

By Senator Lee

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1 A bill to be entitled
2 An act relating to the organization of the Department
3 of Financial Services; amending s. 20.121, F.S.;
4 revising the divisions and functions of the
5 department; authorizing the Chief Financial Officer to
6 establish divisions, bureaus, or offices of the
7 department; amending s. 28.2401, F.S.; providing
8 funding from certain probate petition service charges
9 to the Florida Clerks of Court Operations Corporation
10 for clerk education provided by the corporation;
11 amending s. 28.241, F.S., relating to the deposit of
12 certain filing fees for trial and appellate
13 proceedings, to conform provisions to changes made by
14 the act; amending s. 28.35, F.S.; deleting a
15 requirement that the Florida Clerks of Court
16 Operations Corporation contract with the department
17 for certain audits; amending s. 110.205, F.S.;
18 exempting audit and accounting positions of the
19 department from career service requirements; amending
20 s. 624.26, F.S.; conforming provisions to changes made
21 by the act; amending s. 624.307, F.S.; providing
22 powers and duties of the department's Division of
23 Consumer Services; authorizing the division to impose
24 certain penalties; authorizing the department to adopt
25 rules relating to the division; providing for
26 construction; amending s. 624.502, F.S.; requiring
27 that certain service of process fees be deposited into
28 the Administrative Trust Fund; providing an effective
29 date.

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

Section 1. Subsections (2) and (6) of section 20.121, Florida Statutes, are amended to read:

20.121 Department of Financial Services.—There is created a Department of Financial Services.

(2) DIVISIONS.—The Department of Financial Services shall consist of the following divisions and offices:

(a) The Division of Accounting and Auditing, ~~which shall include the following bureau and office:~~

~~1. The Bureau of Unclaimed Property.~~

~~2. The Office of Fiscal Integrity which shall function as a criminal justice agency for purposes of ss. 943.045-943.08 and shall have a separate budget. The office may conduct investigations within or outside this state as the bureau deems necessary to aid in the enforcement of this section. If during an investigation the office has reason to believe that any criminal law of this state has or may have been violated, the office shall refer any records tending to show such violation to state or federal law enforcement or prosecutorial agencies and shall provide investigative assistance to those agencies as required.~~

(b) The Division of State Fire Marshal.

(c) The Division of Risk Management.

(d) The Division of Treasury, which shall include a Bureau of Deferred Compensation responsible for administering the Government Employees Deferred Compensation Plan established under s. 112.215 for state employees.

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59 (e) The Division of Criminal Investigations, which shall
60 function as a criminal justice agency for purposes of ss.
61 943.045-943.08 Insurance Fraud.

62 (f) The Division of Rehabilitation and Liquidation.

63 (g) The Division of Insurance Agent and Agency Services.

64 (h) The Division of Consumer Services.

65 1. ~~The Division of Consumer Services shall perform the~~
66 ~~following functions concerning products or services regulated by~~
67 ~~the department or by the Office of Insurance Regulation:~~

68 a. ~~Receive inquiries and complaints from consumers.~~

69 b. ~~Prepare and disseminate such information as the~~
70 ~~department deems appropriate to inform or assist consumers.~~

71 c. ~~Provide direct assistance and advocacy for consumers who~~
72 ~~request such assistance or advocacy.~~

73 d. ~~With respect to apparent or potential violations of law~~
74 ~~or applicable rules by a person or entity licensed by the~~
75 ~~department or office, report apparent or potential violations to~~
76 ~~the office or the appropriate division of the department, which~~
77 ~~may take such further action as it deems appropriate.~~

78 e. ~~Designate an employee of the division as primary contact~~
79 ~~for consumers on issues relating to sinkholes.~~

80 2. ~~Any person licensed or issued a certificate of authority~~
81 ~~by the department or by the Office of Insurance Regulation shall~~
82 ~~respond, in writing, to the Division of Consumer Services within~~
83 ~~20 days after receipt of a written request for information from~~
84 ~~the division concerning a consumer complaint. The response must~~
85 ~~address the issues and allegations raised in the complaint. The~~
86 ~~division may impose an administrative penalty for failure to~~
87 ~~comply with this subparagraph of up to \$2,500 per violation upon~~

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88 ~~any entity licensed by the department or the office and \$250 for~~
 89 ~~the first violation, \$500 for the second violation, and up to~~
 90 ~~\$1,000 per violation thereafter upon any individual licensed by~~
 91 ~~the department or the office.~~

92 ~~3. The department may adopt rules to administer this~~
 93 ~~paragraph.~~

94 ~~4. The powers, duties, and responsibilities expressed or~~
 95 ~~granted in this paragraph do not limit the powers, duties, and~~
 96 ~~responsibilities of the Department of Financial Services, the~~
 97 ~~Financial Services Commission, the Office of Insurance~~
 98 ~~Regulation, or the Office of Financial Regulation set forth~~
 99 ~~elsewhere in the Florida Statutes.~~

100 ~~(i) The Division of Workers' Compensation.~~

101 ~~(j) The Division of Administration.~~

102 ~~(k) The Division of Legal Services.~~

103 ~~(l) The Division of Information Systems.~~

104 (j) ~~(m)~~ The Office of Insurance Consumer Advocate.

