official records exists in an office other than
 130 the office of the clerk of the circuit court, the clerk of the
 131 circuit court is entitled to 25 percent of the moneys deposited
 132 into the trust fund for equipment, maintenance of equipment,
 133 training, and technical assistance in modernizing the system for
 134 storing records in the office of the clerk of the circuit court.
 135 The fund may not be used for the payment of travel expenses,
 136 membership dues, bank charges, staff-recruitment costs, salaries
 137 or benefits of employees, construction costs, general operating
 138 expenses, or other costs not directly related to obtaining and
 139 maintaining equipment for public records systems or for the
 140 purchase of furniture or office supplies and equipment not

141 related to the storage of records. On or before December 1,
 142 1995, and on or before December 1 of each year immediately
 143 preceding each year during which the trust fund is scheduled for
 144 legislative review under s. 19(f)(2), Art. III of the State
 145 Constitution, each clerk of the circuit court shall file a
 146 report on the Public Records Modernization Trust Fund with the
 147 President of the Senate and the Speaker of the House of
 148 Representatives. The report must itemize each expenditure made
 149 from the trust fund since the last report was filed; each
 150 obligation payable from the trust fund on that date; and the
 151 percentage of funds expended for each of the following:
 152 equipment, maintenance of equipment, personnel training, and
 153 technical assistance. The report must indicate the nature of the
 154 system each clerk uses to store, maintain, and retrieve public
 155 records and the degree to which the system has been upgraded
 156 since the creation of the trust fund.

157 (e) An additional service charge of \$4 per page shall be
 158 paid to the clerk of the circuit court for each instrument
 159 listed in s. 28.222, except judgments received from the courts
 160 and notices of lis pendens, recorded in the official records.
 161 From the additional \$4 service charge collected:

162 1. If the counties maintain legal responsibility for the
 163 costs of the court-related technology needs as defined in s.
 164 29.008(1)(f)2. and (h), 10 cents shall be distributed to the
 165 Florida Association of Court Clerks and Comptroller, Inc., for
 166 the cost of development, implementation, operation, and
 167 maintenance of the clerks' Comprehensive Case Information
 168 System, in which system all clerks shall participate on or

169 before January 1, 2006; \$1.90 shall be retained by the clerk to
170 be deposited in the Public Records Modernization Trust Fund and
171 used exclusively for funding court-related technology needs of
172 the clerk as defined in s. 29.008(1)(f)2. and (h); and \$2 shall
173 be distributed to the board of county commissioners to be used
174 exclusively to fund court-related technology, and court
175 technology needs as defined in s. 29.008(1)(f)2. and (h) for the
176 state trial courts, state attorney, public defender, and
177 criminal conflict and civil regional counsel in that county. If
178 the counties maintain legal responsibility for the costs of the
179 court-related technology needs as defined in s. 29.008(1)(f)2.
180 and (h), notwithstanding any other provision of law, the county
181 is not required to provide additional funding beyond that
182 provided herein for the court-related technology needs of the
183 clerk as defined in s. 29.008(1)(f)2. and (h). All court records
184 and official records are the property of the State of Florida,
185 including any records generated as part of the Comprehensive
186 Case Information System funded pursuant to this paragraph and
187 the clerk of court is designated as the custodian of such
188 records, except in a county where the duty of maintaining
189 official records exists in a county office other than the clerk
190 of court or comptroller, such county office is designated the
191 custodian of all official records, and the clerk of court is
192 designated the custodian of all court records. The clerk of
193 court or any entity acting on behalf of the clerk of court,
194 including an association, shall not charge a fee to any agency
195 as defined in s. 119.011, the Legislature, or the State Court
196 System for copies of records generated by the Comprehensive Case

197 Information System or held by the clerk of court or any entity
 198 acting on behalf of the clerk of court, including an
 199 association.

200 2. If the state becomes legally responsible for the costs
 201 of court-related technology needs as defined in s.
 202 29.008(1)(f)2. and (h), whether by operation of general law or
 203 by court order, \$4 shall be remitted to the Department of
 204 Revenue for deposit into the General Revenue Fund.

