

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. 28.211, F.S.;
6 prohibiting a clerk from charging a fee to view or
7 print a copy of a docket via the Internet; amending s.
8 28.222, F.S.; authorizing the clerk to remove sealed
9 or expunged court records from the Official Records;
10 amending s. 28.24, F.S.; revising language concerning
11 an exemption from charges for services provided to
12 specified officials and their staffs; amending s.
13 28.244, F.S.; increasing the threshold amount for
14 automatic repayment of overpayments; amending s.
15 28.345, F.S.; providing for access to clerks' files by
16 state agencies and an exemption from copying fees and
17 charges; limiting the application of an exemption from
18 payment of fees and charges assessed by clerks of
19 circuit courts to official use; amending s. 28.37,
20 F.S.; providing that certain penalties or fines need
21 not be deposited in the clerk's Public Records
22 Modernization Trust Fund; amending s. 50.041, F.S.;
23 authorizing the use of electronic proof of publication
24 affidavits; amending s. 119.0714, F.S.; requiring
25 certain persons to provide specific information to the
26 clerk to maintain the public records exemption status
27 of certain information under specified provisions;
28 amending s. 197.542, F.S.; authorizing the clerk to

29 issue a refund to the depositor for redeemed property
 30 subject to a tax sale; providing effective dates.
 31

32 Be It Enacted by the Legislature of the State of Florida:
 33

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

36 28.13 ~~To keep~~ Papers and electronic filings.—The clerk of
 37 the circuit court shall keep all papers and electronic filings
 38 ~~filed~~ in the clerk's office with the utmost care and security,
 39 storing them in association with related case arranged in
 40 ~~appropriate~~ files and affixing a stamp to the submission
 41 indicating ~~(endorsing upon each~~ the date and time when the
 42 submission ~~same~~ was filed. The clerk ~~), and~~ shall not permit any
 43 attorney or other person to remove documents, ~~take papers~~ once
 44 filed, from the control or custody out of the office of the
 45 clerk without leave of the court, except as otherwise is
 46 ~~hereinafter~~ provided by law.

47 Section 2. Effective July 1, 2013, section 28.211, Florida
 48 Statutes, is amended to read:

49 28.211 Clerk to keep docket.—The clerk of the circuit
 50 court shall keep a progress docket in which he or she shall note
 51 the filing of each pleading, motion, or other paper and any step
 52 taken by him or her in connection with each action, appeal, or
 53 other proceeding before the court. The clerk may keep separate
 54 progress dockets for civil and criminal matters. The clerk shall
 55 keep an alphabetical index, direct and inverse, for the docket.
 56 Notwithstanding any other law, a clerk may not charge a fee to

57 view or print a copy of a docket via the Internet.

58 Section 3. Subsections (4) through (6) of section 28.222,
59 Florida Statutes, are renumbered as subsections (5) through (7),
60 respectively, and a new subsection (4) is added to that section
61 to read:

62 28.222 Clerk to be county recorder.—

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

66 Section 4. Section 28.24, Florida Statutes, is amended to
67 read:

68 28.24 ~~Service charges by clerk of the circuit court.—The~~
69 ~~clerk of the circuit court shall charge for services rendered by~~
70 ~~the clerk's office in recording documents and instruments and in~~
71 ~~performing the duties enumerated in amounts not to exceed those~~
72 ~~specified in this section, except as provided in s. 28.345.~~
73 ~~Notwithstanding any other provision of this section, the clerk~~
74 ~~of the circuit court shall provide without charge to the state~~
75 ~~attorney, public defender, guardian ad litem, public guardian,~~
76 ~~attorney ad litem, criminal conflict and civil regional counsel,~~
77 ~~and private court-appointed counsel paid by the state, and to~~
78 ~~the authorized staff acting on behalf of each, access to and a~~
79 ~~copy of any public record, if the requesting party is entitled~~
80 ~~by law to view the exempt or confidential record, as maintained~~
81 ~~by and in the custody of the clerk of the circuit court as~~
82 ~~provided in general law and the Florida Rules of Judicial~~
83 ~~Administration. The clerk of the circuit court may provide the~~
84 ~~requested public record in an electronic format in lieu of a~~

85 ~~paper format when capable of being accessed by the requesting~~
 86 ~~entity.~~

Charges

87
 88 (1) For examining, comparing, correcting, verifying, and
 89 certifying transcripts of record in appellate proceedings,
 90 prepared by attorney for appellant or someone else other than
 91 clerk, per page 5.00

