

By Senator Wise

5-00606-12

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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.; clarifying provisions concerning free  
9           copies of records to specified officials and their  
10          staffs; defining the term "copy of a public record"  
11          for specified purposes; amending s. 28.244, F.S.;  
12          increasing the threshold amount for automatic  
13          repayment of overpayments; amending s. 28.345, F.S.;  
14          clarifying the application of an exemption from  
15          payment of fees and charges assessed by clerks of  
16          circuit courts; amending s. 50.041, F.S.; authorizing  
17          the use of electronic proof of publication affidavits;  
18          amending s. 119.071, F.S.; requiring certain persons  
19          to provide specific information to the clerk to  
20          maintain the public records exemption status of  
21          certain information; amending s. 197.542, F.S.;  
22          authorizing the clerk to issue a refund to the  
23          depositor for redeemed property subject to a tax sale;  
24          providing an effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:

27  
28           Section 1. Section 28.13, Florida Statutes, is amended to  
29           read:

5-00606-12

2012860

30           28.13 ~~To keep~~ Papers and electronic filings.—The clerk of  
31 the circuit court shall keep all papers and electronic filings  
32 ~~filed~~ in the clerk's office with the utmost care and security,  
33 storing them in association with related case arranged in  
34 appropriate files and affixing a stamp to the submission  
35 indicating ~~(endorsing upon each the~~ date and time when the  
36 submission ~~same~~ was filed. The clerk), ~~and~~ shall not permit any  
37 attorney or other person to remove documents, ~~take papers~~ once  
38 filed, from the control or custody ~~out of the office~~ of the  
39 clerk without leave of the court, except as otherwise is  
40 ~~hereinafter~~ provided by law.

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

45           28.222 Clerk to be county recorder.—

46           (4) The county recorder shall remove recorded court  
47 documents from the Official Records pursuant to a sealing or  
48 expunction order.

49           Section 3. Section 28.24, Florida Statutes, is amended to  
50 read:

51           28.24 ~~Service charges by clerk of the circuit court.~~—The  
52 clerk of the circuit court shall charge for services rendered by  
53 the clerk's office in recording documents and instruments and in  
54 performing the duties enumerated in amounts not to exceed those  
55 specified in this section. Notwithstanding any other provision  
56 of this section, the clerk of the circuit court shall provide  
57 without charge to the state attorney, public defender, guardian  
58 ad litem, public guardian, attorney ad litem, criminal conflict

5-00606-12

2012860

59 and civil regional counsel, and private court-appointed counsel  
60 paid by the state, and to the authorized staff acting on behalf  
61 of each, access to and a copy of any public record as provided  
62 in s. 28.345, if the requesting party is entitled by law to view  
63 the exempt or confidential record, as maintained by and in the  
64 custody of the clerk of the circuit court as provided in general  
65 law and the Florida Rules of Judicial Administration. The clerk  
66 of the circuit court may provide the requested public record in  
67 an electronic format in lieu of a paper format when capable of  
68 being accessed by the requesting entity. For purposes of this  
69 section, the term "copy of public a record" means any facsimile,  
70 replica, photograph, or other reproduction of a record.

Charges

- 74 (1) For examining, comparing, correcting, verifying, and  
75 certifying transcripts of record in appellate proceedings,  
76 prepared by attorney for appellant or someone else other than  
77 clerk, per page.....5.00
- 78 (2) For preparing, numbering, and indexing an original  
79 record of appellate proceedings, per instrument.....3.50
- 80 (3) For certifying copies of any instrument in the public  
81 records.....2.00
- 82 (4) For verifying any instrument presented for  
83 certification prepared by someone other than clerk, per page.3.50
- 84 (5) (a) For making copies by photographic process of any  
85 instrument in the public records consisting of pages of not more  
86 than 14 inches by 8 1/2 inches, per page.....1.00
- 87 (b) For making copies by photographic process of any