205 (13) Oath, administering, attesting, and sealing, not
 206 otherwise provided for herein 3.50

207 (14) For validating certificates, any authorized bonds,
 208 each 3.50

209 (15) For preparing affidavit of domicile 5.00

210 (16) For exemplified certificates, including signing and
 211 sealing 7.00

212 (17) For authenticated certificates, including signing and
 213 sealing 7.00

214 (18)(a) For issuing and filing a subpoena for a witness,
 215 not otherwise provided for herein (includes writing, preparing,
 216 signing, and sealing) 7.00

217 (b) For signing and sealing only 2.00

218 (19) For approving bond 8.50

219 (20) For searching of records, for each year's search 2.00

220 (21) For processing an application for a tax deed sale
 221 (includes application, sale, issuance, and preparation of tax
 222 deed, and disbursement of proceeds of sale), other than excess
 223 proceeds 60.00

224 (22) For disbursement of excess proceeds of tax deed sale,

225 first \$100 or fraction thereof 10.00
 226 (23) Upon receipt of an application for a marriage
 227 license, for preparing and administering of oath; issuing,
 228 sealing, and recording of the marriage license; and providing a
 229 certified copy 30.00
 230 (24) For solemnizing matrimony 30.00
 231 (25) For sealing any court file or expungement of any
 232 record 42.00
 233 (26) (a) For receiving and disbursing all restitution
 234 payments, per payment 3.50
 235 (b) For receiving and disbursing all partial payments,
 236 other than restitution payments, for which an administrative
 237 processing service charge is not imposed pursuant to s. 28.246,
 238 per month 5.00
 239 (c) For setting up a payment plan, a one-time
 240 administrative processing charge in lieu of a per month charge
 241 under paragraph (b) 25.00
 242 (27) Postal charges incurred by the clerk of the circuit
 243 court in any mailing by certified or registered mail shall be
 244 paid by the party at whose instance the mailing is made.
 245 (28) For furnishing an electronic copy of information
 246 contained in a computer database: a fee as provided for in
 247 chapter 119.
 248 Section 4. Section 28.244, Florida Statutes, is amended to
 249 read:
 250 28.244 Refunds.—A clerk of the circuit court or a filing
 251 officer of another office where records are filed who receives
 252 payment for services provided and thereafter determines that an

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253 overpayment has occurred shall refund to the person who made the
254 payment the amount of any overpayment that exceeds \$10 ~~\$5~~. If
255 the amount of the overpayment is \$10 ~~\$5~~ or less, the clerk of
256 the circuit court or a filing officer of another office where
257 records are filed is not required to refund the amount of the
258 overpayment unless the person who made the overpayment makes a
259 written request.

260 Section 5. Section 28.345, Florida Statutes, is amended to
261 read:

262 28.345 State access to records; exemption from court-
263 related fees and charges.-

264 (1) Notwithstanding any other provision of law to the
265 contrary, the clerk of the circuit court shall provide without
266 charge to the state attorney, public defender, guardian ad
267 litem, public guardian, attorney ad litem, criminal conflict and
268 civil regional counsel, and private court-appointed counsel paid
269 by the state, and to the authorized staff acting on behalf of
270 each, access to and a copy of any public record. If the public
271 record is exempt or confidential, the requesting party is only
272 entitled by law to view or copy the exempt or confidential
273 record if authority is provided in general law or the Florida
274 Rules of Judicial Administration. The clerk of the circuit court
275 may provide the requested public record in an electronic format
276 in lieu of a paper format when the requesting entity is capable
277 of accessing it in an electronic format. For purposes of this
278 subsection, the term "copy of a public record" means any
279 facsimile, replica, photograph, or other reproduction of a
280 record.

281 (2) Notwithstanding any other ~~provision of this chapter or~~
 282 law to the contrary, judges and those court staff acting on
 283 behalf of judges, state attorneys, guardians ad litem, public
 284 guardians, attorneys ad litem, court-appointed private counsel,
 285 criminal conflict and civil regional counsel, ~~and~~ public
 286 defenders, and state agencies, while acting in their official
 287 capacity, ~~and state agencies,~~ are exempt from all court-related
 288 fees and charges assessed by the clerks of the circuit courts.

