

By the Committee on Judiciary; and Senator Wise

590-02030-12

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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.; revising provisions concerning an  
9           exemption from charges for services provided to  
10          specified officials and their staffs; amending s.  
11          28.244, F.S.; increasing the threshold amount for  
12          automatic repayment of overpayments; amending s.  
13          28.345, F.S.; providing for access to clerks' files by  
14          state agencies and an exemption from copying fees and  
15          charges; limiting to official use only the application  
16          of an exemption from payment of fees and charges  
17          assessed by clerks of circuit courts; amending s.  
18          50.041, F.S.; authorizing the use of electronic proof  
19          of publication affidavits; amending s. 119.0714, F.S.;  
20          requiring certain persons to provide specific  
21          information to the clerk to maintain the public  
22          records exemption status of certain information under  
23          specified provisions; amending s. 197.542, F.S.;  
24          authorizing the clerk to issue a refund to the  
25          depositor for redeemed property subject to a tax sale;  
26          providing an effective date.

27  
28   Be It Enacted by the Legislature of the State of Florida:  
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30 Section 1. Section 28.13, Florida Statutes, is amended to  
31 read:

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

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

47 28.222 Clerk to be county recorder.—

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

51 Section 3. Section 28.24, Florida Statutes, is amended to  
52 read:

53 28.24 ~~Service charges by clerk of the circuit court.~~—The  
54 clerk of the circuit court shall charge for services rendered by  
55 the clerk's office in recording documents and instruments and in  
56 performing the duties enumerated in amounts not to exceed those  
57 specified in this section, except as provided in s. 28.345.  
58 ~~Notwithstanding any other provision of this section, the clerk~~

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59 ~~of the circuit court shall provide without charge to the state~~  
60 ~~attorney, public defender, guardian ad litem, public guardian,~~  
61 ~~attorney ad litem, criminal conflict and civil regional counsel,~~  
62 ~~and private court appointed counsel paid by the state, and to~~  
63 ~~the authorized staff acting on behalf of each, access to and a~~  
64 ~~copy of any public record, if the requesting party is entitled~~  
65 ~~by law to view the exempt or confidential record, as maintained~~  
66 ~~by and in the custody of the clerk of the circuit court as~~  
67 ~~provided in general law and the Florida Rules of Judicial~~  
68 ~~Administration. The clerk of the circuit court may provide the~~  
69 ~~requested public record in an electronic format in lieu of a~~  
70 ~~paper format when capable of being accessed by the requesting~~  
71 ~~entity.~~

Charges

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

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

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117 (d) An additional service charge shall be paid to the clerk  
 118 of the circuit court to be deposited in the Public Records  
 119 Modernization Trust Fund for each instrument listed in s.  
 120 28.222, except judgments received from the courts and notices of  
 121 lis pendens, recorded in the official records:

- 122 1. First page.....1.00
- 123 2. Each additional page.....0.50

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

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

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

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

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

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

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204 Revenue for deposit into the General Revenue Fund.

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

206 otherwise provided for herein.....3.50

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

208 each.....3.50

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

210 (16) For exemplified certificates, including signing and

211 sealing.....7.00

212 (17) For authenticated certificates, including signing and

213 sealing.....7.00

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

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

216 signing, and sealing).....7.00

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

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

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

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

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

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

223 proceeds.....60.00

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

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

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

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

228 recording of the marriage license; and providing a certified

229 copy.....30.00

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

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

232 record.....42.00

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233 (26) (a) For receiving and disbursing all restitution  
234 payments, per payment.....3.50

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

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

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

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

248 Section 4. Section 28.244, Florida Statutes, is amended to  
249 read:

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

260 Section 5. Section 28.345, Florida Statutes, is amended to  
261 read:

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262           28.345 State access to records; exemption from court-  
263 related fees and charges.-