105 (k) ~~(n)~~ The Division of Funeral, Cemetery, and Consumer
 106 Services.

107 (l) ~~(o)~~ The Division of Public Assistance Fraud.

108
 109 The Chief Financial Officer may establish any other division,
 110 bureau, or office of the department that he or she deems
 111 necessary to promote the efficient and effective operation of
 112 the department pursuant to s. 20.04.

113 ~~(6) STRATEGIC MARKETS RESEARCH AND ASSESSMENT UNIT. The~~
 114 ~~Strategic Markets Research and Assessment Unit is established~~
 115 ~~within the Department of Financial Services. The Chief Financial~~
 116 ~~Officer or his or her designee shall report on September 1,~~

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117 ~~2008, and quarterly thereafter, to the Cabinet, the President of~~
118 ~~the Senate, and the Speaker of the House of Representatives on~~
119 ~~the status of the state's financial services markets. At a~~
120 ~~minimum, the report must include a summary of issues, trends,~~
121 ~~and threats that broadly impact the condition of the financial~~
122 ~~services industries, along with the effect of such conditions on~~
123 ~~financial institutions, the securities industries, other~~
124 ~~financial entities, and the credit market. The Chief Financial~~
125 ~~Officer shall also provide findings and recommendations~~
126 ~~regarding regulatory and policy changes to the Cabinet, the~~
127 ~~President of the Senate, and the Speaker of the House of~~
128 ~~Representatives.~~

129 Section 2. Subsection (3) of section 28.2401, Florida
130 Statutes, is amended to read:

131 28.2401 Service charges and filing fees in probate
132 matters.—

133 (3) An additional service charge of \$4 on petitions seeking
134 summary administration, formal administration, ancillary
135 administration, guardianship, curatorship, and conservatorship
136 shall be paid to the clerk. The clerk shall transfer \$3.50 to
137 the Department of Revenue for deposit into the Court Education
138 Trust Fund and shall transfer 50 cents to the Department of
139 Revenue for deposit into the Department of Financial Services'
140 Administrative Trust Fund to fund clerk education provided by
141 the Florida Clerks of Court Operations Corporation. No
142 additional fees, charges, or costs shall be added to the service
143 charges or filing fees imposed under this section, except as
144 authorized by general law.

145 Section 3. Paragraph (a) of subsection (1) of section

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146 28.241, Florida Statutes, is amended to read:

147 28.241 Filing fees for trial and appellate proceedings.—

148 (1) Filing fees are due at the time a party files a
149 pleading to initiate a proceeding or files a pleading for
150 relief. Reopen fees are due at the time a party files a pleading
151 to reopen a proceeding if at least 90 days have elapsed since
152 the filing of a final order or final judgment with the clerk. If
153 a fee is not paid upon the filing of the pleading as required
154 under this section, the clerk shall pursue collection of the fee
155 pursuant to s. 28.246.

156 (a)1.a. Except as provided in sub-subparagraph b. and
157 subparagraph 2., the party instituting any civil action, suit,
158 or proceeding in the circuit court shall pay to the clerk of
159 that court a filing fee of up to \$395 in all cases in which
160 there are not more than five defendants and an additional filing
161 fee of up to \$2.50 for each defendant in excess of five. Of the
162 first \$199 ~~\$200~~ in filing fees, \$195 must be remitted to the
163 Department of Revenue for deposit into the State Courts Revenue
164 Trust Fund and, \$4 must be remitted to the Department of Revenue
165 for deposit into the Administrative Trust Fund within the
166 Department of Financial Services and used to fund the contract
167 with the Florida Clerks of Court Operations Corporation created
168 in s. 28.35, ~~and \$1 must be remitted to the Department of~~
169 ~~Revenue for deposit into the Administrative Trust Fund within~~
170 ~~the Department of Financial Services to fund audits of~~
171 ~~individual clerks' court-related expenditures conducted by the~~
172 ~~Department of Financial Services.~~ By the 10th of each month, the
173 clerk shall submit that portion of the filing fees collected in
174 the previous month which is in excess of one-twelfth of the

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175 clerk's total budget to the Department of Revenue for deposit
176 into the Clerks of the Court Trust Fund.