92 (2) For preparing, numbering, and indexing an original
 93 record of appellate proceedings, per instrument 3.50

94 (3) For certifying copies of any instrument in the public
 95 records 2.00

96 (4) For verifying any instrument presented for
 97 certification prepared by someone other than clerk, per page
 98 3.50

99 (5) (a) For making copies by photographic process of any
 100 instrument in the public records consisting of pages of not more
 101 than 14 inches by 8 1/2 inches, per page 1.00

102 (b) For making copies by photographic process of any
 103 instrument in the public records of more than 14 inches by 8 1/2
 104 inches, per page 5.00

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

106 (a) 16 mm 100' microfilm roll 42.00

107 (b) 35 mm 100' microfilm roll 60.00

108 (c) Microfiche, per fiche 3.50

109 (7) For copying any instrument in the public records by
 110 other than photographic process, per page 6.00

111 (8) For writing any paper other than herein specifically
 112 mentioned, same as for copying, including signing and sealing

113 7.00

114 (9) For indexing each entry not recorded 1.00

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

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

117 2. Each subsequent \$100, percent 1.5

118 (b) Eminent domain actions, per deposit 170.00

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

120 for recording condominium exhibits larger than 14 inches by 8

121 1/2 inches:

122 (a) First page 30.00

123 (b) Each additional page 15.00

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

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

126 notice to property appraiser where applicable:

127 (a) First page or fraction thereof 5.00

128 (b) Each additional page or fraction thereof 4.00

129 (c) For indexing instruments recorded in the official

130 records which contain more than four names, per additional name

131 1.00

132 (d) An additional service charge shall be paid to the

133 clerk of the circuit court to be deposited in the Public Records

134 Modernization Trust Fund for each instrument listed in s.

135 28.222, except judgments received from the courts and notices of

136 lis pendens, recorded in the official records:

137 1. First page 1.00

138 2. Each additional page 0.50

139

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

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141 exclusively for equipment and maintenance of equipment,
142 personnel training, and technical assistance in modernizing the
143 public records system of the office. In a county where the duty
144 of maintaining official records exists in an office other than
145 the office of the clerk of the circuit court, the clerk of the
146 circuit court is entitled to 25 percent of the moneys deposited
147 into the trust fund for equipment, maintenance of equipment,
148 training, and technical assistance in modernizing the system for
149 storing records in the office of the clerk of the circuit court.
150 The fund may not be used for the payment of travel expenses,
151 membership dues, bank charges, staff-recruitment costs, salaries
152 or benefits of employees, construction costs, general operating
153 expenses, or other costs not directly related to obtaining and
154 maintaining equipment for public records systems or for the
155 purchase of furniture or office supplies and equipment not
156 related to the storage of records. On or before December 1,
157 1995, and on or before December 1 of each year immediately
158 preceding each year during which the trust fund is scheduled for
159 legislative review under s. 19(f)(2), Art. III of the State
160 Constitution, each clerk of the circuit court shall file a
161 report on the Public Records Modernization Trust Fund with the
162 President of the Senate and the Speaker of the House of
163 Representatives. The report must itemize each expenditure made
164 from the trust fund since the last report was filed; each
165 obligation payable from the trust fund on that date; and the
166 percentage of funds expended for each of the following:
167 equipment, maintenance of equipment, personnel training, and
168 technical assistance. The report must indicate the nature of the

169 system each clerk uses to store, maintain, and retrieve public
170 records and the degree to which the system has been upgraded
171 since the creation of the trust fund.

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

177 1. If the counties maintain legal responsibility for the
178 costs of the court-related technology needs as defined in s.
179 29.008(1)(f)2. and (h), 10 cents shall be distributed to the
180 Florida Association of Court Clerks and Comptroller, Inc., for
181 the cost of development, implementation, operation, and
182 maintenance of the clerks' Comprehensive Case Information
183 System, in which system all clerks shall participate on or
184 before January 1, 2006; \$1.90 shall be retained by the clerk to
185 be deposited in the Public Records Modernization Trust Fund and
186 used exclusively for funding court-related technology needs of
187 the clerk as defined in s. 29.008(1)(f)2. and (h); and \$2 shall
188 be distributed to the board of county commissioners to be used
189 exclusively to fund court-related technology, and court
190 technology needs as defined in s. 29.008(1)(f)2. and (h) for the
191 state trial courts, state attorney, public defender, and
192 criminal conflict and civil regional counsel in that county. If
193 the counties maintain legal responsibility for the costs of the
194 court-related technology needs as defined in s. 29.008(1)(f)2.
195 and (h), notwithstanding any other provision of law, the county
196 is not required to provide additional funding beyond that