264           (1) Notwithstanding any other provision of law to the  
265 contrary, the clerk of the circuit court shall provide without  
266 charge to the state attorney, public defender, guardian ad  
267 litem, public guardian, attorney ad litem, criminal conflict and  
268 civil regional counsel, and private court-appointed counsel paid  
269 by the state, and to the authorized staff acting on behalf of  
270 each, access to and a copy of any public record. If the public  
271 record is exempt or confidential, the requesting party is only  
272 entitled by law to view or copy the exempt or confidential  
273 record if authority is provided in general law or the Florida  
274 Rules of Judicial Administration. The clerk of the circuit court  
275 may provide the requested public record in an electronic format  
276 in lieu of a paper format when the requesting entity is capable  
277 of accessing it in an electronic format. For purposes of this  
278 subsection, the term "copy of a public record" means any  
279 facsimile, replica, photograph, or other reproduction of a  
280 record.

281           (2) Notwithstanding any other ~~provision of this chapter or~~  
282 law to the contrary, judges and those court staff acting on  
283 behalf of judges, state attorneys, guardians ad litem, public  
284 guardians, attorneys ad litem, court-appointed private counsel,  
285 criminal conflict and civil regional counsel, ~~and~~ public  
286 defenders, and state agencies, while acting in their official  
287 capacity, ~~and state agencies,~~ are exempt from all court-related  
288 fees and charges assessed by the clerks of the circuit courts.

289           (3) The exemptions provided in subsections (1) and (2)  
290 apply only to state agencies and state entities and the party

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291 that an agency or entity is representing. The clerk of court  
292 shall collect the filing fees and services charges as required  
293 in this chapter from all other parties.

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

296 50.041 Proof of publication; uniform affidavits required.—

297 (2) Each such affidavit shall be printed upon white bond  
298 paper containing at least 25 percent rag material and shall be 8  
299 1/2 inches in width and of convenient length, not less than 5  
300 1/2 inches. A white margin of not less than 2 1/2 inches shall  
301 be left at the right side of each affidavit form and upon or in  
302 this space shall be substantially pasted a clipping which shall  
303 be a true copy of the public notice or legal advertisement for  
304 which proof is executed. Alternatively, each such affidavit may  
305 be provided in electronic rather than paper form, provided the  
306 notarization of the affidavit complies with the requirements of  
307 s. 117.021.

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

310 119.0714 Court files; court records; official records.—

311 (2) COURT RECORDS.—

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

318 2.~~(b)~~ A request for redaction must be a signed, legibly  
319 written request specifying the case name, case number, document

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320 heading, and page number. The request must be delivered by mail,  
321 facsimile, electronic transmission, or in person to the clerk of  
322 the court. The clerk of the court does not have a duty to  
323 inquire beyond the written request to verify the identity of a  
324 person requesting redaction.

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

328 ~~4.(d)~~ The clerk of the court has no liability for the  
329 inadvertent release of social security numbers, or bank account,  
330 debit, charge, or credit card numbers, unknown to the clerk of  
331 the court in court records filed on or before January 1, 2012.

332 ~~5.a.(e)1.~~ On January 1, 2012, and thereafter, the clerk of  
333 the court must keep social security numbers confidential and  
334 exempt as provided for in s. 119.071(5)(a), and 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 ~~b.2.~~ Section 119.071(5)(a)7. and 8. does not apply to the  
339 clerks of the court with respect to court records.

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

344 (3) OFFICIAL RECORDS.—

345 (a)1. Any person who prepares or files a record for  
346 recording in the official records as provided in chapter 28 may  
347 not include in that record a social security number or a bank  
348 account, debit, charge, or credit card number unless otherwise

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349 expressly required by law.

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

356 b.2. ~~If such record is in electronic format, on January 1,~~  
357 2011, and thereafter, the county recorder must use his or her  
358 best effort, as provided in subparagraph 8. ~~paragraph (h),~~ to  
359 keep social security numbers confidential and exempt as provided  
360 for in s. 119.071(5) (a), and to keep complete bank account,  
361 debit, charge, and credit card numbers exempt as provided for in  
362 s. 119.071(5) (b), without any person having to request  
363 redaction.

