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HB 5403, Engrossed 1

2012 Legislature

1
2 An act relating to state court revenues; amending s.
3 28.241, F.S.; redirecting revenue from filing fees for
4 certain civil actions in circuit court relating to
5 real property or mortgage foreclosure from the State
6 Courts Revenue Trust Fund to the General Revenue Fund;
7 revising the distribution of a portion of the filing
8 fees received for certain civil actions in circuit
9 court relating to real property or mortgage
10 foreclosure; conforming provisions; providing an
11 effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Paragraphs (a) and (c) of subsection (1) of
16 section 28.241, Florida Statutes, are amended to read:

17 28.241 Filing fees for trial and appellate proceedings.—

18 (1)(a)1.a. Except as provided in sub-subparagraph b. and
19 subparagraph 2., the party instituting any civil action, suit,
20 or proceeding in the circuit court shall pay to the clerk of
21 that court a filing fee of up to \$395 in all cases in which
22 there are not more than five defendants and an additional filing
23 fee of up to \$2.50 for each defendant in excess of five. Of the
24 first \$280 in filing fees, \$80 must be remitted by the clerk to
25 the Department of Revenue for deposit into the General Revenue
26 Fund, \$195 must be remitted to the Department of Revenue for
27 deposit into the State Courts Revenue Trust Fund, \$3.50 must be
28 remitted to the Department of Revenue for deposit into the

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29 Clerks of the Court Trust Fund within the Justice Administrative
30 Commission and used to fund the Florida Clerks of Court
31 Operations Corporation created in s. 28.35, and \$1.50 must ~~shall~~
32 be remitted to the Department of Revenue for deposit into the
33 Administrative Trust Fund within the Department of Financial
34 Services to fund clerk budget reviews conducted by the
35 Department of Financial Services. One third of any filing fees
36 collected by the clerk of the circuit court in excess of \$100
37 must ~~shall~~ be remitted to the Department of Revenue for deposit
38 into the Clerks of the Court Trust Fund within the Justice
39 Administrative Commission.

40 b. The party instituting any civil action, suit, or
41 proceeding in the circuit court under chapter 39, chapter 61,
42 chapter 741, chapter 742, chapter 747, chapter 752, or chapter
43 753 shall pay to the clerk of that court a filing fee of up to
44 \$295 in all cases in which there are not more than five
45 defendants and an additional filing fee of up to \$2.50 for each
46 defendant in excess of five. Of the first \$180 in filing fees,
47 \$80 must be remitted by the clerk to the Department of Revenue
48 for deposit into the General Revenue Fund, \$95 must be remitted
49 to the Department of Revenue for deposit into the State Courts
50 Revenue Trust Fund, \$3.50 must be remitted to the Department of
51 Revenue for deposit into the Clerks of the Court Trust Fund
52 within the Justice Administrative Commission and used to fund
53 the Florida Clerks of Court Operations Corporation created in s.
54 28.35, and \$1.50 must ~~shall~~ be remitted to the Department of
55 Revenue for deposit into the Administrative Trust Fund within
56 the Department of Financial Services to fund clerk budget

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57 | reviews conducted by the Department of Financial Services.

58 | c. An additional filing fee of \$4 shall be paid to the
59 | clerk. The clerk shall remit \$3.50 to the Department of Revenue
60 | for deposit into the Court Education Trust Fund and shall remit
61 | 50 cents to the Department of Revenue for deposit into the
62 | Clerks of the Court Trust Fund within the Justice Administrative
63 | Commission to fund clerk education. An additional filing fee of
64 | up to \$18 shall be paid by the party seeking each severance that
65 | is granted. The clerk may impose an additional filing fee of up
66 | to \$85 for all proceedings of garnishment, attachment, replevin,
67 | and distress. Postal charges incurred by the clerk of the
68 | circuit court in making service by certified or registered mail
69 | on defendants or other parties shall be paid by the party at
70 | whose instance service is made. ~~No~~ Additional fees, charges, or
71 | costs may not ~~shall~~ be added to the filing fees imposed under
72 | this section, except as authorized in this section or by general
73 | law.

74 | 2.a. Notwithstanding the fees prescribed in subparagraph
75 | 1., a party instituting a civil action in circuit court relating
76 | to real property or mortgage foreclosure shall pay a graduated
77 | filing fee based on the value of the claim.

78 | b. A party shall estimate in writing the amount in
79 | controversy of the claim upon filing the action. For purposes of
80 | this subparagraph, the value of a mortgage foreclosure action is
81 | based upon the principal due on the note secured by the
82 | mortgage, plus interest owed on the note and any moneys advanced
83 | by the lender for property taxes, insurance, and other advances
84 | secured by the mortgage, at the time of filing the foreclosure.

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85 The value shall also include the value of any tax certificates
86 related to the property. In stating the value of a mortgage
87 foreclosure claim, a party shall declare in writing the total
88 value of the claim, as well as the individual elements of the
89 value as prescribed in this sub-subparagraph.

90 c. In its order providing for the final disposition of the
91 matter, the court shall identify the actual value of the claim.
92 The clerk shall adjust the filing fee if there is a difference
93 between the estimated amount in controversy and the actual value
94 of the claim and collect any additional filing fee owed or
95 provide a refund of excess filing fee paid.

