



492738

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/20/2012	.	
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	.	
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The Committee on Judiciary (Richter) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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



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14 attorney or other person to remove documents, ~~take papers~~ once  
15 filed, from the control or custody ~~out of the office~~ of the  
16 clerk without leave of the court, except as otherwise is  
17 ~~hereinafter~~ provided by law.

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

22 28.222 Clerk to be county recorder.—

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

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

28 28.24 Service charges ~~by clerk of the circuit court.~~—The  
29 clerk of the circuit court shall charge for services rendered by  
30 the clerk's office in recording documents and instruments and in  
31 performing the duties enumerated in amounts not to exceed those  
32 specified in this section, except as provided in s. 28.345.

33 ~~Notwithstanding any other provision of this section, the clerk~~  
34 ~~of the circuit court shall provide without charge to the state~~  
35 ~~attorney, public defender, guardian ad litem, public guardian,~~  
36 ~~attorney ad litem, criminal conflict and civil regional counsel,~~  
37 ~~and private court-appointed counsel paid by the state, and to~~  
38 ~~the authorized staff acting on behalf of each, access to and a~~  
39 ~~copy of any public record, if the requesting party is entitled~~  
40 ~~by law to view the exempt or confidential record, as maintained~~  
41 ~~by and in the custody of the clerk of the circuit court as~~  
42 ~~provided in general law and the Florida Rules of Judicial~~



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43 ~~Administration. The clerk of the circuit court may provide the~~  
44 ~~requested public record in an electronic format in lieu of a~~  
45 ~~paper format when capable of being accessed by the requesting~~  
46 ~~entity.~~

47  
48 Charges

49  
50 (1) For examining, comparing, correcting, verifying, and  
51 certifying transcripts of record in appellate proceedings,  
52 prepared by attorney for appellant or someone else other than  
53 clerk, per page.....5.00

54 (2) For preparing, numbering, and indexing an original  
55 record of appellate proceedings, per instrument.....3.50

56 (3) For certifying copies of any instrument in the public  
57 records.....2.00

58 (4) For verifying any instrument presented for  
59 certification prepared by someone other than clerk, per page.3.50

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

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

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

67 (a) 16 mm 100' microfilm roll.....42.00

68 (b) 35 mm 100' microfilm roll.....60.00

69 (c) Microfiche, per fiche.....3.50

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



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72 (8) For writing any paper other than herein specifically  
73 mentioned, same as for copying, including signing and sealing7.00  
74 (9) For indexing each entry not recorded.....1.00  
75 (10) For receiving money into the registry of court:  
76 (a)1. First \$500, percent.....3  
77 2. Each subsequent \$100, percent.....1.5  
78 (b) Eminent domain actions, per deposit.....170.00  
79 (11) For examining, certifying, and recording plats and for  
80 recording condominium exhibits larger than 14 inches by 8 1/2  
81 inches:  
82 (a) First page.....30.00  
83 (b) Each additional page.....15.00  
84 (12) For recording, indexing, and filing any instrument not  
85 more than 14 inches by 8 1/2 inches, including required notice  
86 to property appraiser where applicable:  
87 (a) First page or fraction thereof.....5.00  
88 (b) Each additional page or fraction thereof.....4.00  
89 (c) For indexing instruments recorded in the official  
90 records which contain more than four names, per additional name1.00  
91 (d) An additional service charge shall be paid to the clerk  
92 of the circuit court to be deposited in the Public Records  
93 Modernization Trust Fund for each instrument listed in s.  
94 28.222, except judgments received from the courts and notices of  
95 lis pendens, recorded in the official records:  
96 1. First page.....1.00  
97 2. Each additional page.....0.50  
98  
99 Said fund shall be held in trust by the clerk and used  
100 exclusively for equipment and maintenance of equipment,



