

By the Committees on Governmental Oversight and Accountability;
and Judiciary; and Senator Wise

585-03771-12

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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 28.37, F.S.; providing an exception for certain
19 specified penalties or fines that would otherwise be
20 deposited into the clerk's Public Records
21 Modernization Trust Fund; amending s. 50.041, F.S.;
22 authorizing the use of electronic proof of publication
23 affidavits; amending s. 119.0714, F.S.; requiring
24 certain persons to provide specific information to the
25 clerk to maintain the public records exemption status
26 of certain information under specified provisions;
27 amending s. 197.542, F.S.; authorizing the clerk to
28 issue a refund to the depositor for redeemed property
29 subject to a tax sale; providing an effective date.

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

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

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

28.222 Clerk to be county recorder.—

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

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

28.24 ~~Service charges by clerk of the circuit court.~~—The clerk of the circuit court shall charge for services rendered by the clerk's office in recording documents and instruments and in

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59 performing the duties enumerated in amounts not to exceed those
60 specified in this section, except as provided in s. 28.345.

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

75
76 Charges

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78 (1) For examining, comparing, correcting, verifying, and
79 certifying transcripts of record in appellate proceedings,
80 prepared by attorney for appellant or someone else other than
81 clerk, per page.....5.00

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

84 (3) For certifying copies of any instrument in the public
85 records.....2.00

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

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

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117 (c) For indexing instruments recorded in the official
118 records which contain more than four names, per additional
119 name.....1.00

120 (d) An additional service charge shall be paid to the clerk
121 of the circuit court to be deposited in the Public Records
122 Modernization Trust Fund for each instrument listed in s.
123 28.222, except judgments received from the courts and notices of
124 lis pendens, recorded in the official records:

- 125 1. First page.....1.00
- 126 2. Each additional page.....0.50

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

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146 preceding each year during which the trust fund is scheduled for
147 legislative review under s. 19(f)(2), Art. III of the State
148 Constitution, each clerk of the circuit court shall file a
149 report on the Public Records Modernization Trust Fund with the
150 President of the Senate and the Speaker of the House of
151 Representatives. The report must itemize each expenditure made
152 from the trust fund since the last report was filed; each
153 obligation payable from the trust fund on that date; and the
154 percentage of funds expended for each of the following:
155 equipment, maintenance of equipment, personnel training, and
156 technical assistance. The report must indicate the nature of the
157 system each clerk uses to store, maintain, and retrieve public
158 records and the degree to which the system has been upgraded
159 since the creation of the trust fund.

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

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

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

203 2. If the state becomes legally responsible for the costs

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204 of court-related technology needs as defined in s.
 205 29.008(1)(f)2. and (h), whether by operation of general law or
 206 by court order, \$4 shall be remitted to the Department of
 207 Revenue for deposit into the General Revenue Fund.

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

210 (14) For validating certificates, any authorized bonds,
 211 each.....3.50

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

213 (16) For exemplified certificates, including signing and
 214 sealing.....7.00

215 (17) For authenticated certificates, including signing and
 216 sealing.....7.00

217 (18) (a) For issuing and filing a subpoena for a witness,
 218 not otherwise provided for herein (includes writing, preparing,
 219 signing, and sealing).....7.00

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

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

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

223 (21) For processing an application for a tax deed sale
 224 (includes application, sale, issuance, and preparation of tax
 225 deed, and disbursement of proceeds of sale), other than excess
 226 proceeds.....60.00

227 (22) For disbursement of excess proceeds of tax deed sale,
 228 first \$100 or fraction thereof.....10.00

229 (23) Upon receipt of an application for a marriage license,
 230 for preparing and administering of oath; issuing, sealing, and
 231 recording of the marriage license; and providing a certified
 232 copy.....30.00

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

234 (25) For sealing any court file or expungement of any
235 record.....42.00

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

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

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

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

248 (28) For furnishing an electronic copy of information
249 contained in a computer database: a fee as provided for in
250 chapter 119.