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

97 (I) Three hundred and ninety-five dollars in all cases in
98 which the value of the claim is \$50,000 or less and in which
99 there are not more than five defendants. The party shall pay an
100 additional filing fee of up to \$2.50 for each defendant in
101 excess of five. Of the first \$280 in filing fees, \$275 ~~\$80~~ must
102 be remitted by the clerk to the Department of Revenue for
103 deposit into the General Revenue Fund, ~~\$195 must be remitted to~~
104 ~~the Department of Revenue for deposit into the State Courts~~
105 ~~Revenue Trust Fund~~, \$3.50 must be remitted to the Department of
106 Revenue for deposit into the Clerks of the Court Trust Fund
107 within the Justice Administrative Commission and used to fund
108 the Florida Clerks of Court Operations Corporation created in s.
109 28.35, and \$1.50 must ~~shall~~ be remitted to the Department of
110 Revenue for deposit into the Administrative Trust Fund within
111 the Department of Financial Services to fund clerk budget
112 reviews conducted by the Department of Financial Services;

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113 (II) Nine hundred dollars in all cases in which the value
 114 of the claim is more than \$50,000 but less than \$250,000 and in
 115 which there are not more than five defendants. The party shall
 116 pay an additional filing fee of up to \$2.50 for each defendant
 117 in excess of five. Of the first \$785 in filing fees, \$780 ~~\$80~~
 118 must be remitted by the clerk to the Department of Revenue for
 119 deposit into the General Revenue Fund, ~~\$700 must be remitted to~~
 120 ~~the Department of Revenue for deposit into the State Courts~~
 121 ~~Revenue Trust Fund~~, \$3.50 must be remitted to the Department of
 122 Revenue for deposit into the Clerks of the Court Trust Fund
 123 within the Justice Administrative Commission and used to fund
 124 the Florida Clerks of Court Operations Corporation described in
 125 s. 28.35, and \$1.50 must ~~shall~~ be remitted to the Department of
 126 Revenue for deposit into the Administrative Trust Fund within
 127 the Department of Financial Services to fund clerk budget
 128 reviews conducted by the Department of Financial Services; or

129 (III) One thousand nine hundred dollars in all cases in
 130 which the value of the claim is \$250,000 or more and in which
 131 there are not more than five defendants. The party shall pay an
 132 additional filing fee of up to \$2.50 for each defendant in
 133 excess of five. Of the first \$1,785 in filing fees, \$1,010 ~~\$80~~
 134 must be remitted by the clerk to the Department of Revenue for
 135 deposit into the General Revenue Fund, \$770 ~~\$1,700~~ must be
 136 remitted to the Department of Revenue for deposit into the State
 137 Courts Revenue Trust Fund, \$3.50 must be remitted to the
 138 Department of Revenue for deposit into the Clerks of the Court
 139 Trust Fund within the Justice Administrative Commission to fund
 140 the Florida Clerks of Court Operations Corporation created in s.

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141 28.35, and \$1.50 must ~~shall~~ be remitted to the Department of
142 Revenue for deposit into the Administrative Trust Fund within
143 the Department of Financial Services to fund clerk budget
144 reviews conducted by the Department of Financial Services.

145 e. An additional filing fee of \$4 shall be paid to the
146 clerk. The clerk shall remit \$3.50 to the Department of Revenue
147 for deposit into the Court Education Trust Fund and shall remit
148 50 cents to the Department of Revenue for deposit into the
149 Clerks of the Court Trust Fund within the Justice Administrative
150 Commission to fund clerk education. An additional filing fee of
151 up to \$18 shall be paid by the party seeking each severance that
152 is granted. The clerk may impose an additional filing fee of up
153 to \$85 for all proceedings of garnishment, attachment, replevin,
154 and distress. Postal charges incurred by the clerk of the
155 circuit court in making service by certified or registered mail
156 on defendants or other parties shall be paid by the party at
157 whose instance service is made. ~~No~~ Additional fees, charges, or
158 costs may not ~~shall~~ be added to the filing fees imposed under
159 this section, except as authorized in this section or by general
160 law.

161 (c)1. A party in addition to a party described in sub-
162 subparagraph (a)1.a. who files a pleading in an original civil
163 action in circuit court for affirmative relief by cross-claim,
164 counterclaim, counterpetition, or third-party complaint shall
165 pay the clerk of court a fee of \$395. A party in addition to a
166 party described in sub-subparagraph (a)1.b. who files a pleading
167 in an original civil action in circuit court for affirmative
168 relief by cross-claim, counterclaim, counterpetition, or third-

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169 party complaint shall pay the clerk of court a fee of \$295. The
 170 clerk shall remit the fee to the Department of Revenue for
 171 deposit into the General Revenue Fund.

172 2. A party in addition to a party described in
 173 subparagraph (a)2. who files a pleading in an original civil
 174 action in circuit court for affirmative relief by cross-claim,
 175 counterclaim, counterpetition, or third-party complaint shall
 176 pay the clerk of court a graduated fee of:

177 a. Three hundred and ninety-five dollars in all cases in
 178 which the value of the pleading is \$50,000 or less;

179 b. Nine hundred dollars in all cases in which the value of
 180 the pleading is more than \$50,000 but less than \$250,000; or

181 c. One thousand nine hundred dollars in all cases in which
 182 the value of the pleading is \$250,000 or more.

183
 184 The clerk shall remit the fees collected under this subparagraph
 185 to the Department of Revenue for deposit into the General
 186 Revenue Fund, ~~except that the clerk shall remit \$100 of the fee~~
 187 ~~collected under sub-subparagraph a., \$605 of the fee collected~~
 188 ~~under sub-subparagraph b., and \$1,605 of the fee collected under~~
 189 ~~sub-subparagraph c. to the Department of Revenue for deposit~~
 190 ~~into the State Courts Revenue Trust Fund.~~

191 Section 2. This act shall take effect June 1, 2012.

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