197 provided herein for the court-related technology needs of the
 198 clerk as defined in s. 29.008(1)(f)2. and (h). All court records
 199 and official records are the property of the State of Florida,
 200 including any records generated as part of the Comprehensive
 201 Case Information System funded pursuant to this paragraph and
 202 the clerk of court is designated as the custodian of such
 203 records, except in a county where the duty of maintaining
 204 official records exists in a county office other than the clerk
 205 of court or comptroller, such county office is designated the
 206 custodian of all official records, and the clerk of court is
 207 designated the custodian of all court records. The clerk of
 208 court or any entity acting on behalf of the clerk of court,
 209 including an association, shall not charge a fee to any agency
 210 as defined in s. 119.011, the Legislature, or the State Court
 211 System for copies of records generated by the Comprehensive Case
 212 Information System or held by the clerk of court or any entity
 213 acting on behalf of the clerk of court, including an
 214 association.

215 2. If the state becomes legally responsible for the costs
 216 of court-related technology needs as defined in s.
 217 29.008(1)(f)2. and (h), whether by operation of general law or
 218 by court order, \$4 shall be remitted to the Department of
 219 Revenue for deposit into the General Revenue Fund.

220 (13) Oath, administering, attesting, and sealing, not
 221 otherwise provided for herein 3.50

222 (14) For validating certificates, any authorized bonds,
 223 each 3.50

224 (15) For preparing affidavit of domicile 5.00

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- 225 (16) For exemplified certificates, including signing and
 226 sealing 7.00
- 227 (17) For authenticated certificates, including signing and
 228 sealing 7.00
- 229 (18) (a) For issuing and filing a subpoena for a witness,
 230 not otherwise provided for herein (includes writing, preparing,
 231 signing, and sealing) 7.00
- 232 (b) For signing and sealing only 2.00
- 233 (19) For approving bond 8.50
- 234 (20) For searching of records, for each year's search 2.00
- 235 (21) For processing an application for a tax deed sale
 236 (includes application, sale, issuance, and preparation of tax
 237 deed, and disbursement of proceeds of sale), other than excess
 238 proceeds 60.00
- 239 (22) For disbursement of excess proceeds of tax deed sale,
 240 first \$100 or fraction thereof 10.00
- 241 (23) Upon receipt of an application for a marriage
 242 license, for preparing and administering of oath; issuing,
 243 sealing, and recording of the marriage license; and providing a
 244 certified copy 30.00
- 245 (24) For solemnizing matrimony 30.00
- 246 (25) For sealing any court file or expungement of any
 247 record 42.00
- 248 (26) (a) For receiving and disbursing all restitution
 249 payments, per payment 3.50
- 250 (b) For receiving and disbursing all partial payments,
 251 other than restitution payments, for which an administrative
 252 processing service charge is not imposed pursuant to s. 28.246,

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253 per month 5.00

254 (c) For setting up a payment plan, a one-time
 255 administrative processing charge in lieu of a per month charge
 256 under paragraph (b) 25.00

257 (27) Postal charges incurred by the clerk of the circuit
 258 court in any mailing by certified or registered mail shall be
 259 paid by the party at whose instance the mailing is made.

260 (28) For furnishing an electronic copy of information
 261 contained in a computer database: a fee as provided for in
 262 chapter 119.

263 Section 5. Section 28.244, Florida Statutes, is amended to
 264 read:

265 28.244 Refunds.—A clerk of the circuit court or a filing
 266 officer of another office where records are filed who receives
 267 payment for services provided and thereafter determines that an
 268 overpayment has occurred shall refund to the person who made the
 269 payment the amount of any overpayment that exceeds \$10 ~~\$5~~. If
 270 the amount of the overpayment is \$10 ~~\$5~~ or less, the clerk of
 271 the circuit court or a filing officer of another office where
 272 records are filed is not required to refund the amount of the
 273 overpayment unless the person who made the overpayment makes a
 274 written request.