5-00606-12

2012860

88 instrument in the public records of more than 14 inches by 8 1/2  
89 inches, per page.....5.00  
90 (6) For making microfilm copies of any public records:  
91 (a) 16 mm 100' microfilm roll.....42.00  
92 (b) 35 mm 100' microfilm roll.....60.00  
93 (c) Microfiche, per fiche.....3.50  
94 (7) For copying any instrument in the public records by  
95 other than photographic process, per page.....6.00  
96 (8) For writing any paper other than herein specifically  
97 mentioned, same as for copying, including signing and sealing7.00  
98 (9) For indexing each entry not recorded.....1.00  
99 (10) For receiving money into the registry of court:  
100 (a)1. First \$500, percent.....3  
101 2. Each subsequent \$100, percent.....1.5  
102 (b) Eminent domain actions, per deposit.....170.00  
103 (11) For examining, certifying, and recording plats and for  
104 recording condominium exhibits larger than 14 inches by 8 1/2  
105 inches:  
106 (a) First page.....30.00  
107 (b) Each additional page.....15.00  
108 (12) For recording, indexing, and filing any instrument not  
109 more than 14 inches by 8 1/2 inches, including required notice  
110 to property appraiser where applicable:  
111 (a) First page or fraction thereof.....5.00  
112 (b) Each additional page or fraction thereof.....4.00  
113 (c) For indexing instruments recorded in the official  
114 records which contain more than four names, per additional name1.00  
115 (d) An additional service charge shall be paid to the clerk  
116 of the circuit court to be deposited in the Public Records

5-00606-12

2012860\_\_

117 Modernization Trust Fund for each instrument listed in s.  
118 28.222, except judgments received from the courts and notices of  
119 lis pendens, recorded in the official records:

- 120 1. First page.....1.00
- 121 2. Each additional page.....0.50

122

123 Said fund shall be held in trust by the clerk and used  
124 exclusively for equipment and maintenance of equipment,  
125 personnel training, and technical assistance in modernizing the  
126 public records system of the office. In a county where the duty  
127 of maintaining official records exists in an office other than  
128 the office of the clerk of the circuit court, the clerk of the  
129 circuit court is entitled to 25 percent of the moneys deposited  
130 into the trust fund for equipment, maintenance of equipment,  
131 training, and technical assistance in modernizing the system for  
132 storing records in the office of the clerk of the circuit court.  
133 The fund may not be used for the payment of travel expenses,  
134 membership dues, bank charges, staff-recruitment costs, salaries  
135 or benefits of employees, construction costs, general operating  
136 expenses, or other costs not directly related to obtaining and  
137 maintaining equipment for public records systems or for the  
138 purchase of furniture or office supplies and equipment not  
139 related to the storage of records. On or before December 1,  
140 1995, and on or before December 1 of each year immediately  
141 preceding each year during which the trust fund is scheduled for  
142 legislative review under s. 19(f)(2), Art. III of the State  
143 Constitution, each clerk of the circuit court shall file a  
144 report on the Public Records Modernization Trust Fund with the  
145 President of the Senate and the Speaker of the House of

5-00606-12

2012860

146 Representatives. The report must itemize each expenditure made  
147 from the trust fund since the last report was filed; each  
148 obligation payable from the trust fund on that date; and the  
149 percentage of funds expended for each of the following:  
150 equipment, maintenance of equipment, personnel training, and  
151 technical assistance. The report must indicate the nature of the  
152 system each clerk uses to store, maintain, and retrieve public  
153 records and the degree to which the system has been upgraded  
154 since the creation of the trust fund.

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

160 1. If the counties maintain legal responsibility for the  
161 costs of the court-related technology needs as defined in s.  
162 29.008(1)(f)2. and (h), 10 cents shall be distributed to the  
163 Florida Association of Court Clerks and Comptroller, Inc., for  
164 the cost of development, implementation, operation, and  
165 maintenance of the clerks' Comprehensive Case Information  
166 System, in which system all clerks shall participate on or  
167 before January 1, 2006; \$1.90 shall be retained by the clerk to  
168 be deposited in the Public Records Modernization Trust Fund and  
169 used exclusively for funding court-related technology needs of  
170 the clerk as defined in s. 29.008(1)(f)2. and (h); and \$2 shall  
171 be distributed to the board of county commissioners to be used  
172 exclusively to fund court-related technology, and court  
173 technology needs as defined in s. 29.008(1)(f)2. and (h) for the  
174 state trial courts, state attorney, public defender, and

5-00606-12

2012860

175 criminal conflict and civil regional counsel in that county. If  
176 the counties maintain legal responsibility for the costs of the  
177 court-related technology needs as defined in s. 29.008(1)(f)2.  
178 and (h), notwithstanding any other provision of law, the county  
179 is not required to provide additional funding beyond that  
180 provided herein for the court-related technology needs of the  
181 clerk as defined in s. 29.008(1)(f)2. and (h). All court records  
182 and official records are the property of the State of Florida,  
183 including any records generated as part of the Comprehensive  
184 Case Information System funded pursuant to this paragraph and  
185 the clerk of court is designated as the custodian of such  
186 records, except in a county where the duty of maintaining  
187 official records exists in a county office other than the clerk  
188 of court or comptroller, such county office is designated the  
189 custodian of all official records, and the clerk of court is  
190 designated the custodian of all court records. The clerk of  
191 court or any entity acting on behalf of the clerk of court,  
192 including an association, shall not charge a fee to any agency  
193 as defined in s. 119.011, the Legislature, or the State Court  
194 System for copies of records generated by the Comprehensive Case  
195 Information System or held by the clerk of court or any entity  
196 acting on behalf of the clerk of court, including an  
197 association.