251 Section 4. Section 28.244, Florida Statutes, is amended to
252 read:

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

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262 written request.

263 Section 5. Section 28.345, Florida Statutes, is amended to
264 read:

265 28.345 State access to records; exemption from court-
266 related fees and charges.-

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

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

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291 fees and charges assessed by the clerks of the circuit courts.

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

297 Section 6. Section 28.37, Florida Statutes, is amended to
298 read:

299 28.37 Fines, fees, service charges, and costs remitted to
300 the state.—

301 (1) Pursuant to s. 14(b), Art. V of the State Constitution,
302 selected salaries, costs, and expenses of the state courts
303 system and court-related functions shall be funded from a
304 portion of the revenues derived from statutory fines, fees,
305 service charges, and costs collected by the clerks of the court.

306 (2) Except as otherwise provided in ss. 28.241 and 34.041,
307 all court-related fines, fees, service charges, and costs are
308 considered state funds and shall be remitted by the clerk to the
309 Department of Revenue for deposit into the Clerks of the Court
310 Trust Fund within the Justice Administrative Commission.

311 However, 10 percent of all court-related fines collected by the
312 clerk, except for penalties or fines distributed under s.

313 316.0083(1)(b)3. or s. 318.18(15)(a) to counties or
314 municipalities, shall be deposited into the clerk's Public
315 Records Modernization Trust Fund to be used exclusively for
316 additional clerk court-related operational needs and program
317 enhancements.

318 Section 7. Subsection (2) of section 50.041, Florida
319 Statutes, is amended to read:

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320 50.041 Proof of publication; uniform affidavits required.-
321 (2) Each such affidavit shall be printed upon white bond
322 paper containing at least 25 percent rag material and shall be 8
323 1/2 inches in width and of convenient length, not less than 5
324 1/2 inches. A white margin of not less than 2 1/2 inches shall
325 be left at the right side of each affidavit form and upon or in
326 this space shall be substantially pasted a clipping which shall
327 be a true copy of the public notice or legal advertisement for
328 which proof is executed. Alternatively, each such affidavit may
329 be provided in electronic rather than paper form, provided the
330 notarization of the affidavit complies with the requirements of
331 s. 117.021.

332 Section 8. Subsections (2) and (3) of section 119.0714,
333 Florida Statutes, are amended to read:

334 119.0714 Court files; court records; official records.-

335 (2) COURT RECORDS.-

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

342 2.~~(b)~~ A request for redaction must be a signed, legibly
343 written request specifying the case name, case number, document
344 heading, and page number. The request must be delivered by mail,
345 facsimile, electronic transmission, or in person to the clerk of
346 the court. The clerk of the court does not have a duty to
347 inquire beyond the written request to verify the identity of a
348 person requesting redaction.

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

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

356 ~~5.a.(e)1.~~ On January 1, 2012, and thereafter, the clerk of
357 the court must keep social security numbers confidential and
358 exempt as provided for in s. 119.071(5) (a), and bank account,
359 debit, charge, and credit card numbers exempt as provided for in
360 s. 119.071(5) (b), without any person having to request
361 redaction.

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

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

368 (3) OFFICIAL RECORDS.—

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

374 ~~2.a.(b)1.~~ If a social security number or a bank account,
375 debit, charge, or credit card number is included in an official
376 record, such number may be made available as part of the
377 official records available for public inspection and copying

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378 unless redaction is requested by the holder of such number or by
379 the holder's attorney or legal guardian.

380 b.2- If such record is in electronic format, on January 1,
381 2011, and thereafter, the county recorder must use his or her
382 best effort, as provided in subparagraph 8. ~~paragraph (h)~~, to
383 keep social security numbers confidential and exempt as provided
384 for in s. 119.071(5) (a), and to keep complete bank account,
385 debit, charge, and credit card numbers exempt as provided for in
386 s. 119.071(5) (b), without any person having to request
387 redaction.

388 c.3- Section 119.071(5) (a)7. and 8. does not apply to the
389 county recorder with respect to official records.

