

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:

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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

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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

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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

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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

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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

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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

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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

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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~~

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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

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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

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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

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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

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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

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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.

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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.