198       2. If the state becomes legally responsible for the costs  
199 of court-related technology needs as defined in s.  
200 29.008(1)(f)2. and (h), whether by operation of general law or  
201 by court order, \$4 shall be remitted to the Department of  
202 Revenue for deposit into the General Revenue Fund.

203       (13) Oath, administering, attesting, and sealing, not

5-00606-12 2012860

204 otherwise provided for herein.....3.50

205 (14) For validating certificates, any authorized bonds,

206 each.....3.50

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

208 (16) For exemplified certificates, including signing and

209 sealing.....7.00

210 (17) For authenticated certificates, including signing and

211 sealing.....7.00

212 (18) (a) For issuing and filing a subpoena for a witness,

213 not otherwise provided for herein (includes writing, preparing,

214 signing, and sealing).....7.00

215 (b) For signing and sealing only.....2.00

216 (19) For approving bond.....8.50

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

218 (21) For processing an application for a tax deed sale

219 (includes application, sale, issuance, and preparation of tax

220 deed, and disbursement of proceeds of sale), other than excess

221 proceeds.....60.00

222 (22) For disbursement of excess proceeds of tax deed sale,

223 first \$100 or fraction thereof.....10.00

224 (23) Upon receipt of an application for a marriage license,

225 for preparing and administering of oath; issuing, sealing, and

226 recording of the marriage license; and providing a certified

227 copy.....30.00

228 (24) For solemnizing matrimony.....30.00

229 (25) For sealing any court file or expungement of any

230 record.....42.00

231 (26) (a) For receiving and disbursing all restitution

232 payments, per payment.....3.50



5-00606-12

2012860\_\_

233 (b) For receiving and disbursing all partial payments,  
 234 other than restitution payments, for which an administrative  
 235 processing service charge is not imposed pursuant to s. 28.246,  
 236 per month.....5.00

237 (c) For setting up a payment plan, a one-time  
 238 administrative processing charge in lieu of a per month charge  
 239 under paragraph (b).....25.00

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

243 (28) For furnishing an electronic copy of information  
 244 contained in a computer database: a fee as provided for in  
 245 chapter 119.

246 Section 4. Section 28.244, Florida Statutes, is amended to  
 247 read:

248 28.244 Refunds.—A clerk of the circuit court or a filing  
 249 officer of another office where records are filed who receives  
 250 payment for services provided and thereafter determines that an  
 251 overpayment has occurred shall refund to the person who made the  
 252 payment the amount of any overpayment that exceeds \$10 ~~\$5~~. If  
 253 the amount of the overpayment is \$10 ~~\$5~~ or less, the clerk of  
 254 the circuit court or a filing officer of another office where  
 255 records are filed is not required to refund the amount of the  
 256 overpayment unless the person who made the overpayment makes a  
 257 written request.

258 Section 5. Section 28.345, Florida Statutes, is amended to  
 259 read:

260 28.345 Exemption from court-related fees and charges.—

261 (1) Notwithstanding any other ~~provision of this chapter or~~

5-00606-12

2012860

262 law to the contrary, judges and those court staff acting on  
263 behalf of judges, state attorneys, guardians ad litem, public  
264 guardians, attorneys ad litem, court-appointed private counsel,  
265 criminal conflict and civil regional counsel, and public  
266 defenders, acting in their official capacity, and state  
267 agencies, are exempt from all court-related fees and charges  
268 assessed by the clerks of the circuit courts.

269 (2) The exemption provided in subsection (1) for state  
270 agencies applies only to the state agency and the party it is  
271 representing. The clerk of court shall collect the filing fees  
272 and services charges as required in this chapter from all other  
273 parties.

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

276 50.041 Proof of publication; uniform affidavits required.-

277 (2) Each such affidavit shall be printed upon white bond  
278 paper containing at least 25 percent rag material and shall be 8  
279 1/2 inches in width and of convenient length, not less than 5  
280 1/2 inches. A white margin of not less than 2 1/2 inches shall  
281 be left at the right side of each affidavit form and upon or in  
282 this space shall be substantially pasted a clipping which shall  
283 be a true copy of the public notice or legal advertisement for  
284 which proof is executed. Alternatively, each such affidavit may  
285 be provided in electronic rather than paper form, provided the  
286 notarization of the affidavit complies with the requirements of  
287 s. 117.021.