390 3.(e) The holder of a social security number or a bank
391 account, debit, charge, or credit card number, or the holder's
392 attorney or legal guardian, may request that a county recorder
393 redact from an image or copy of an official record placed on a
394 county recorder's publicly available Internet website or on a
395 publicly available Internet website used by a county recorder to
396 display public records, or otherwise made electronically
397 available to the public, his or her social security number or
398 bank account, debit, charge, or credit card number contained in
399 that official record.

400 4.(d) A request for redaction must be a signed, legibly
401 written request and must be delivered by mail, facsimile,
402 electronic transmission, or in person to the county recorder.
403 The request must specify the identification page number of the
404 record that contains the number to be redacted.

405 5.(e) The county recorder does not have a duty to inquire
406 beyond the written request to verify the identity of a person

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407 requesting redaction.

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

411 7.~~(g)~~ A county recorder shall immediately and conspicuously
412 post signs throughout his or her offices for public viewing, and
413 shall immediately and conspicuously post on any Internet website
414 or remote electronic site made available by the county recorder
415 and used for the ordering or display of official records or
416 images or copies of official records, a notice stating, in
417 substantially similar form, the following:

418 a.1. On or after October 1, 2002, any person preparing or
419 filing a record for recordation in the official records may not
420 include a social security number or a bank account, debit,
421 charge, or credit card number in such document unless required
422 by law.

423 b.2. Any person has a right to request a county recorder to
424 remove from an image or copy of an official record placed on a
425 county recorder's publicly available Internet website or on a
426 publicly available Internet website used by a county recorder to
427 display public records, or otherwise made electronically
428 available to the general public, any social security number
429 contained in an official record. Such request must be made in
430 writing and delivered by mail, facsimile, or electronic
431 transmission, or delivered in person, to the county recorder.
432 The request must specify the identification page number that
433 contains the social security number to be redacted. A fee may
434 not be charged for the redaction of a social security number
435 pursuant to such a request.

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436 8.~~(h)~~ If the county recorder accepts or stores official
437 records in an electronic format, the county recorder must use
438 his or her best efforts to redact all social security numbers
439 and bank account, debit, charge, or credit card numbers from
440 electronic copies of the official record. The use of an
441 automated program for redaction shall be deemed to be the best
442 effort in performing the redaction and shall be deemed in
443 compliance with the requirements of this subsection.

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

447 (b) A request for maintenance of a public record exemption
448 in s. 119.071(4)(d)1. made pursuant to s. 119.071(4)(d)2. must
449 specify the document type, name, identification number, and page
450 number of the official record that contains the exempt
451 information.

452 Section 9. Subsection (2) of section 197.542, Florida
453 Statutes, is amended to read:

454 197.542 Sale at public auction.—

455 (2) The certificateholder has the right to bid as others
456 present may bid, and the property shall be struck off and sold
457 to the highest bidder. The high bidder shall post with the clerk
458 a nonrefundable deposit of 5 percent of the bid or \$200,
459 whichever is greater, at the time of the sale, to be applied to
460 the sale price at the time of full payment. Notice of the
461 deposit requirement must be posted at the auction site, and the
462 clerk may require bidders to show their willingness and ability
463 to post the deposit. If full payment of the final bid and of
464 documentary stamp tax and recording fees is not made within 24

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465 hours, excluding weekends and legal holidays, the clerk shall
466 cancel all bids, readvertise the sale as provided in this
467 section, and pay all costs of the sale from the deposit. Any
468 remaining funds must be applied toward the opening bid. If the
469 property is redeemed prior to the clerk receiving full payment
470 for the issuance of a tax deed, in order to receive a refund of
471 the deposit described in this subsection, the high bidder must
472 submit a request for such refund in writing to the clerk. Upon
473 receipt of the refund request, the clerk shall refund the cash
474 deposit. The clerk may refuse to recognize the bid of any person
475 who has previously bid and refused, for any reason, to honor
476 such bid.

477 Section 10. This act shall take effect upon becoming a law.