

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

585-02863-13

2013556c2

1 A bill to be entitled
2 An act relating to clerks of the court; amending s.
3 28.13, F.S.; providing requirements for the storage of
4 papers and electronic filings and requiring that they
5 be stamped with the date and time of submission;
6 requiring the clerk to retain control and custody of
7 filed documents; amending s. 28.222, F.S.; authorizing
8 the clerk to remove certain court records from the
9 Official Records; amending s. 28.24, F.S.; deleting
10 provisions exempting specified persons from service
11 fees; amending s. 28.244, F.S.; increasing the
12 threshold amount for automatic repayment of
13 overpayments; amending s. 28.345, F.S.; requiring that
14 the clerk provide access to public records without
15 charge to certain persons, subject to a limitation and
16 an exception; authorizing the clerk to provide public
17 records in an electronic format under certain
18 circumstances; amending s. 101.151, F.S.; clarifying
19 when the office title "Clerk of the Circuit Court and
20 Comptroller" may be used; amending s. 119.0714, F.S.;
21 requiring that certain requests for maintenance of a
22 public record exemption specify certain information;
23 amending s. 194.032, F.S.; requiring that the property
24 appraiser, rather than the clerk, provide the property
25 record card to a petitioner regardless of whether the
26 petitioner initiates evidence exchange, unless the
27 property record card is available online from the
28 property appraiser; amending s. 938.30, F.S.;
29 providing that the state is not required to pay fees

585-02863-13

2013556c2

30 to enforce judgment for costs and fines; providing an
31 effective date.

32
33 Be It Enacted by the Legislature of the State of Florida:

34
35 Section 1. Section 28.13, Florida Statutes, is amended to
36 read:

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

48 Section 2. Present subsections (4) through (6) of section
49 28.222, Florida Statutes, are renumbered as subsections (5)
50 through (7), respectively, and a new subsection (4) is added to
51 that section to read:

52 28.222 Clerk to be county recorder.—

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

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

58 28.24 Service charges ~~by clerk of the circuit court.~~—The

585-02863-13

2013556c2

59 clerk of the circuit court shall charge for services rendered
60 manually or electronically by the clerk's office in recording
61 documents and instruments and in performing other specified ~~the~~
62 duties. These charges may ~~enumerated in amounts~~ not to exceed
63 those specified in this section, except as provided in s.
64 28.345. ~~Notwithstanding any other provision of this section, the~~
65 ~~clerk of the circuit court shall provide without charge to the~~
66 ~~state attorney, public defender, guardian ad litem, public~~
67 ~~guardian, attorney ad litem, criminal conflict and civil~~
68 ~~regional counsel, and private court-appointed counsel paid by~~
69 ~~the state, and to the authorized staff acting on behalf of each,~~
70 ~~access to and a copy of any public record, if the requesting~~
71 ~~party is entitled by law to view the exempt or confidential~~
72 ~~record, as maintained by and in the custody of the clerk of the~~
73 ~~circuit court as provided in general law and the Florida Rules~~
74 ~~of Judicial Administration. The clerk of the circuit court may~~
75 ~~provide the requested public record in an electronic format in~~
76 ~~lieu of a paper format when capable of being accessed by the~~
77 ~~requesting entity.~~

Charges

- 81 (1) For examining, comparing, correcting, verifying, and
- 82 certifying transcripts of record in appellate proceedings,
- 83 prepared by attorney for appellant or someone else other than
- 84 clerk, per page.....5.00
- 85 (2) For preparing, numbering, and indexing an original
- 86 record of appellate proceedings, per instrument.....3.50
- 87 (3) For certifying copies of any instrument in the public

585-02863-13

2013556c2

88 records.....2.00

89 (4) For verifying any instrument presented for

90 certification prepared by someone other than clerk, per page.3.50

91 (5) (a) For making copies by photographic process of any

92 instrument in the public records consisting of pages of not more

93 than 14 inches by 8 1/2 inches, per page.....1.00

94 (b) For making copies by photographic process of any

95 instrument in the public records of more than 14 inches by 8 1/2

96 inches, per page.....5.00

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

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

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

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

101 (7) For copying any instrument in the public records by

102 other than photographic process, per page.....6.00

103 (8) For writing any paper other than herein specifically

104 mentioned, same as for copying, including signing and sealing7.00

105 (9) For indexing each entry not recorded.....1.00

106 (10) For receiving money into the registry of court:

