

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. 28.37,
18 F.S.; providing that certain penalties or fines need
19 not be deposited in the clerk's Public Records
20 Modernization Trust Fund; amending s. 50.041, F.S.;
21 authorizing the use of electronic proof of publication
22 affidavits; amending s. 119.0714, F.S.; requiring
23 certain persons to provide specific information to the
24 clerk to maintain the public records exemption status
25 of certain information under specified provisions;
26 amending s. 197.542, F.S.; authorizing the clerk to
27 issue a refund to the depositor for redeemed property
28 subject to a tax sale; providing an effective date.

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

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

57 | the clerk's office in recording documents and instruments and in
 58 | performing the duties enumerated in amounts not to exceed those
 59 | specified in this section, except as provided in s. 28.345.

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

Charges

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

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

81 | (3) For certifying copies of any instrument in the public
 82 | records 2.00

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

85 3.50

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

87 instrument in the public records consisting of pages of not more

88 than 14 inches by 8 1/2 inches, per page 1.00

89 (b) For making copies by photographic process of any

90 instrument in the public records of more than 14 inches by 8 1/2

91 inches, per page 5.00

92 (6) For making microfilm copies of any public records:

93 (a) 16 mm 100' microfilm roll 42.00

94 (b) 35 mm 100' microfilm roll 60.00

95 (c) Microfiche, per fiche 3.50

96 (7) For copying any instrument in the public records by

97 other than photographic process, per page 6.00

98 (8) For writing any paper other than herein specifically

99 mentioned, same as for copying, including signing and sealing

100 7.00

101 (9) For indexing each entry not recorded 1.00

102 (10) For receiving money into the registry of court:

103 (a)1. First \$500, percent 3

104 2. Each subsequent \$100, percent 1.5

105 (b) Eminent domain actions, per deposit 170.00

106 (11) For examining, certifying, and recording plats and

107 for recording condominium exhibits larger than 14 inches by 8

108 1/2 inches:

109 (a) First page 30.00

110 (b) Each additional page 15.00

111 (12) For recording, indexing, and filing any instrument

112 not more than 14 inches by 8 1/2 inches, including required

- 113 notice to property appraiser where applicable:
- 114 (a) First page or fraction thereof 5.00
- 115 (b) Each additional page or fraction thereof 4.00
- 116 (c) For indexing instruments recorded in the official
- 117 records which contain more than four names, per additional name
- 118 1.00
- 119 (d) An additional service charge shall be paid to the
- 120 clerk of the circuit court to be deposited in the Public Records
- 121 Modernization Trust Fund for each instrument listed in s.
- 122 28.222, except judgments received from the courts and notices of
- 123 lis pendens, recorded in the official records:
- 124 1. First page 1.00
- 125 2. Each additional page 0.50

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127 Said fund shall be held in trust by the clerk and used

128 exclusively for equipment and maintenance of equipment,

129 personnel training, and technical assistance in modernizing the

130 public records system of the office. In a county where the duty

131 of maintaining official records exists in an office other than

132 the office of the clerk of the circuit court, the clerk of the

133 circuit court is entitled to 25 percent of the moneys deposited

134 into the trust fund for equipment, maintenance of equipment,

135 training, and technical assistance in modernizing the system for

136 storing records in the office of the clerk of the circuit court.

137 The fund may not be used for the payment of travel expenses,

138 membership dues, bank charges, staff-recruitment costs, salaries

139 or benefits of employees, construction costs, general operating

140 expenses, or other costs not directly related to obtaining and

141 maintaining equipment for public records systems or for the
142 purchase of furniture or office supplies and equipment not
143 related to the storage of records. On or before December 1,
144 1995, and on or before December 1 of each year immediately
145 preceding each year during which the trust fund is scheduled for
146 legislative review under s. 19(f)(2), Art. III of the State
147 Constitution, each clerk of the circuit court shall file a
148 report on the Public Records Modernization Trust Fund with the
149 President of the Senate and the Speaker of the House of
150 Representatives. The report must itemize each expenditure made
151 from the trust fund since the last report was filed; each
152 obligation payable from the trust fund on that date; and the
153 percentage of funds expended for each of the following:
154 equipment, maintenance of equipment, personnel training, and
155 technical assistance. The report must indicate the nature of the
156 system each clerk uses to store, maintain, and retrieve public
157 records and the degree to which the system has been upgraded
158 since the creation of the trust fund.

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

164 1. If the counties maintain legal responsibility for the
165 costs of the court-related technology needs as defined in s.
166 29.008(1)(f)2. and (h), 10 cents shall be distributed to the
167 Florida Association of Court Clerks and Comptroller, Inc., for
168 the cost of development, implementation, operation, and

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

197 as defined in s. 119.011, the Legislature, or the State Court
 198 System for copies of records generated by the Comprehensive Case
 199 Information System or held by the clerk of court or any entity
 200 acting on behalf of the clerk of court, including an
 201 association.