275 Section 6. Section 28.345, Florida Statutes, is amended to
 276 read:

277 28.345 State access to records; exemption from court-
 278 related fees and charges.—

279 (1) Notwithstanding any other provision of law to the
 280 contrary, the clerk of the circuit court shall provide without

281 charge to the state attorney, public defender, guardian ad
 282 litem, public guardian, attorney ad litem, criminal conflict and
 283 civil regional counsel, and private court-appointed counsel paid
 284 by the state, and to the authorized staff acting on behalf of
 285 each, access to and a copy of any public record. If the public
 286 record is exempt or confidential, the requesting party is only
 287 entitled by law to view or copy the exempt or confidential
 288 record if authority is provided in general law or the Florida
 289 Rules of Judicial Administration. The clerk of the circuit court
 290 may provide the requested public record in an electronic format
 291 in lieu of a paper format when the requesting entity is capable
 292 of accessing it in an electronic format. For purposes of this
 293 subsection, the term "copy of a public record" means any
 294 facsimile, replica, photograph, or other reproduction of a
 295 record.

296 (2) Notwithstanding any other ~~provision of this chapter or~~
 297 law to the contrary, judges and those court staff acting on
 298 behalf of judges, state attorneys, guardians ad litem, public
 299 guardians, attorneys ad litem, court-appointed private counsel,
 300 criminal conflict and civil regional counsel, ~~and~~ public
 301 defenders, and state agencies, while acting in their official
 302 capacity, ~~and state agencies,~~ are exempt from all court-related
 303 fees and charges assessed by the clerks of the circuit courts.

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

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309 Section 7. Subsection (2) of section 28.37, Florida
 310 Statutes, is amended to read:

311 28.37 Fines, fees, service charges, and costs remitted to
 312 the state.—

313 (2) Except as otherwise provided in ss. 28.241 and 34.041,
 314 all court-related fines, fees, service charges, and costs are
 315 considered state funds and shall be remitted by the clerk to the
 316 Department of Revenue for deposit into the Clerks of the Court
 317 Trust Fund within the Justice Administrative Commission.
 318 However, 10 percent of all court-related fines collected by the
 319 clerk, except for penalties or fines distributed under s.
 320 316.0083(1)(b)3. or s. 318.18(15)(a) to counties or
 321 municipalities, shall be deposited into the clerk's Public
 322 Records Modernization Trust Fund to be used exclusively for
 323 additional clerk court-related operational needs and program
 324 enhancements.

325 Section 8. Subsection (2) of section 50.041, Florida
 326 Statutes, is amended to read:

327 50.041 Proof of publication; uniform affidavits required.—

328 (2) Each such affidavit shall be printed upon white bond
 329 paper containing at least 25 percent rag material and shall be 8
 330 1/2 inches in width and of convenient length, not less than 5
 331 1/2 inches. A white margin of not less than 2 1/2 inches shall
 332 be left at the right side of each affidavit form and upon or in
 333 this space shall be substantially pasted a clipping which shall
 334 be a true copy of the public notice or legal advertisement for
 335 which proof is executed. Alternatively, each such affidavit may
 336 be provided in electronic rather than paper form, provided the

337 notarization of the affidavit complies with the requirements of
338 s. 117.021.

339 Section 9. Subsections (2) and (3) of section 119.0714,
340 Florida Statutes, are amended to read:

341 119.0714 Court files; court records; official records.—

342 (2) COURT RECORDS.—

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

349 2.~~(b)~~ A request for redaction must be a signed, legibly
350 written request specifying the case name, case number, document
351 heading, and page number. The request must be delivered by mail,
352 facsimile, electronic transmission, or in person to the clerk of
353 the court. The clerk of the court does not have a duty to
354 inquire beyond the written request to verify the identity of a
355 person requesting redaction.

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

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

363 5.a.~~(e)1.~~ On January 1, 2012, and thereafter, the clerk of
364 the court must keep social security numbers confidential and

365 exempt as provided for in s. 119.071(5) (a), and bank account,
366 debit, charge, and credit card numbers exempt as provided for in
367 s. 119.071(5) (b), without any person having to request
368 redaction.

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

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

375 (3) OFFICIAL RECORDS.—

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

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

387 ~~b.2.~~ If such record is in electronic format, on January 1,
388 2011, and thereafter, the county recorder must use his or her
389 best effort, as provided in subparagraph 8. ~~paragraph (h),~~ to
390 keep social security numbers confidential and exempt as provided
391 for in s. 119.071(5) (a), and to keep complete bank account,
392 debit, charge, and credit card numbers exempt as provided for in

393 s. 119.071(5)(b), without any person having to request
394 redaction.

