

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #: HB 5403

FINAL HOUSE FLOOR ACTION:

SPONSOR(S): Justice Appropriations
Subcommittee, Glorioso

94 **Y's** 23 **N's**

**COMPANION
BILLS:** None.

GOVERNOR'S ACTION: Pending

SUMMARY ANALYSIS

The bill conforms to the Fiscal Year 2012-13 General Appropriations Act. The bill redirects certain level of revenues associated with mortgage foreclosure filing fees and mortgage foreclosure counterclaims filing fees from the State Courts Revenue Trust Fund into the General Revenue Fund.

The FY 2012-13 GAA fund shifts \$273.9 million from the State Courts Revenue Trust Fund to the General Revenue Fund. The redirection of revenues will offset deficits in the State Courts Revenue Trust Fund and provide stable funds to support and operate the State Courts System.

The bill's effective date is June 1, 2012.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Current Situation

The 2009 Florida Legislature passed Senate Bill 14-A (Ch. 2009-7, L.O.F.) creating the State Courts Revenue Trust Fund during a special session called to address current year budget shortfalls. The bill was passed with Senate Bill 12-A (Ch. 2009-6, L.O.F.) which redirected fines, fees and revenues into the State Courts Revenue Trust Fund. The two bills significantly altered how the State Court System is funded. In Fiscal Year 2008-09, 90 percent of the State Court System's budget was funded with General Revenue and the remaining 10 percent was funded with trust funds; currently, only 10 percent of the State Court System's budget is funded with General Revenue and 90 percent is funded with trust funds.

The SCRTF funds 83 percent of the total State Court System's budget. The trust fund receives revenues from probate fees¹, circuit filing fees², mortgage foreclosure filing fees³, mortgage foreclosure counterclaim filing fees⁴, appellate fees⁵ and traffic fines⁶. The largest revenue source for the trust fund comes from mortgage foreclosure filing fees. In FY 2009-10, foreclosure filing fees made up 80% of the entire trust fund and in FY 2010-11, foreclosure filing fees made up 67%⁷ of the total trust fund.

Since the creation of the State Courts Revenue Trust Fund, there has been a steep decline in mortgage foreclosure filing fee revenue. The February 2010 Revenue Estimating Conference projected revenue of \$379.8⁸ million for FY 2010-11. The February 2011 Revenue Estimating Conference projected revenue of \$216.7⁹ million for the same fiscal year. In one year, the projected revenue dropped \$163.1 million. An appropriation of \$38.9 million in General Revenue was necessary in the 2011-12 GAA to cover the State Court's System budget deficit for FY 2010-11¹⁰.

Similar trends continue for Fiscal Year 2011-12. The February 2011 Revenue Estimating Conference projected revenue of \$415.7¹¹ million for FY 2011-12. The December 2011 Revenue Estimating Conference projected revenue of \$260.3¹² million for the same fiscal year. In ten months, the projected revenue dropped \$155.4 million. The 2012-13 GAA appropriates \$121.7 million in General Revenue to fulfill the State Court System's current year budget deficit.

The table below further illustrates the decline in revenue for the State Courts Revenue Trust Fund as projected by the Revenue Estimating Conferences. The table also shows the appropriated budget for each fiscal year.

State Courts Revenue Trust Fund Projected Revenues

Fiscal Year	REC Feb 2010	REC Feb 2011	REC Dec 2011	Budget
2010-11	\$379.8	\$216.7	N/A	\$370.4
2011-12	\$291.8	\$415.7	\$260.3	\$361.2

Source: Revenue Estimating Conference, Article V Fees & Transfers, Executive Summaries - Feb 2010, Feb 2011, Dec 2011

¹Section 28.2401(1), F.S.

²Section 28.241(1)(a)1.a., F.S. and section 28.241(1)(a)1.b., F.S.

³Section 28.241(1)(a)2.d., F.S.

⁴Section 28.241(1)(c)2, F.S.

⁵Section 25.241, F.S. and 35.22, F.S.

⁶Section 318.14, F.S., 318.18(19)(a), F.S., and 318.21(20), F.S.

⁷Office of Economic and Demographic Research, Article V Revenues breakdown spreadsheet, on file with the Justice Appropriations Subcommittee Staff

⁸Estimating Conference, Article V Fees & Transfers, Executive Summary, February 2010

⁹Estimating Conference, Article V Fees & Transfers, Executive Summary, February 2011

¹⁰Ch. 2011-69, L.O.F.

¹¹Estimating Conference, Article V Fees & Transfers, Executive Summary, February 2011

¹²Estimating Conference, Article V Fees & Transfers, Executive Summary, December 2011

Effect of Changes

The bill redirects a certain level of revenues associated with mortgage foreclosure filing fees and mortgage foreclosure counterclaims filing fees from the State Court Revenue Trust Fund (SCRTF) into the General Revenue Fund.

The Office of Economic and Demographic Research estimated that \$188.8 million^[1] in foreclosure fees would be redirected from the SCRTF to the General Revenue Fund. For foreclosure cases in which the value of the claim is \$250,000 or more, \$1,010 will be deposited into the General Revenue Fund, and \$770 in the SCRTF. In all foreclosure cases in which the value of the claim is under \$250,000, \$780 will be deposited into the General Revenue Fund. All of the revenues from foreclosure counterclaim filing fees will be deposited into the General Revenue Fund.

The SCRTF would continue to be funded through probate fees, circuit fees, appellate fees and traffic fines. This change in statute and budget should mitigate the need for the legislature to cover a budget deficit with General Revenue and stabilize the operations of the courts due to increased funding predictability.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: See "fiscal comments" section.
2. Expenditures: See "fiscal comments" section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None. The filing fees are not being increased or decreased, simply redirected.

D. FISCAL COMMENTS:

A fund shift of \$188.8 million from mortgage foreclosure filing fees is redirected from the State Courts Revenue Trust Fund to the General Revenue Fund to fund the State Court System in the FY 2012-13 General Appropriations Act. The mortgage foreclosure filing fees will be redirected into the General Revenue Fund. In order to fund the deficit caused by the revenue shortfall, an additional \$85.1 million in general revenue was needed; for a total of \$273.9 million.

^[1] Office of Economic and Demographic Research, Article V Revenue Estimates breakdown spreadsheet, on file with the Justice Appropriations Subcommittee Staff

The chart below is a breakout of the courts funding for Fiscal Years 2011-12 and 2012-13.

Funding for the State Courts			
Fiscal Year	2011-12	2012-2013	2012-13 over/(under) 2011-12
General Revenue	\$ 44.6	\$ 331.4	\$ 286.8
State Courts Revenue Trust Fund	\$ 361.2	\$ 86.0	\$ (275.2)
Other Trust Funds	\$ 31.1	\$ 28.8	\$ (2.3)
Total Funding	\$ 436.9	\$ 446.2	\$ 9.3