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

207 (13) Oath, administering, attesting, and sealing, not
 208 otherwise provided for herein 3.50

209 (14) For validating certificates, any authorized bonds,
 210 each 3.50

211 (15) For preparing affidavit of domicile 5.00

212 (16) For exemplified certificates, including signing and
 213 sealing 7.00

214 (17) For authenticated certificates, including signing and
 215 sealing 7.00

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

219 (b) For signing and sealing only 2.00

220 (19) For approving bond 8.50

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

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

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225 proceeds 60.00
 226 (22) For disbursement of excess proceeds of tax deed sale,
 227 first \$100 or fraction thereof 10.00
 228 (23) Upon receipt of an application for a marriage
 229 license, for preparing and administering of oath; issuing,
 230 sealing, and recording of the marriage license; and providing a
 231 certified copy 30.00
 232 (24) For solemnizing matrimony 30.00
 233 (25) For sealing any court file or expungement of any
 234 record 42.00
 235 (26) (a) For receiving and disbursing all restitution
 236 payments, per payment 3.50
 237 (b) For receiving and disbursing all partial payments,
 238 other than restitution payments, for which an administrative
 239 processing service charge is not imposed pursuant to s. 28.246,
 240 per month 5.00
 241 (c) For setting up a payment plan, a one-time
 242 administrative processing charge in lieu of a per month charge
 243 under paragraph (b) 25.00
 244 (27) Postal charges incurred by the clerk of the circuit
 245 court in any mailing by certified or registered mail shall be
 246 paid by the party at whose instance the mailing is made.
 247 (28) For furnishing an electronic copy of information
 248 contained in a computer database: a fee as provided for in
 249 chapter 119.
 250 Section 4. Section 28.244, Florida Statutes, is amended to
 251 read:
 252 28.244 Refunds.—A clerk of the circuit court or a filing

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

262 Section 5. Section 28.345, Florida Statutes, is amended to
 263 read:

264 28.345 State access to records; exemption from court-
 265 related fees and charges.-

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

281 facsimile, replica, photograph, or other reproduction of a
 282 record.

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

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

296 Section 6. Subsection (2) of section 28.37, Florida
 297 Statutes, is amended to read:

298 28.37 Fines, fees, service charges, and costs remitted to
 299 the state.—

300 (2) Except as otherwise provided in ss. 28.241 and 34.041,
 301 all court-related fines, fees, service charges, and costs are
 302 considered state funds and shall be remitted by the clerk to the
 303 Department of Revenue for deposit into the Clerks of the Court
 304 Trust Fund within the Justice Administrative Commission.
 305 However, 10 percent of all court-related fines collected by the
 306 clerk, except for penalties or fines distributed under s.
 307 316.0083(1)(b)3. or s. 318.18(15)(a) to counties or
 308 municipalities, shall be deposited into the clerk's Public

309 Records Modernization Trust Fund to be used exclusively for
 310 additional clerk court-related operational needs and program
 311 enhancements.

312 Section 7. Subsection (2) of section 50.041, Florida
 313 Statutes, is amended to read:

314 50.041 Proof of publication; uniform affidavits required.—

315 (2) Each such affidavit shall be printed upon white bond
 316 paper containing at least 25 percent rag material and shall be 8
 317 1/2 inches in width and of convenient length, not less than 5
 318 1/2 inches. A white margin of not less than 2 1/2 inches shall
 319 be left at the right side of each affidavit form and upon or in
 320 this space shall be substantially pasted a clipping which shall
 321 be a true copy of the public notice or legal advertisement for
 322 which proof is executed. Alternatively, each such affidavit may
 323 be provided in electronic rather than paper form, provided the
 324 notarization of the affidavit complies with the requirements of
 325 s. 117.021.

326 Section 8. Subsections (2) and (3) of section 119.0714,
 327 Florida Statutes, are amended to read:

328 119.0714 Court files; court records; official records.—

329 (2) COURT RECORDS.—

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

336 2.~~(b)~~ A request for redaction must be a signed, legibly

337 written request specifying the case name, case number, document
338 heading, and page number. The request must be delivered by mail,
339 facsimile, electronic transmission, or in person to the clerk of
340 the court. The clerk of the court does not have a duty to
341 inquire beyond the written request to verify the identity of a
342 person requesting redaction.

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

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

350 ~~5.a.(e)1.~~ On January 1, 2012, and thereafter, the clerk of
351 the court must keep social security numbers confidential and
352 exempt as provided for in s. 119.071(5)(a), and bank account,
353 debit, charge, and credit card numbers exempt as provided for in
354 s. 119.071(5)(b), without any person having to request
355 redaction.