288 Section 7. Paragraph (d) of subsection (4) of section  
289 119.071, Florida Statutes, is amended to read:

290 119.071 General exemptions from inspection or copying of

5-00606-12

2012860\_\_

291 public records.—

292 (4) AGENCY PERSONNEL INFORMATION.—

293 (d)1.a. The home addresses, telephone numbers, social  
294 security numbers, and photographs of active or former law  
295 enforcement personnel, including correctional and correctional  
296 probation officers, personnel of the Department of Children and  
297 Family Services whose duties include the investigation of abuse,  
298 neglect, exploitation, fraud, theft, or other criminal  
299 activities, personnel of the Department of Health whose duties  
300 are to support the investigation of child abuse or neglect, and  
301 personnel of the Department of Revenue or local governments  
302 whose responsibilities include revenue collection and  
303 enforcement or child support enforcement; the home addresses,  
304 telephone numbers, social security numbers, photographs, and  
305 places of employment of the spouses and children of such  
306 personnel; and the names and locations of schools and day care  
307 facilities attended by the children of such personnel are exempt  
308 from s. 119.07(1).

309 b. The home addresses, telephone numbers, and photographs  
310 of firefighters certified in compliance with s. 633.35; the home  
311 addresses, telephone numbers, photographs, and places of  
312 employment of the spouses and children of such firefighters; and  
313 the names and locations of schools and day care facilities  
314 attended by the children of such firefighters are exempt from s.  
315 119.07(1).

316 c. The home addresses and telephone numbers of justices of  
317 the Supreme Court, district court of appeal judges, circuit  
318 court judges, and county court judges; the home addresses,  
319 telephone numbers, and places of employment of the spouses and

5-00606-12

2012860

320 children of justices and judges; and the names and locations of  
321 schools and day care facilities attended by the children of  
322 justices and judges are exempt from s. 119.07(1).

323 d. The home addresses, telephone numbers, social security  
324 numbers, and photographs of current or former state attorneys,  
325 assistant state attorneys, statewide prosecutors, or assistant  
326 statewide prosecutors; the home addresses, telephone numbers,  
327 social security numbers, photographs, and places of employment  
328 of the spouses and children of current or former state  
329 attorneys, assistant state attorneys, statewide prosecutors, or  
330 assistant statewide prosecutors; and the names and locations of  
331 schools and day care facilities attended by the children of  
332 current or former state attorneys, assistant state attorneys,  
333 statewide prosecutors, or assistant statewide prosecutors are  
334 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
335 Constitution.

336 e. The home addresses and telephone numbers of general  
337 magistrates, special magistrates, judges of compensation claims,  
338 administrative law judges of the Division of Administrative  
339 Hearings, and child support enforcement hearing officers; the  
340 home addresses, telephone numbers, and places of employment of  
341 the spouses and children of general magistrates, special  
342 magistrates, judges of compensation claims, administrative law  
343 judges of the Division of Administrative Hearings, and child  
344 support enforcement hearing officers; and the names and  
345 locations of schools and day care facilities attended by the  
346 children of general magistrates, special magistrates, judges of  
347 compensation claims, administrative law judges of the Division  
348 of Administrative Hearings, and child support enforcement

5-00606-12

2012860

349 hearing officers are exempt from s. 119.07(1) and s. 24(a), Art.  
350 I of the State Constitution if the general magistrate, special  
351 magistrate, judge of compensation claims, administrative law  
352 judge of the Division of Administrative Hearings, or child  
353 support hearing officer provides a written statement that the  
354 general magistrate, special magistrate, judge of compensation  
355 claims, administrative law judge of the Division of  
356 Administrative Hearings, or child support hearing officer has  
357 made reasonable efforts to protect such information from being  
358 accessible through other means available to the public. This  
359 sub-subparagraph is subject to the Open Government Sunset Review  
360 Act in accordance with s. 119.15, and shall stand repealed on  
361 October 2, 2013, unless reviewed and saved from repeal through  
362 reenactment by the Legislature.

363 f. The home addresses, telephone numbers, and photographs  
364 of current or former human resource, labor relations, or  
365 employee relations directors, assistant directors, managers, or  
366 assistant managers of any local government agency or water  
367 management district whose duties include hiring and firing  
368 employees, labor contract negotiation, administration, or other  
369 personnel-related duties; the names, home addresses, telephone  
370 numbers, and places of employment of the spouses and children of  
371 such personnel; and the names and locations of schools and day  
372 care facilities attended by the children of such personnel are  
373 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
374 Constitution.