101 personnel training, and technical assistance in modernizing the  
102 public records system of the office. In a county where the duty  
103 of maintaining official records exists in an office other than  
104 the office of the clerk of the circuit court, the clerk of the  
105 circuit court is entitled to 25 percent of the moneys deposited  
106 into the trust fund for equipment, maintenance of equipment,  
107 training, and technical assistance in modernizing the system for  
108 storing records in the office of the clerk of the circuit court.  
109 The fund may not be used for the payment of travel expenses,  
110 membership dues, bank charges, staff-recruitment costs, salaries  
111 or benefits of employees, construction costs, general operating  
112 expenses, or other costs not directly related to obtaining and  
113 maintaining equipment for public records systems or for the  
114 purchase of furniture or office supplies and equipment not  
115 related to the storage of records. On or before December 1,  
116 1995, and on or before December 1 of each year immediately  
117 preceding each year during which the trust fund is scheduled for  
118 legislative review under s. 19(f)(2), Art. III of the State  
119 Constitution, each clerk of the circuit court shall file a  
120 report on the Public Records Modernization Trust Fund with the  
121 President of the Senate and the Speaker of the House of  
122 Representatives. The report must itemize each expenditure made  
123 from the trust fund since the last report was filed; each  
124 obligation payable from the trust fund on that date; and the  
125 percentage of funds expended for each of the following:  
126 equipment, maintenance of equipment, personnel training, and  
127 technical assistance. The report must indicate the nature of the  
128 system each clerk uses to store, maintain, and retrieve public  
129 records and the degree to which the system has been upgraded



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130 since the creation of the trust fund.

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

136 1. If the counties maintain legal responsibility for the  
137 costs of the court-related technology needs as defined in s.  
138 29.008(1)(f)2. and (h), 10 cents shall be distributed to the  
139 Florida Association of Court Clerks and Comptroller, Inc., for  
140 the cost of development, implementation, operation, and  
141 maintenance of the clerks' Comprehensive Case Information  
142 System, in which system all clerks shall participate on or  
143 before January 1, 2006; \$1.90 shall be retained by the clerk to  
144 be deposited in the Public Records Modernization Trust Fund and  
145 used exclusively for funding court-related technology needs of  
146 the clerk as defined in s. 29.008(1)(f)2. and (h); and \$2 shall  
147 be distributed to the board of county commissioners to be used  
148 exclusively to fund court-related technology, and court  
149 technology needs as defined in s. 29.008(1)(f)2. and (h) for the  
150 state trial courts, state attorney, public defender, and  
151 criminal conflict and civil regional counsel in that county. If  
152 the counties maintain legal responsibility for the costs of the  
153 court-related technology needs as defined in s. 29.008(1)(f)2.  
154 and (h), notwithstanding any other provision of law, the county  
155 is not required to provide additional funding beyond that  
156 provided herein for the court-related technology needs of the  
157 clerk as defined in s. 29.008(1)(f)2. and (h). All court records  
158 and official records are the property of the State of Florida,



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159 including any records generated as part of the Comprehensive  
160 Case Information System funded pursuant to this paragraph and  
161 the clerk of court is designated as the custodian of such  
162 records, except in a county where the duty of maintaining  
163 official records exists in a county office other than the clerk  
164 of court or comptroller, such county office is designated the  
165 custodian of all official records, and the clerk of court is  
166 designated the custodian of all court records. The clerk of  
167 court or any entity acting on behalf of the clerk of court,  
168 including an association, shall not charge a fee to any agency  
169 as defined in s. 119.011, the Legislature, or the State Court  
170 System for copies of records generated by the Comprehensive Case  
171 Information System or held by the clerk of court or any entity  
172 acting on behalf of the clerk of court, including an  
173 association.

174 2. If the state becomes legally responsible for the costs  
175 of court-related technology needs as defined in s.  
176 29.008(1)(f)2. and (h), whether by operation of general law or  
177 by court order, \$4 shall be remitted to the Department of  
178 Revenue for deposit into the General Revenue Fund.