177 b. The party instituting any civil action, suit, or
178 proceeding in the circuit court under chapter 39, chapter 61,
179 chapter 741, chapter 742, chapter 747, chapter 752, or chapter
180 753 shall pay to the clerk of that court a filing fee of up to
181 \$295 in all cases in which there are not more than five
182 defendants and an additional filing fee of up to \$2.50 for each
183 defendant in excess of five. Of the first \$99 ~~\$100~~ in filing
184 fees, \$95 must be remitted to the Department of Revenue for
185 deposit into the State Courts Revenue Trust Fund and~~r~~ \$4 must be
186 remitted to the Department of Revenue for deposit into the
187 Administrative Trust Fund within the Department of Financial
188 Services and used to fund the contract with the Florida Clerks
189 of Court Operations Corporation created in s. 28.35, ~~and \$1 must~~
190 ~~be remitted to the Department of Revenue for deposit into the~~
191 ~~Administrative Trust Fund within the Department of Financial~~
192 ~~Services to fund audits of individual clerks' court-related~~
193 ~~expenditures conducted by the Department of Financial Services.~~

194 c. An additional filing fee of \$4 shall be paid to the
195 clerk. The clerk shall remit \$3.50 to the Department of Revenue
196 for deposit into the Court Education Trust Fund and shall remit
197 50 cents to the Department of Revenue for deposit into the
198 Administrative Trust Fund within the Department of Financial
199 Services to fund clerk education provided by the Florida Clerks
200 of Court Operations Corporation. An additional filing fee of up
201 to \$18 shall be paid by the party seeking each severance that is
202 granted. The clerk may impose an additional filing fee of up to
203 \$85 for all proceedings of garnishment, attachment, replevin,

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204 and distress. Postal charges incurred by the clerk of the
205 circuit court in making service by certified or registered mail
206 on defendants or other parties shall be paid by the party at
207 whose instance service is made. Additional fees, charges, or
208 costs may not be added to the filing fees imposed under this
209 section, except as authorized in this section or by general law.

210 2.a. Notwithstanding the fees prescribed in subparagraph
211 1., a party instituting a civil action in circuit court relating
212 to real property or mortgage foreclosure shall pay a graduated
213 filing fee based on the value of the claim.

214 b. A party shall estimate in writing the amount in
215 controversy of the claim upon filing the action. For purposes of
216 this subparagraph, the value of a mortgage foreclosure action is
217 based upon the principal due on the note secured by the
218 mortgage, plus interest owed on the note and any moneys advanced
219 by the lender for property taxes, insurance, and other advances
220 secured by the mortgage, at the time of filing the foreclosure.
221 The value shall also include the value of any tax certificates
222 related to the property. In stating the value of a mortgage
223 foreclosure claim, a party shall declare in writing the total
224 value of the claim, as well as the individual elements of the
225 value as prescribed in this sub-subparagraph.

226 c. In its order providing for the final disposition of the
227 matter, the court shall identify the actual value of the claim.
228 The clerk shall adjust the filing fee if there is a difference
229 between the estimated amount in controversy and the actual value
230 of the claim and collect any additional filing fee owed or
231 provide a refund of excess filing fee paid.

232 d. The party shall pay a filing fee of:

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233 (I) Three hundred and ninety-five dollars in all cases in
234 which the value of the claim is \$50,000 or less and in which
235 there are not more than five defendants. The party shall pay an
236 additional filing fee of up to \$2.50 for each defendant in
237 excess of five. Of the first \$199 ~~\$200~~ in filing fees, \$195 must
238 be remitted by the clerk to the Department of Revenue for
239 deposit into the General Revenue Fund and~~7~~ \$4 must be remitted
240 to the Department of Revenue for deposit into the Administrative
241 Trust Fund within the Department of Financial Services and used
242 to fund the contract with the Florida Clerks of Court Operations
243 Corporation created in s. 28.35~~7~~, and ~~\$1 must be remitted to the~~
244 ~~Department of Revenue for deposit into the Administrative Trust~~
245 ~~Fund within the Department of Financial Services to fund audits~~
246 ~~of individual clerks' court-related expenditures conducted by~~
247 ~~the Department of Financial Services;~~