289 (3) The exemptions provided in subsections (1) and (2)
 290 apply only to state agencies and state entities and the party
 291 that an agency or entity is representing. The clerk of court
 292 shall collect the filing fees and services charges as required
 293 in this chapter from all other parties.

294 Section 6. Subsection (2) of section 50.041, Florida
 295 Statutes, is amended to read:

296 50.041 Proof of publication; uniform affidavits required.—

297 (2) Each such affidavit shall be printed upon white bond
 298 paper containing at least 25 percent rag material and shall be 8
 299 1/2 inches in width and of convenient length, not less than 5
 300 1/2 inches. A white margin of not less than 2 1/2 inches shall
 301 be left at the right side of each affidavit form and upon or in
 302 this space shall be substantially pasted a clipping which shall
 303 be a true copy of the public notice or legal advertisement for
 304 which proof is executed. Alternatively, each such affidavit may
 305 be provided in electronic rather than paper form, provided the
 306 notarization of the affidavit complies with the requirements of
 307 s. 117.021.

308 Section 7. Subsections (2) and (3) of section 119.0714,

309 Florida Statutes, are amended to read:

310 119.0714 Court files; court records; official records.—

311 (2) COURT RECORDS.—

312 (a)1. Until January 1, 2012, if a social security number
313 or a bank account, debit, charge, or credit card number is
314 included in a court file, such number may be included as part of
315 the court record available for public inspection and copying
316 unless redaction is requested by the holder of such number or by
317 the holder's attorney or legal guardian.

318 2.~~(b)~~ A request for redaction must be a signed, legibly
319 written request specifying the case name, case number, document
320 heading, and page number. The request must be delivered by mail,
321 facsimile, electronic transmission, or in person to the clerk of
322 the court. The clerk of the court does not have a duty to
323 inquire beyond the written request to verify the identity of a
324 person requesting redaction.

325 3.~~(e)~~ A fee may not be charged for the redaction of a
326 social security number or a bank account, debit, charge, or
327 credit card number pursuant to such request.

328 4.~~(d)~~ The clerk of the court has no liability for the
329 inadvertent release of social security numbers, or bank account,
330 debit, charge, or credit card numbers, unknown to the clerk of
331 the court in court records filed on or before January 1, 2012.

332 5.a.~~(e)1.~~ On January 1, 2012, and thereafter, the clerk of
333 the court must keep social security numbers confidential and
334 exempt as provided for in s. 119.071(5)(a), and bank account,
335 debit, charge, and credit card numbers exempt as provided for in
336 s. 119.071(5)(b), without any person having to request

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337 redaction.

338 ~~b.2.~~ Section 119.071(5)(a)7. and 8. does not apply to the
339 clerks of the court with respect to court records.

340 (b) A request for maintenance of a public record exemption
341 in s. 119.071(4)(d)1. made pursuant to s. 119.071(4)(d)2. must
342 specify the document type, name, identification number, and page
343 number of the court record that contains the exempt information.

344 (3) OFFICIAL RECORDS.—

345 (a)1. Any person who prepares or files a record for
346 recording in the official records as provided in chapter 28 may
347 not include in that record a social security number or a bank
348 account, debit, charge, or credit card number unless otherwise
349 expressly required by law.

350 ~~2.a.(b)1.~~ If a social security number or a bank account,
351 debit, charge, or credit card number is included in an official
352 record, such number may be made available as part of the
353 official records available for public inspection and copying
354 unless redaction is requested by the holder of such number or by
355 the holder's attorney or legal guardian.

356 ~~b.2.~~ If such record is in electronic format, on January 1,
357 2011, and thereafter, the county recorder must use his or her
358 best effort, as provided in subparagraph 8. ~~paragraph (h)~~, to
359 keep social security numbers confidential and exempt as provided
360 for in s. 119.071(5)(a), and to keep complete bank account,
361 debit, charge, and credit card numbers exempt as provided for in
362 s. 119.071(5)(b), without any person having to request
363 redaction.

364 ~~c.3.~~ Section 119.071(5)(a)7. and 8. does not apply to the

365 county recorder with respect to official records.