179 (13) Oath, administering, attesting, and sealing, not  
180 otherwise provided for herein.....3.50

181 (14) For validating certificates, any authorized bonds,  
182 each.....3.50

183 (15) For preparing affidavit of domicile.....5.00

184 (16) For exemplified certificates, including signing and  
185 sealing.....7.00

186 (17) For authenticated certificates, including signing and  
187 sealing.....7.00



- 188           (18) (a) For issuing and filing a subpoena for a witness,  
189 not otherwise provided for herein (includes writing, preparing,  
190 signing, and sealing).....7.00
- 191           (b) For signing and sealing only.....2.00
- 192           (19) For approving bond.....8.50
- 193           (20) For searching of records, for each year's search...2.00
- 194           (21) For processing an application for a tax deed sale  
195 (includes application, sale, issuance, and preparation of tax  
196 deed, and disbursement of proceeds of sale), other than excess  
197 proceeds.....60.00
- 198           (22) For disbursement of excess proceeds of tax deed sale,  
199 first \$100 or fraction thereof.....10.00
- 200           (23) Upon receipt of an application for a marriage license,  
201 for preparing and administering of oath; issuing, sealing, and  
202 recording of the marriage license; and providing a certified  
203 copy.....30.00
- 204           (24) For solemnizing matrimony.....30.00
- 205           (25) For sealing any court file or expungement of any  
206 record.....42.00
- 207           (26) (a) For receiving and disbursing all restitution  
208 payments, per payment.....3.50
- 209           (b) For receiving and disbursing all partial payments,  
210 other than restitution payments, for which an administrative  
211 processing service charge is not imposed pursuant to s. 28.246,  
212 per month.....5.00
- 213           (c) For setting up a payment plan, a one-time  
214 administrative processing charge in lieu of a per month charge  
215 under paragraph (b).....25.00
- 216           (27) Postal charges incurred by the clerk of the circuit





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217 court in any mailing by certified or registered mail shall be  
218 paid by the party at whose instance the mailing is made.

219 (28) For furnishing an electronic copy of information  
220 contained in a computer database: a fee as provided for in  
221 chapter 119.

222 Section 4. Section 28.244, Florida Statutes, is amended to  
223 read:

224 28.244 Refunds.—A clerk of the circuit court or a filing  
225 officer of another office where records are filed who receives  
226 payment for services provided and thereafter determines that an  
227 overpayment has occurred shall refund to the person who made the  
228 payment the amount of any overpayment that exceeds \$10 ~~\$5~~. If  
229 the amount of the overpayment is \$10 ~~\$5~~ or less, the clerk of  
230 the circuit court or a filing officer of another office where  
231 records are filed is not required to refund the amount of the  
232 overpayment unless the person who made the overpayment makes a  
233 written request.

234 Section 5. Section 28.345, Florida Statutes, is amended to  
235 read:

236 28.345 State access to records; exemption from court-  
237 related fees and charges.—

238 (1) Notwithstanding any other provision of law to the  
239 contrary, the clerk of the circuit court shall provide without  
240 charge to the state attorney, public defender, guardian ad  
241 litem, public guardian, attorney ad litem, criminal conflict and  
242 civil regional counsel, and private court-appointed counsel paid  
243 by the state, and to the authorized staff acting on behalf of  
244 each, access to and a copy of any public record. If the public  
245 record is exempt or confidential, the requesting party is only



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246 entitled by law to view or copy the exempt or confidential  
247 record if authority is provided in general law or the Florida  
248 Rules of Judicial Administration. The clerk of the circuit court  
249 may provide the requested public record in an electronic format  
250 in lieu of a paper format when the requesting entity is capable  
251 of accessing it in an electronic format. For purposes of this  
252 subsection, the term "copy of a public record" means any  
253 facsimile, replica, photograph, or other reproduction of a  
254 record.

255 (2) Notwithstanding any other ~~provision of this chapter or~~  
256 law to the contrary, judges and those court staff acting on  
257 behalf of judges, state attorneys, guardians ad litem, public  
258 guardians, attorneys ad litem, court-appointed private counsel,  
259 criminal conflict and civil regional counsel, ~~and~~ public  
260 defenders, and state agencies, while acting in their official  
261 capacity, ~~and state agencies,~~ are exempt from all court-related  
262 fees and charges assessed by the clerks of the circuit courts.