107 (a) 1. First \$500, percent.....3

108 2. Each subsequent \$100, percent.....1.5

109 (b) Eminent domain actions, per deposit.....170.00

110 (11) For examining, certifying, and recording plats and for

111 recording condominium exhibits larger than 14 inches by 8 1/2

112 inches:

113 (a) First page.....30.00

114 (b) Each additional page.....15.00

115 (12) For recording, indexing, and filing any instrument not

116 more than 14 inches by 8 1/2 inches, including required notice

585-02863-13

2013556c2

117 to property appraiser where applicable:

118 (a) First page or fraction thereof.....5.00

119 (b) Each additional page or fraction thereof.....4.00

120 (c) For indexing instruments recorded in the official
121 records which contain more than four names, per additional name1.00

122 (d) An additional service charge must ~~shall~~ be paid to the
123 clerk of the circuit court to be deposited in the Public Records
124 Modernization Trust Fund for each instrument listed in s.

125 28.222, except judgments received from the courts and notices of
126 lis pendens, recorded in the official records:

127 1. First page.....1.00

128 2. Each additional page.....0.50

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

585-02863-13

2013556c2

146 related to the storage of records. On or before December 1,
147 1995, and on or before December 1 of each year immediately
148 preceding each year during which the trust fund is scheduled for
149 legislative review under s. 19(f)(2), Art. III of the State
150 Constitution, each clerk of the circuit court shall file a
151 report on the Public Records Modernization Trust Fund with the
152 President of the Senate and the Speaker of the House of
153 Representatives. The report must itemize each expenditure made
154 from the trust fund since the last report was filed; each
155 obligation payable from the trust fund on that date; and the
156 percentage of funds expended for each of the following:
157 equipment, maintenance of equipment, personnel training, and
158 technical assistance. The report must indicate the nature of the
159 system each clerk uses to store, maintain, and retrieve public
160 records and the degree to which the system has been upgraded
161 since the creation of the trust fund.

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

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

585-02863-13

2013556c2

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

585-02863-13

2013556c2

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

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

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

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

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

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

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

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

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

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

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

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

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

585-02863-13 2013556c2

233 copy.....30.00

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

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

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

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

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

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

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

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

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

585-02863-13

2013556c2

262 overpayment unless the person who made the overpayment makes a
263 written request.

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

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

268 (1) Notwithstanding any other provision of law, the clerk
269 of the circuit court shall, upon request, provide access to
270 public records without charge to the state attorney, public
271 defender, guardian ad litem, public guardian, attorney ad litem,
272 criminal conflict and civil regional counsel, and private court-
273 appointed counsel paid by the state, and to authorized staff
274 acting on their behalf. The clerk of court may provide the
275 requested public record in an electronic format in lieu of a
276 paper format if the requesting entity is capable of accessing
277 such public record electronically.

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

286 (3) The exemptions from fees or charges provided in this
287 section apply only to state agencies and state entities and the
288 party represented by the agency or entity.

289 Section 6. Paragraph (a) of subsection (2) of section
290 101.151, Florida Statutes, is amended to read:

585-02863-13

2013556c2

291 101.151 Specifications for ballots.—

292 (2) (a) The ballot must include ~~shall have~~ the following
293 office titles above ~~under which shall appear~~ the names of the
294 candidates for the respective offices in the following order:

295 1. The office titles of President and Vice President above
296 ~~and thereunder~~ the names of the candidates for President and
297 Vice President of the United States nominated by the political
298 party that received the highest vote for Governor in the last
299 general election of the Governor in this state, followed by.
300 ~~Then shall appear~~ the names of other candidates for President
301 and Vice President of the United States who have been properly
302 nominated.

303 2. The office titles of United States Senator and
304 Representative in Congress.

305 3. The office titles of Governor and Lieutenant Governor;
306 Attorney General; Chief Financial Officer; Commissioner of
307 Agriculture; State Attorney, with the applicable judicial
308 circuit; and Public Defender, with the applicable judicial
309 circuit.