366 3.~~(e)~~ The holder of a social security number or a bank
367 account, debit, charge, or credit card number, or the holder's
368 attorney or legal guardian, may request that a county recorder
369 redact from an image or copy of an official record placed on a
370 county recorder's publicly available Internet website or on a
371 publicly available Internet website used by a county recorder to
372 display public records, or otherwise made electronically
373 available to the public, his or her social security number or
374 bank account, debit, charge, or credit card number contained in
375 that official record.

376 4.~~(d)~~ A request for redaction must be a signed, legibly
377 written request and must be delivered by mail, facsimile,
378 electronic transmission, or in person to the county recorder.
379 The request must specify the identification page number of the
380 record that contains the number to be redacted.

381 5.~~(e)~~ The county recorder does not have a duty to inquire
382 beyond the written request to verify the identity of a person
383 requesting redaction.

384 6.~~(f)~~ A fee may not be charged for redacting a social
385 security number or a bank account, debit, charge, or credit card
386 number.

387 7.~~(g)~~ A county recorder shall immediately and
388 conspicuously post signs throughout his or her offices for
389 public viewing, and shall immediately and conspicuously post on
390 any Internet website or remote electronic site made available by
391 the county recorder and used for the ordering or display of
392 official records or images or copies of official records, a

393 notice stating, in substantially similar form, the following:

394 a.1- On or after October 1, 2002, any person preparing or
395 filing a record for recordation in the official records may not
396 include a social security number or a bank account, debit,
397 charge, or credit card number in such document unless required
398 by law.

399 b.2- Any person has a right to request a county recorder
400 to remove from an image or copy of an official record placed on
401 a county recorder's publicly available Internet website or on a
402 publicly available Internet website used by a county recorder to
403 display public records, or otherwise made electronically
404 available to the general public, any social security number
405 contained in an official record. Such request must be made in
406 writing and delivered by mail, facsimile, or electronic
407 transmission, or delivered in person, to the county recorder.
408 The request must specify the identification page number that
409 contains the social security number to be redacted. A fee may
410 not be charged for the redaction of a social security number
411 pursuant to such a request.

412 8.(h) If the county recorder accepts or stores official
413 records in an electronic format, the county recorder must use
414 his or her best efforts to redact all social security numbers
415 and bank account, debit, charge, or credit card numbers from
416 electronic copies of the official record. The use of an
417 automated program for redaction shall be deemed to be the best
418 effort in performing the redaction and shall be deemed in
419 compliance with the requirements of this subsection.

420 9.(i) The county recorder is not liable for the

421 | inadvertent release of social security numbers, or bank account,
422 | debit, charge, or credit card numbers, filed with the county
423 | recorder.

424 | (b) A request for maintenance of a public record exemption
425 | in s. 119.071(4)(d)1. made pursuant to s. 119.071(4)(d)2. must
426 | specify the document type, name, identification number, and page
427 | number of the official record that contains the exempt
428 | information.

429 | Section 8. Subsection (2) of section 197.542, Florida
430 | Statutes, is amended to read:

431 | 197.542 Sale at public auction.—

432 | (2) The certificateholder has the right to bid as others
433 | present may bid, and the property shall be struck off and sold
434 | to the highest bidder. The high bidder shall post with the clerk
435 | a nonrefundable deposit of 5 percent of the bid or \$200,
436 | whichever is greater, at the time of the sale, to be applied to
437 | the sale price at the time of full payment. Notice of the
438 | deposit requirement must be posted at the auction site, and the
439 | clerk may require bidders to show their willingness and ability
440 | to post the deposit. If full payment of the final bid and of
441 | documentary stamp tax and recording fees is not made within 24
442 | hours, excluding weekends and legal holidays, the clerk shall
443 | cancel all bids, readvertise the sale as provided in this
444 | section, and pay all costs of the sale from the deposit. Any
445 | remaining funds must be applied toward the opening bid. If the
446 | property is redeemed prior to the clerk receiving full payment
447 | for the issuance of a tax deed, in order to receive a refund of
448 | the deposit described in this subsection, the high bidder must

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449 | submit a request for such refund in writing to the clerk. Upon
450 | receipt of the refund request, the clerk shall refund the cash
451 | deposit. The clerk may refuse to recognize the bid of any person
452 | who has previously bid and refused, for any reason, to honor
453 | such bid.

454 | Section 9. This act shall take effect upon becoming a law.