248 (II) Nine hundred dollars in all cases in which the value
249 of the claim is more than \$50,000 but less than \$250,000 and in
250 which there are not more than five defendants. The party shall
251 pay an additional filing fee of up to \$2.50 for each defendant
252 in excess of five. Of the first \$704 ~~\$705~~ in filing fees, \$700
253 must be remitted by the clerk to the Department of Revenue for
254 deposit into the General Revenue Fund and~~7~~ \$4 must be remitted
255 to the Department of Revenue for deposit into the Administrative
256 Trust Fund within the Department of Financial Services and used
257 to fund the contract with the Florida Clerks of Court Operations
258 Corporation created in s. 28.35~~7~~, and ~~\$1 must be remitted to the~~
259 ~~Department of Revenue for deposit into the Administrative Trust~~
260 ~~Fund within the Department of Financial Services to fund audits~~
261 ~~of individual clerks' court-related expenditures conducted by~~

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262 ~~the Department of Financial Services; or~~

263 (III) One thousand nine hundred dollars in all cases in
264 which the value of the claim is \$250,000 or more and in which
265 there are not more than five defendants. The party shall pay an
266 additional filing fee of up to \$2.50 for each defendant in
267 excess of five. Of the first \$1,704 ~~\$1,705~~ in filing fees, \$930
268 must be remitted by the clerk to the Department of Revenue for
269 deposit into the General Revenue Fund, \$770 must be remitted to
270 the Department of Revenue for deposit into the State Courts
271 Revenue Trust Fund and, \$4 must be remitted to the Department of
272 Revenue for deposit into the Administrative Trust Fund within
273 the Department of Financial Services to fund the contract with
274 the Florida Clerks of Court Operations Corporation created in s.
275 28.35, ~~and \$1 must be remitted to the Department of Revenue for~~
276 ~~deposit into the Administrative Trust Fund within the Department~~
277 ~~of Financial Services to fund audits of individual clerks'~~
278 ~~court related expenditures conducted by the Department of~~
279 ~~Financial Services.~~

280 e. An additional filing fee of \$4 shall be paid to the
281 clerk. The clerk shall remit \$3.50 to the Department of Revenue
282 for deposit into the Court Education Trust Fund and shall remit
283 50 cents to the Department of Revenue for deposit into the
284 Administrative Trust Fund within the Department of Financial
285 Services to fund clerk education provided by the Florida Clerks
286 of Court Operations Corporation. An additional filing fee of up
287 to \$18 shall be paid by the party seeking each severance that is
288 granted. The clerk may impose an additional filing fee of up to
289 \$85 for all proceedings of garnishment, attachment, replevin,
290 and distress. Postal charges incurred by the clerk of the

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291 circuit court in making service by certified or registered mail
292 on defendants or other parties shall be paid by the party at
293 whose instance service is made. Additional fees, charges, or
294 costs may not be added to the filing fees imposed under this
295 section, except as authorized in this section or by general law.

296 Section 4. Paragraphs (e) through (h) of subsection (2) of
297 section 28.35, Florida Statutes, are amended to read:

298 28.35 Florida Clerks of Court Operations Corporation.-

299 (2) The duties of the corporation shall include the
300 following:

301 ~~(e) Entering into a contract with the Department of~~
302 ~~Financial Services for the department to audit the court-related~~
303 ~~expenditures of individual clerks pursuant to s. 17.03.~~

304 (e)~~(f)~~ Reviewing, certifying, and recommending proposed
305 budgets submitted by clerks of the court pursuant to s. 28.36.
306 As part of this process, the corporation shall:

307 1. Calculate the minimum amount of revenue necessary for
308 each clerk of the court to efficiently perform the list of
309 court-related functions specified in paragraph (3) (a). The
310 corporation shall apply the workload measures appropriate for
311 determining the individual level of review required to fund the
312 clerk's budget.

313 2. Prepare a cost comparison of similarly situated clerks
314 of the court, based on county population and numbers of filings,
315 using the standard list of court-related functions specified in
316 paragraph (3) (a).

317 3. Conduct an annual base budget review and an annual
318 budget exercise examining the total budget of each clerk of the
319 court. The review shall examine revenues from all sources,

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320 expenses of court-related functions, and expenses of noncourt-
321 related functions as necessary to determine that court-related
322 revenues are not being used for noncourt-related purposes. The
323 review and exercise shall identify potential targeted budget
324 reductions in the percentage amount provided in Schedule VIII-B
325 of the state's previous year's legislative budget instructions,
326 as referenced in s. 216.023(3), or an equivalent schedule or
327 instruction as may be adopted by the Legislature.

328 4. Identify those proposed budgets containing funding for
329 items not included on the standard list of court-related
330 functions specified in paragraph (3) (a).

331 5. Identify those clerks projected to have court-related
332 revenues insufficient to fund their anticipated court-related
333 expenditures.