310 4. The office titles of State Senator and State
311 Representative, with the applicable district for the office
312 printed beneath.

313 5. The office titles of Clerk of the Circuit Court, or,
314 when the Clerk of the Circuit Court also serves as the County
315 Comptroller, Clerk of the Circuit Court and Comptroller,
316 ~~(whichever is applicable and when authorized by law;)~~ Clerk of
317 the County Court, ~~(when authorized by law;)~~ Sheriff; Property
318 Appraiser; Tax Collector; District Superintendent of Schools; and
319 Supervisor of Elections.

585-02863-13

2013556c2

320 6. The office titles of Board of County Commissioners, with
321 the applicable district printed beneath each office, and such
322 other county and district offices as are involved in the
323 election, in the order fixed by the Department of State,
324 followed, in the year of their election, by "Party Offices," and
325 thereunder the offices of state and county party executive
326 committee members.

327 Section 7. Paragraph (f) is added to subsection (2) of
328 section 119.0714, Florida Statutes, and section (3) is amended,
329 to read:

330 119.0714 Court files; court records; official records.—

331 (2) COURT RECORDS.—

332 (f) A request for maintenance of a public records exemption
333 in s. 119.071(4)(d)2. made pursuant to s. 119.071(4)(d)3. must
334 specify the document type, name, identification number, and page
335 number of the court record that contains the exempt information.

336 (3) OFFICIAL RECORDS.—

337 ~~(a) A~~ Any person who prepares or files a record for
338 recording in the official records as provided in chapter 28 may
339 not include in that record a social security number or a bank
340 account, debit, charge, or credit card number unless otherwise
341 expressly required by law.

342 (a) ~~(b)1.~~ If a social security number or a bank account,
343 debit, charge, or credit card number is included in an official
344 record, such number may be made available as part of the
345 official records available for public inspection and copying
346 unless redaction is requested by the holder of such number or by
347 the holder's attorney or legal guardian.

348 1.2. If such record is in electronic format, on January 1,

585-02863-13

2013556c2

349 2011, and thereafter, the county recorder must use his or her
350 best effort, as provided in paragraph (d)~~(h)~~, to keep social
351 security numbers confidential and exempt as provided for in s.
352 119.071(5) (a), and to keep complete bank account, debit, charge,
353 and credit card numbers exempt as provided for in s.
354 119.071(5) (b), without any person having to request redaction.

355 2.3~~2.3~~ Section 119.071(5) (a)7. and 8. does not apply to the
356 county recorder with respect to official records.

357 (b)~~(e)~~ The holder of a social security number or a bank
358 account, debit, charge, or credit card number, or the holder's
359 attorney or legal guardian, may request that a county recorder
360 redact from an image or copy of an official record placed on a
361 county recorder's publicly available Internet website or on a
362 publicly available Internet website used by a county recorder to
363 display public records, or otherwise made electronically
364 available to the public, his or her social security number or
365 bank account, debit, charge, or credit card number contained in
366 that official record.

367 1.~~(d)~~ A request for redaction must be a signed, legibly
368 written request and must be delivered by mail, facsimile,
369 electronic transmission, or in person to the county recorder.
370 The request must specify the identification page number of the
371 record that contains the number to be redacted.

372 2.~~(e)~~ The county recorder does not have a duty to inquire
373 beyond the written request to verify the identity of a person
374 requesting redaction.

375 3.~~(f)~~ A fee may not be charged for redacting a social
376 security number or a bank account, debit, charge, or credit card
377 number.

585-02863-13

2013556c2

378 (c)~~(g)~~ A county recorder shall immediately and
379 conspicuously post signs throughout his or her offices for
380 public viewing, and shall immediately and conspicuously post on
381 any Internet website or remote electronic site made available by
382 the county recorder and used for the ordering or display of
383 official records or images or copies of official records, a
384 notice stating, in substantially similar form, the following:

385 1. On or after October 1, 2002, any person preparing or
386 filing a record for recordation in the official records may not
387 include a social security number or a bank account, debit,
388 charge, or credit card number in such document unless required
389 by law.