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

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

270 50.041 Proof of publication; uniform affidavits required.-

271 (2) Each such affidavit shall be printed upon white bond  
272 paper containing at least 25 percent rag material and shall be 8  
273 1/2 inches in width and of convenient length, not less than 5  
274 1/2 inches. A white margin of not less than 2 1/2 inches shall



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275 be left at the right side of each affidavit form and upon or in  
276 this space shall be substantially pasted a clipping which shall  
277 be a true copy of the public notice or legal advertisement for  
278 which proof is executed. Alternatively, each such affidavit may  
279 be provided in electronic rather than paper form, provided the  
280 notarization of the affidavit complies with the requirements of  
281 s. 117.021.

282 Section 7. Subsections (2) and (3) of section 119.0714,  
283 Florida Statutes, are amended to read:

284 119.0714 Court files; court records; official records.—

285 (2) COURT RECORDS.—

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

292 2.~~(b)~~ A request for redaction must be a signed, legibly  
293 written request specifying the case name, case number, document  
294 heading, and page number. The request must be delivered by mail,  
295 facsimile, electronic transmission, or in person to the clerk of  
296 the court. The clerk of the court does not have a duty to  
297 inquire beyond the written request to verify the identity of a  
298 person requesting redaction.

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

302 4.~~(d)~~ The clerk of the court has no liability for the  
303 inadvertent release of social security numbers, or bank account,



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304 debit, charge, or credit card numbers, unknown to the clerk of  
305 the court in court records filed on or before January 1, 2012.

306 ~~5.a.(e)1.~~ On January 1, 2012, and thereafter, the clerk of  
307 the court must keep social security numbers confidential and  
308 exempt as provided for in s. 119.071(5) (a), and bank account,  
309 debit, charge, and credit card numbers exempt as provided for in  
310 s. 119.071(5) (b), without any person having to request  
311 redaction.

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

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

318 (3) OFFICIAL RECORDS.—

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

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

330 ~~b.2.~~ If such record is in electronic format, on January 1,  
331 2011, and thereafter, the county recorder must use his or her  
332 best effort, as provided in subparagraph 8. paragraph (h), to



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333 keep social security numbers confidential and exempt as provided  
334 for in s. 119.071(5) (a), and to keep complete 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  
337 redaction.

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

340 ~~3.(e)~~ The holder of a social security number or a bank  
341 account, debit, charge, or credit card number, or the holder's  
342 attorney or legal guardian, may request that a county recorder  
343 redact from an image or copy of an official record placed on a  
344 county recorder's publicly available Internet website or on a  
345 publicly available Internet website used by a county recorder to  
346 display public records, or otherwise made electronically  
347 available to the public, his or her social security number or  
348 bank account, debit, charge, or credit card number contained in  
349 that official record.

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

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

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

361 ~~7.(g)~~ A county recorder shall immediately and conspicuously



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362 post signs throughout his or her offices for public viewing, and  
363 shall immediately and conspicuously post on any Internet website  
364 or remote electronic site made available by the county recorder  
365 and used for the ordering or display of official records or  
366 images or copies of official records, a notice stating, in  
367 substantially similar form, the following:

368 ~~a.1.~~ On or after October 1, 2002, any person preparing or  
369 filing a record for recordation in the official records may not  
370 include a social security number or a bank account, debit,  
371 charge, or credit card number in such document unless required  
372 by law.

373 ~~b.2.~~ Any person has a right to request a county recorder to  
374 remove from an image or copy of an official record placed on a  
375 county recorder's publicly available Internet website or on a  
376 publicly available Internet website used by a county recorder to  
377 display public records, or otherwise made electronically  
378 available to the general public, any social security number  
379 contained in an official record. Such request must be made in  
380 writing and delivered by mail, facsimile, or electronic  
381 transmission, or delivered in person, to the county recorder.  
382 The request must specify the identification page number that  
383 contains the social security number to be redacted. A fee may  
384 not be charged for the redaction of a social security number  
385 pursuant to such a request.