334 6. Use revenue estimates based on the official estimate for
335 funds accruing to the clerks of the court made by the Revenue
336 Estimating Conference.

337 7. Identify and report pay and benefit increases in any
338 proposed clerk budget, including, but not limited to, cost of
339 living increases, merit increases, and bonuses.

340 8. Provide detailed explanation for increases in
341 anticipated expenditures in any clerk budget that exceeds the
342 current year budget by more than 3 percent.

343 9. Identify and report the budget of any clerk which
344 exceeds the average budget of similarly situated clerks by more
345 than 10 percent.

346 (f) ~~(g)~~ Developing and conducting clerk education programs.

347 (g) ~~(h)~~ Before Beginning August 1, 2014, and each August 1
348 of each year thereafter, submitting to the Legislative Budget

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349 Commission, as provided in s. 11.90, its proposed budget and the
350 information described in paragraph (e) ~~(f)~~, as well as the
351 proposed budgets for each clerk of the court. Before October 1
352 of each year ~~beginning in 2014~~, the Legislative Budget
353 Commission shall consider the submitted budgets and shall
354 approve, disapprove, or amend and approve the corporation's
355 budget and shall approve, disapprove, or amend and approve the
356 total of the clerks' combined budgets or any individual clerk's
357 budget. If the Legislative Budget Commission fails to approve or
358 amend and approve the corporation's budget or the clerks'
359 combined budgets before October 1, the clerk shall continue to
360 perform the court-related functions based upon the clerk's
361 budget for the previous county fiscal year.

362 Section 5. Paragraph (y) is added to subsection (2) of
363 section 110.205, Florida Statutes, to read:

364 110.205 Career service; exemptions.—

365 (2) EXEMPT POSITIONS.—The exempt positions that are not
366 covered by this part include the following:

367 (y) All audit and accounting positions of the Division of
368 Accounting and Auditing of the Department of Financial Services.

369 Section 6. Subsection (4) of section 624.26, Florida
370 Statutes, is amended to read:

371 624.26 Collaborative arrangement with the Department of
372 Health and Human Services.—

373 (4) The department's Division of Consumer Services may
374 respond to complaints by consumers relating to a requirement of
375 PPACA ~~as authorized under s. 20.121(2)(h)~~, and report apparent
376 or potential violations to the office and to the federal
377 Department of Health and Human Services.

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378 Section 7. Subsection (10) is added to section 624.307,
379 Florida Statutes, to read:

380 624.307 General powers; duties.—

381 (10) (a) The department's Division of Consumer Services
382 shall perform the following functions concerning products or
383 services regulated by the department or office:

384 1. Receive inquiries and complaints from consumers.

385 2. Prepare and disseminate such information as the
386 department deems appropriate to inform or assist consumers.

387 3. Provide direct assistance and advocacy for consumers who
388 request such assistance or advocacy.

389 4. With respect to apparent or potential violations of law
390 or applicable rules by a person or entity licensed by the
391 department or office, report apparent or potential violations to
392 the office or the appropriate division of the department, which
393 may take such further action as it deems appropriate.

394 5. Designate an employee of the division as primary contact
395 for consumers on issues relating to sinkholes.

396 (b) Any person licensed or issued a certificate of
397 authority by the department or the office shall respond, in
398 writing, to the division within 20 days after receipt of a
399 written request for information from the division concerning a
400 consumer complaint. The response must address the issues and
401 allegations raised in the complaint. The division may impose an
402 administrative penalty for failure to comply with this paragraph
403 of up to \$2,500 per violation upon any entity licensed by the
404 department or the office and \$250 for the first violation, \$500
405 for the second violation, and up to \$1,000 per violation
406 thereafter upon any individual licensed by the department or the

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407 office.408 (c) The department may adopt rules to administer this
409 subsection.410 (d) The powers, duties, and responsibilities expressed or
411 granted in this subsection do not limit the powers, duties, and
412 responsibilities of the Department of Financial Services, the
413 Financial Services Commission, the Office of Insurance
414 Regulation, or the Office of Financial Regulation as otherwise
415 provided by law.416 Section 8. Section 624.502, Florida Statutes, as amended by
417 chapter 2014-53, Laws of Florida, is amended to read:418 624.502 Service of process fee.—In all instances as
419 provided in any section of the insurance code and s. 48.151(3)
420 in which service of process is authorized to be made upon the
421 Chief Financial Officer or the director of the office, the
422 plaintiff shall pay to the department or office a fee of \$15 for
423 such service of process, which fee shall be deposited into the
424 Administrative Trust Fund ~~Insurance Regulatory Trust Fund~~.

425 Section 9. This act shall take effect July 1, 2015.