390 2. Any person has a right to request a county recorder to
391 remove from an image or copy of an official record placed on a
392 county recorder's publicly available Internet website or on a
393 publicly available Internet website used by a county recorder to
394 display public records, or otherwise made electronically
395 available to the general public, any social security number
396 contained in an official record. Such request must be made in
397 writing and delivered by mail, facsimile, or electronic
398 transmission, or delivered in person, to the county recorder.
399 The request must specify the identification page number that
400 contains the social security number to be redacted. A fee may
401 not be charged for the redaction of a social security number
402 pursuant to such a request.

403 (d)~~(h)~~ If the county recorder accepts or stores official
404 records in an electronic format, the county recorder must use
405 his or her best efforts to redact all social security numbers
406 and bank account, debit, charge, or credit card numbers from

585-02863-13

2013556c2

407 electronic copies of the official record. The use of an
408 automated program for redaction is ~~shall be~~ deemed to be the
409 best effort in performing the redaction and is ~~shall be~~ deemed
410 in compliance with the requirements of this subsection.

411 (e) ~~(i)~~ The county recorder is not liable for the
412 inadvertent release of social security numbers, or bank account,
413 debit, charge, or credit card numbers, filed with the county
414 recorder.

415 (f) A request for maintenance of a public records exemption
416 in s. 119.071(4)(d)2. made pursuant to s. 119.071(4)(d)3. must
417 specify the document type, name, identification number, and page
418 number of the official record that contains the exempt
419 information.

420 Section 8. Paragraph (a) of subsection (2) of section
421 194.032, Florida Statutes, is amended to read:

422 194.032 Hearing purposes; timetable.—

423 (2) (a) The clerk of the governing body of the county shall
424 prepare a schedule of appearances before the board based on
425 petitions timely filed with him or her. The clerk shall notify
426 each petitioner of the scheduled time of his or her appearance
427 at least 25 calendar days before the day of the scheduled
428 appearance. The notice must ~~shall~~ indicate whether the petition
429 has been scheduled to be heard at a particular time or during a
430 block of time. If the petition has been scheduled to be heard
431 within a block of time, the beginning and ending of that block
432 of time must ~~shall~~ be indicated on the notice; however, as
433 provided in paragraph (b), a petitioner may not be required to
434 wait for more than a reasonable time, not to exceed 2 hours,
435 after the beginning of the block of time. If the petitioner

585-02863-13

2013556c2

436 checked the appropriate box on the petition form to request a
437 copy of the property record card containing relevant information
438 used in computing the current assessment, the property appraiser
439 must provide the copy to the petitioner upon receipt of the
440 petition from the clerk regardless of whether the petitioner
441 initiates evidence exchange, unless the property record card is
442 available online from the property appraiser ~~clerk shall provide~~
443 ~~the copy of the card along with the notice.~~ Upon receipt of the
444 notice, the petitioner may reschedule the hearing a single time
445 by submitting to the clerk a written request to reschedule, at
446 least 5 calendar days before the day of the originally scheduled
447 hearing.

448 Section 9. Subsections (2) and (6) of section 938.30,
449 Florida Statutes, are amended to read:

450 938.30 Financial obligations in criminal cases;
451 supplementary proceedings.—

452 (2) The court may require a person liable for payment of an
453 obligation to appear and be examined under oath concerning the
454 person's financial ability to pay the obligation. The judge may
455 convert the statutory financial obligation into a court-ordered
456 obligation to perform community service, subject to the
457 provisions of s. 318.18(8), after examining a person under oath
458 and determining the ~~a~~ person's inability to pay. Any person who
459 fails ~~failing~~ to attend a hearing may be arrested on warrant or
460 ~~capias which may be~~ issued by the clerk upon order of the court.

461 (6) If judgment has not been previously entered on any
462 court-imposed financial obligation, the court may enter judgment
463 thereon and issue any writ necessary to enforce the judgment in
464 the manner allowed in civil cases. Any judgment issued under

585-02863-13

2013556c2

465 this section constitutes a civil lien against the judgment
466 debtor's presently owned or after-acquired property, when
467 recorded pursuant to s. 55.10. Supplementary proceedings
468 undertaken by any governmental entity to satisfy a judgment
469 imposed pursuant to this section may proceed without bond and
470 without the payment of statutory fees associated with judgment
471 enforcement.

472 Section 10. This act shall take effect July 1, 2013.