386 ~~8.(h)~~ If the county recorder accepts or stores official  
387 records in an electronic format, the county recorder must use  
388 his or her best efforts to redact all social security numbers  
389 and bank account, debit, charge, or credit card numbers from  
390 electronic copies of the official record. The use of an



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391 automated program for redaction shall be deemed to be the best  
392 effort in performing the redaction and shall be deemed in  
393 compliance with the requirements of this subsection.

394 9.(i) The county recorder is not liable for the inadvertent  
395 release of social security numbers, or bank account, debit,  
396 charge, or credit card numbers, filed with the county recorder.

397 (b) A request for maintenance of a public record exemption  
398 in s. 119.071(4)(d)1. made pursuant to s. 119.071(4)(d)2. must  
399 specify the document type, name, identification number, and page  
400 number of the official record that contains the exempt  
401 information.

402 Section 8. Subsection (2) of section 197.542, Florida  
403 Statutes, is amended to read:

404 197.542 Sale at public auction.—

405 (2) The certificateholder has the right to bid as others  
406 present may bid, and the property shall be struck off and sold  
407 to the highest bidder. The high bidder shall post with the clerk  
408 a nonrefundable deposit of 5 percent of the bid or \$200,  
409 whichever is greater, at the time of the sale, to be applied to  
410 the sale price at the time of full payment. Notice of the  
411 deposit requirement must be posted at the auction site, and the  
412 clerk may require bidders to show their willingness and ability  
413 to post the deposit. If full payment of the final bid and of  
414 documentary stamp tax and recording fees is not made within 24  
415 hours, excluding weekends and legal holidays, the clerk shall  
416 cancel all bids, readvertise the sale as provided in this  
417 section, and pay all costs of the sale from the deposit. Any  
418 remaining funds must be applied toward the opening bid. If the  
419 property is redeemed prior to the clerk receiving full payment



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420 for the issuance of a tax deed, in order to receive a refund of  
421 the deposit described in this subsection, the high bidder must  
422 submit a request for such refund in writing to the clerk. Upon  
423 receipt of the refund request, the clerk shall refund the cash  
424 deposit. The clerk may refuse to recognize the bid of any person  
425 who has previously bid and refused, for any reason, to honor  
426 such bid.

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

428

429 ===== T I T L E A M E N D M E N T =====

430 And the title is amended as follows:

431 Delete everything before the enacting clause  
432 and insert:

433 A bill to be entitled

434 An act relating to clerks of court; amending s. 28.13,  
435 F.S.; providing requirements for storage of electronic  
436 filings; requiring papers and electronic filings to be  
437 electronically time stamped; amending s. 28.222, F.S.;  
438 authorizing the clerk to remove sealed or expunged  
439 court records from the Official Records; amending s.  
440 28.24, F.S.; revising language concerning an exemption  
441 from charges for services provided to specified  
442 officials and their staffs; amending s. 28.244, F.S.;  
443 increasing the threshold amount for automatic  
444 repayment of overpayments; amending s. 28.345, F.S.;  
445 providing for access to clerks' files by state  
446 agencies and an exemption from copying fees and  
447 charges; limiting the application of an exemption from  
448 payment of fees and charges assessed by clerks of





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449 circuit courts to official use; amending s. 50.041,  
450 F.S.; authorizing the use of electronic proof of  
451 publication affidavits; amending s. 119.0714, F.S.;  
452 requiring certain persons to provide specific  
453 information to the clerk to maintain the public  
454 records exemption status of certain information under  
455 specified provisions; amending s. 197.542, F.S.;  
456 authorizing the clerk to issue a refund to the  
457 depositor for redeemed property subject to a tax sale;  
458 providing an effective date.