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

397 3.(e) The holder of a social security number or a bank
398 account, debit, charge, or credit card number, or the holder's
399 attorney or legal guardian, may request that a county recorder
400 redact from an image or copy of an official record placed on a
401 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 public, his or her social security number or
405 bank account, debit, charge, or credit card number contained in
406 that official record.

407 4.(d) A request for redaction must be a signed, legibly
408 written request and must be delivered by mail, facsimile,
409 electronic transmission, or in person to the county recorder.
410 The request must specify the identification page number of the
411 record that contains the number to be redacted.

412 5.(e) The county recorder does not have a duty to inquire
413 beyond the written request to verify the identity of a person
414 requesting redaction.

415 6.(f) A fee may not be charged for redacting a social
416 security number or a bank account, debit, charge, or credit card
417 number.

418 7.(g) A county recorder shall immediately and
419 conspicuously post signs throughout his or her offices for
420 public viewing, and shall immediately and conspicuously post on

421 any Internet website or remote electronic site made available by
422 the county recorder and used for the ordering or display of
423 official records or images or copies of official records, a
424 notice stating, in substantially similar form, the following:

425 a.1. On or after October 1, 2002, any person preparing or
426 filing a record for recordation in the official records may not
427 include a social security number or a bank account, debit,
428 charge, or credit card number in such document unless required
429 by law.

430 b.2. Any person has a right to request a county recorder
431 to remove from an image or copy of an official record placed on
432 a county recorder's publicly available Internet website or on a
433 publicly available Internet website used by a county recorder to
434 display public records, or otherwise made electronically
435 available to the general public, any social security number
436 contained in an official record. Such request must be made in
437 writing and delivered by mail, facsimile, or electronic
438 transmission, or delivered in person, to the county recorder.
439 The request must specify the identification page number that
440 contains the social security number to be redacted. A fee may
441 not be charged for the redaction of a social security number
442 pursuant to such a request.

443 8.(h) If the county recorder accepts or stores official
444 records in an electronic format, the county recorder must use
445 his or her best efforts to redact all social security numbers
446 and bank account, debit, charge, or credit card numbers from
447 electronic copies of the official record. The use of an
448 automated program for redaction shall be deemed to be the best

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449 effort in performing the redaction and shall be deemed in
450 compliance with the requirements of this subsection.

451 9.~~(i)~~ The county recorder is not liable for the
452 inadvertent release of social security numbers, or bank account,
453 debit, charge, or credit card numbers, filed with the county
454 recorder.

455 (b) A request for maintenance of a public record exemption
456 in s. 119.071(4)(d)1. made pursuant to s. 119.071(4)(d)2. must
457 specify the document type, name, identification number, and page
458 number of the official record that contains the exempt
459 information.

460 Section 10. Subsection (2) of section 197.542, Florida
461 Statutes, is amended to read:

462 197.542 Sale at public auction.—

463 (2) The certificateholder has the right to bid as others
464 present may bid, and the property shall be struck off and sold
465 to the highest bidder. The high bidder shall post with the clerk
466 a nonrefundable deposit of 5 percent of the bid or \$200,
467 whichever is greater, at the time of the sale, to be applied to
468 the sale price at the time of full payment. Notice of the
469 deposit requirement must be posted at the auction site, and the
470 clerk may require bidders to show their willingness and ability
471 to post the deposit. If full payment of the final bid and of
472 documentary stamp tax and recording fees is not made within 24
473 hours, excluding weekends and legal holidays, the clerk shall
474 cancel all bids, readvertise the sale as provided in this
475 section, and pay all costs of the sale from the deposit. Any
476 remaining funds must be applied toward the opening bid. If the

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477 property is redeemed prior to the clerk receiving full payment
478 for the issuance of a tax deed, in order to receive a refund of
479 the deposit described in this subsection, the high bidder must
480 submit a request for such refund in writing to the clerk. Upon
481 receipt of the refund request, the clerk shall refund the cash
482 deposit. The clerk may refuse to recognize the bid of any person
483 who has previously bid and refused, for any reason, to honor
484 such bid.

485 Section 11. Except as otherwise expressly provided in this
486 act, this act shall take effect upon becoming a law.