375 g. The home addresses, telephone numbers, and photographs  
376 of current or former code enforcement officers; the names, home  
377 addresses, telephone numbers, and places of employment of the

5-00606-12

2012860

378 spouses and children of such personnel; and the names and  
379 locations of schools and day care facilities attended by the  
380 children of such personnel are exempt from s. 119.07(1) and s.  
381 24(a), Art. I of the State Constitution.

382 h. The home addresses, telephone numbers, places of  
383 employment, and photographs of current or former guardians ad  
384 litem, as defined in s. 39.820; the names, home addresses,  
385 telephone numbers, and places of employment of the spouses and  
386 children of such persons; and the names and locations of schools  
387 and day care facilities attended by the children of such persons  
388 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
389 Constitution, if the guardian ad litem provides a written  
390 statement that the guardian ad litem has made reasonable efforts  
391 to protect such information from being accessible through other  
392 means available to the public. This sub-subparagraph is subject  
393 to the Open Government Sunset Review Act in accordance with s.  
394 119.15 and shall stand repealed on October 2, 2015, unless  
395 reviewed and saved from repeal through reenactment by the  
396 Legislature.

397 i. The home addresses, telephone numbers, and photographs  
398 of current or former juvenile probation officers, juvenile  
399 probation supervisors, detention superintendents, assistant  
400 detention superintendents, juvenile justice detention officers I  
401 and II, juvenile justice detention officer supervisors, juvenile  
402 justice residential officers, juvenile justice residential  
403 officer supervisors I and II, juvenile justice counselors,  
404 juvenile justice counselor supervisors, human services counselor  
405 administrators, senior human services counselor administrators,  
406 rehabilitation therapists, and social services counselors of the

5-00606-12

2012860\_\_

407 Department of Juvenile Justice; the names, home addresses,  
408 telephone numbers, and places of employment of spouses and  
409 children of such personnel; and the names and locations of  
410 schools and day care facilities attended by the children of such  
411 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of  
412 the State Constitution.

413 j. The home addresses, telephone numbers, and photographs  
414 of current or former public defenders, assistant public  
415 defenders, criminal conflict and civil regional counsel, and  
416 assistant criminal conflict and civil regional counsel; the home  
417 addresses, telephone numbers, and places of employment of the  
418 spouses and children of such defenders or counsel; and the names  
419 and locations of schools and day care facilities attended by the  
420 children of such defenders or counsel are exempt from s.  
421 119.07(1) and s. 24(a), Art. I of the State Constitution. This  
422 sub-subparagraph is subject to the Open Government Sunset Review  
423 Act in accordance with s. 119.15 and shall stand repealed on  
424 October 2, 2015, unless reviewed and saved from repeal through  
425 reenactment by the Legislature.

426 2. An agency that is the custodian of the information  
427 specified in subparagraph 1. and that is not the employer of the  
428 officer, employee, justice, judge, or other person specified in  
429 subparagraph 1. shall maintain the exempt status of that  
430 information only if the officer, employee, justice, judge, other  
431 person, or employing agency of the designated employee submits a  
432 written request for maintenance of the exemption to the  
433 custodial agency. The request must specify the document type,  
434 name, identification number, and page number of the record that  
435 contains the exempt or confidential information.

5-00606-12

2012860

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

438 197.542 Sale at public auction.—

439 (2) The certificateholder has the right to bid as others  
440 present may bid, and the property shall be struck off and sold  
441 to the highest bidder. The high bidder shall post with the clerk  
442 a nonrefundable deposit of 5 percent of the bid or \$200,  
443 whichever is greater, at the time of the sale, to be applied to  
444 the sale price at the time of full payment. Notice of the  
445 deposit requirement must be posted at the auction site, and the  
446 clerk may require bidders to show their willingness and ability  
447 to post the deposit. If full payment of the final bid and of  
448 documentary stamp tax and recording fees is not made within 24  
449 hours, excluding weekends and legal holidays, the clerk shall  
450 cancel all bids, readvertise the sale as provided in this  
451 section, and pay all costs of the sale from the deposit. Any  
452 remaining funds must be applied toward the opening bid. If the  
453 property is redeemed prior to the clerk receiving full payment  
454 for the issuance of a tax deed, in order to receive a refund of  
455 the deposit described in this subsection, the high bidder must  
456 submit a request for such refund in writing to the clerk. Upon  
457 receipt of the refund request, the clerk shall refund the cash  
458 deposit consistent with s. 197.182(1)(c). The clerk may refuse  
459 to recognize the bid of any person who has previously bid and  
460 refused, for any reason, to honor such bid.

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