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

366 3.~~(e)~~ The holder of a social security number or a bank  
367 account, debit, charge, or credit card number, or the holder's  
368 attorney or legal guardian, may request that a county recorder  
369 redact from an image or copy of an official record placed on a  
370 county recorder's publicly available Internet website or on a  
371 publicly available Internet website used by a county recorder to  
372 display public records, or otherwise made electronically  
373 available to the public, his or her social security number or  
374 bank account, debit, charge, or credit card number contained in  
375 that official record.

376 4.~~(d)~~ A request for redaction must be a signed, legibly  
377 written request and must be delivered by mail, facsimile,

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378 electronic transmission, or in person to the county recorder.  
379 The request must specify the identification page number of the  
380 record that contains the number to be redacted.

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

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

387 7.~~(g)~~ A county recorder shall immediately and conspicuously  
388 post signs throughout his or her offices for public viewing, and  
389 shall immediately and conspicuously post on any Internet website  
390 or remote electronic site made available by the county recorder  
391 and used for the ordering or display of official records or  
392 images or copies of official records, a notice stating, in  
393 substantially similar form, the following:

394 a.1. ~~On or after October 1, 2002, any person preparing or~~  
395 ~~filing a record for recordation in the official records may not~~  
396 ~~include a social security number or a bank account, debit,~~  
397 ~~charge, or credit card number in such document unless required~~  
398 ~~by law.~~

399 b.2. Any person has a right to request a county recorder to  
400 remove from an image or copy of an official record placed on a  
401 county recorder's publicly available Internet website or on a  
402 publicly available Internet website used by a county recorder to  
403 display public records, or otherwise made electronically  
404 available to the general public, any social security number  
405 contained in an official record. Such request must be made in  
406 writing and delivered by mail, facsimile, or electronic

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407 transmission, or delivered in person, to the county recorder.  
408 The request must specify the identification page number that  
409 contains the social security number to be redacted. A fee may  
410 not be charged for the redaction of a social security number  
411 pursuant to such a request.

412 ~~8.(h)~~ If the county recorder accepts or stores official  
413 records in an electronic format, the county recorder must use  
414 his or her best efforts to redact all social security numbers  
415 and bank account, debit, charge, or credit card numbers from  
416 electronic copies of the official record. The use of an  
417 automated program for redaction shall be deemed to be the best  
418 effort in performing the redaction and shall be deemed in  
419 compliance with the requirements of this subsection.

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

423 (b) A request for maintenance of a public record exemption  
424 in s. 119.071(4)(d)1. made pursuant to s. 119.071(4)(d)2. must  
425 specify the document type, name, identification number, and page  
426 number of the official record that contains the exempt  
427 information.

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

430 197.542 Sale at public auction.—

431 (2) The certificateholder has the right to bid as others  
432 present may bid, and the property shall be struck off and sold  
433 to the highest bidder. The high bidder shall post with the clerk  
434 a nonrefundable deposit of 5 percent of the bid or \$200,  
435 whichever is greater, at the time of the sale, to be applied to

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436 the sale price at the time of full payment. Notice of the  
437 deposit requirement must be posted at the auction site, and the  
438 clerk may require bidders to show their willingness and ability  
439 to post the deposit. If full payment of the final bid and of  
440 documentary stamp tax and recording fees is not made within 24  
441 hours, excluding weekends and legal holidays, the clerk shall  
442 cancel all bids, readvertise the sale as provided in this  
443 section, and pay all costs of the sale from the deposit. Any  
444 remaining funds must be applied toward the opening bid. If the  
445 property is redeemed prior to the clerk receiving full payment  
446 for the issuance of a tax deed, in order to receive a refund of  
447 the deposit described in this subsection, the high bidder must  
448 submit a request for such refund in writing to the clerk. Upon  
449 receipt of the refund request, the clerk shall refund the cash  
450 deposit. The clerk may refuse to recognize the bid of any person  
451 who has previously bid and refused, for any reason, to honor  
452 such bid.

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