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

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

362 (3) OFFICIAL RECORDS.—

363 (a)1. Any person who prepares or files a record for
364 recording in the official records as provided in chapter 28 may

365 not include in that record a social security number or a bank
 366 account, debit, charge, or credit card number unless otherwise
 367 expressly required by law.

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

374 b.2. If such record is in electronic format, on January 1,
 375 2011, and thereafter, the county recorder must use his or her
 376 best effort, as provided in subparagraph 8. ~~paragraph (h),~~ to
 377 keep social security numbers confidential and exempt as provided
 378 for in s. 119.071(5) (a), and to keep complete bank account,
 379 debit, charge, and credit card numbers exempt as provided for in
 380 s. 119.071(5) (b), without any person having to request
 381 redaction.

382 c.3. Section 119.071(5) (a)7. and 8. does not apply to the
 383 county recorder with respect to official records.

384 3.~~(e)~~ The holder of a social security number or a bank
 385 account, debit, charge, or credit card number, or the holder's
 386 attorney or legal guardian, may request that a county recorder
 387 redact from an image or copy of an official record placed on a
 388 county recorder's publicly available Internet website or on a
 389 publicly available Internet website used by a county recorder to
 390 display public records, or otherwise made electronically
 391 available to the public, his or her social security number or
 392 bank account, debit, charge, or credit card number contained in

393 that official record.

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

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

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

405 7.~~(g)~~ A county recorder shall immediately and
406 conspicuously post signs throughout his or her offices for
407 public viewing, and shall immediately and conspicuously post on
408 any Internet website or remote electronic site made available by
409 the county recorder and used for the ordering or display of
410 official records or images or copies of official records, a
411 notice stating, in substantially similar form, the following:

412 a.1. On or after October 1, 2002, any person preparing or
413 filing a record for recordation in the official records may not
414 include a social security number or a bank account, debit,
415 charge, or credit card number in such document unless required
416 by law.

417 b.2. Any person has a right to request a county recorder
418 to remove from an image or copy of an official record placed on
419 a county recorder's publicly available Internet website or on a
420 publicly available Internet website used by a county recorder to

421 display public records, or otherwise made electronically
 422 available to the general public, any social security number
 423 contained in an official record. Such request must be made in
 424 writing and delivered by mail, facsimile, or electronic
 425 transmission, or delivered in person, to the county recorder.
 426 The request must specify the identification page number that
 427 contains the social security number to be redacted. A fee may
 428 not be charged for the redaction of a social security number
 429 pursuant to such a request.

430 ~~8.(h)~~ If the county recorder accepts or stores official
 431 records in an electronic format, the county recorder must use
 432 his or her best efforts to redact all social security numbers
 433 and bank account, debit, charge, or credit card numbers from
 434 electronic copies of the official record. The use of an
 435 automated program for redaction shall be deemed to be the best
 436 effort in performing the redaction and shall be deemed in
 437 compliance with the requirements of this subsection.

438 ~~9.(i)~~ The county recorder is not liable for the
 439 inadvertent release of social security numbers, or bank account,
 440 debit, charge, or credit card numbers, filed with the county
 441 recorder.

442 (b) A request for maintenance of a public record exemption
 443 in s. 119.071(4)(d)1. made pursuant to s. 119.071(4)(d)2. must
 444 specify the document type, name, identification number, and page
 445 number of the official record that contains the exempt
 446 information.

447 Section 9. Subsection (2) of section 197.542, Florida
 448 Statutes, is amended to read:

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449 197.542 Sale at public auction.-

450 (2) The certificateholder has the right to bid as others
451 present may bid, and the property shall be struck off and sold
452 to the highest bidder. The high bidder shall post with the clerk
453 a nonrefundable deposit of 5 percent of the bid or \$200,
454 whichever is greater, at the time of the sale, to be applied to
455 the sale price at the time of full payment. Notice of the
456 deposit requirement must be posted at the auction site, and the
457 clerk may require bidders to show their willingness and ability
458 to post the deposit. If full payment of the final bid and of
459 documentary stamp tax and recording fees is not made within 24
460 hours, excluding weekends and legal holidays, the clerk shall
461 cancel all bids, readvertise the sale as provided in this
462 section, and pay all costs of the sale from the deposit. Any
463 remaining funds must be applied toward the opening bid. If the
464 property is redeemed prior to the clerk receiving full payment
465 for the issuance of a tax deed, in order to receive a refund of
466 the deposit described in this subsection, the high bidder must
467 submit a request for such refund in writing to the clerk. Upon
468 receipt of the refund request, the clerk shall refund the cash
469 deposit. The clerk may refuse to recognize the bid of any person
470 who has previously bid and refused, for any reason, to honor
471 such bid.

472 Section 10. This act shall take effect upon becoming a
473 law.