

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.

30 |  
 31 | Be It Enacted by the Legislature of the State of Florida:

32 |  
 33 | Section 1. Subsections (2) and (6) of section 20.121,  
 34 | Florida Statutes, are amended to read:

35 | 20.121 Department of Financial Services.—There is created  
 36 | a Department of Financial Services.

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

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

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

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

- 53 (b) The Division of State Fire Marshal.
- 54 (c) The Division of Risk Management.
- 55 (d) The Division of Treasury, which shall include a Bureau
- 56 of Deferred Compensation responsible for administering the
- 57 Government Employees Deferred Compensation Plan established
- 58 under s. 112.215 for state employees.
- 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 ~~e. Provide direct assistance and advocacy for consumers~~
- 72 ~~who 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~~

79 ~~contact for consumers on issues relating to sinkholes.~~

80 ~~2. Any person licensed or issued a certificate of~~  
81 ~~authority by the department or by the Office of Insurance~~  
82 ~~Regulation shall respond, in writing, to the Division of~~  
83 ~~Consumer Services within 20 days after receipt of a written~~  
84 ~~request for information from the division concerning a consumer~~  
85 ~~complaint. The response must address the issues and allegations~~  
86 ~~raised in the complaint. The division may impose an~~  
87 ~~administrative penalty for failure to comply with this~~  
88 ~~subparagraph of up to \$2,500 per violation upon any entity~~  
89 ~~licensed by the department or the office and \$250 for the first~~  
90 ~~violation, \$500 for the second violation, and up to \$1,000 per~~  
91 ~~violation thereafter upon any individual licensed by the~~  
92 ~~department or the office.~~

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

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

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

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

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

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

- 105        (j)~~(m)~~    The Office of Insurance Consumer Advocate.
- 106        (k)~~(n)~~    The Division of Funeral, Cemetery, and Consumer
- 107        Services.
- 108        (l)~~(o)~~    The Division of Public Assistance Fraud.

109

110        The Chief Financial Officer may establish any other division,

111        bureau, or office of the department that he or she deems

112        necessary to promote the efficient and effective operation of

113        the department pursuant to s. 20.04.

114        ~~(6) STRATEGIC MARKETS RESEARCH AND ASSESSMENT UNIT. The~~

115        ~~Strategic Markets Research and Assessment Unit is established~~

116        ~~within the Department of Financial Services. The Chief Financial~~

117        ~~Officer or his or her designee shall report on September 1,~~

118        ~~2008, and quarterly thereafter, to the Cabinet, the President of~~

119        ~~the Senate, and the Speaker of the House of Representatives on~~

120        ~~the status of the state's financial services markets. At a~~

121        ~~minimum, the report must include a summary of issues, trends,~~

122        ~~and threats that broadly impact the condition of the financial~~

123        ~~services industries, along with the effect of such conditions on~~

124        ~~financial institutions, the securities industries, other~~

125        ~~financial entities, and the credit market. The Chief Financial~~

126        ~~Officer shall also provide findings and recommendations~~

127        ~~regarding regulatory and policy changes to the Cabinet, the~~

128        ~~President of the Senate, and the Speaker of the House of~~

129        ~~Representatives.~~

130        Section 2. Subsection (3) of section 28.2401, Florida

131 Statutes, is amended to read:

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

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

146 Section 3. Paragraph (a) of subsection (1) of section  
147 28.241, Florida Statutes, is amended to read:

148 28.241 Filing fees for trial and appellate proceedings.—

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

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

178 b. The party instituting any civil action, suit, or  
 179 proceeding in the circuit court under chapter 39, chapter 61,  
 180 chapter 741, chapter 742, chapter 747, chapter 752, or chapter  
 181 753 shall pay to the clerk of that court a filing fee of up to  
 182 \$295 in all cases in which there are not more than five

183 defendants and an additional filing fee of up to \$2.50 for each  
 184 defendant in excess of five. Of the first \$99 ~~\$100~~ in filing  
 185 fees, \$95 must be remitted to the Department of Revenue for  
 186 deposit into the State Courts Revenue Trust Fund and~~7~~ \$4 must be  
 187 remitted to the Department of Revenue for deposit into the  
 188 Administrative Trust Fund within the Department of Financial  
 189 Services and used to fund the contract with the Florida Clerks  
 190 of Court Operations Corporation created in s. 28.35, ~~and \$1 must~~  
 191 ~~be remitted to the Department of Revenue for deposit into the~~  
 192 ~~Administrative Trust Fund within the Department of Financial~~  
 193 ~~Services to fund audits of individual clerks' court-related~~  
 194 ~~expenditures conducted by the Department of Financial Services.~~

195 c. An additional filing fee of \$4 shall be paid to the  
 196 clerk. The clerk shall remit \$3.50 to the Department of Revenue  
 197 for deposit into the Court Education Trust Fund and shall remit  
 198 50 cents to the Department of Revenue for deposit into the  
 199 Administrative Trust Fund within the Department of Financial  
 200 Services to fund clerk education provided by the Florida Clerks  
 201 of Court Operations Corporation. An additional filing fee of up  
 202 to \$18 shall be paid by the party seeking each severance that is  
 203 granted. The clerk may impose an additional filing fee of up to  
 204 \$85 for all proceedings of garnishment, attachment, replevin,  
 205 and distress. Postal charges incurred by the clerk of the  
 206 circuit court in making service by certified or registered mail  
 207 on defendants or other parties shall be paid by the party at  
 208 whose instance service is made. Additional fees, charges, or

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209 costs may not be added to the filing fees imposed under this  
210 section, except as authorized in this section or by general law.

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

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

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

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

234 (I) Three hundred and ninety-five dollars in all cases in

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

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

261 ~~Fund within the Department of Financial Services to fund audits~~  
262 ~~of individual clerks' court-related expenditures conducted by~~  
263 ~~the Department of Financial Services; or~~

264 (III) One thousand nine hundred dollars in all cases in  
265 which the value of the claim is \$250,000 or more and in which  
266 there are not more than five defendants. The party shall pay an  
267 additional filing fee of up to \$2.50 for each defendant in  
268 excess of five. Of the first \$1,704 ~~\$1,705~~ in filing fees, \$930  
269 must be remitted by the clerk to the Department of Revenue for  
270 deposit into the General Revenue Fund, \$770 must be remitted to  
271 the Department of Revenue for deposit into the State Courts  
272 Revenue Trust Fund and ~~7~~ \$4 must be remitted to the Department of  
273 Revenue for deposit into the Administrative Trust Fund within  
274 the Department of Financial Services to fund the contract with  
275 the Florida Clerks of Court Operations Corporation created in s.  
276 28.35, ~~and \$1 must be remitted to the Department of Revenue for~~  
277 ~~deposit into the Administrative Trust Fund within the Department~~  
278 ~~of Financial Services to fund audits of individual clerks'~~  
279 ~~court-related expenditures conducted by the Department of~~  
280 ~~Financial Services.~~

281 e. An additional filing fee of \$4 shall be paid to the  
282 clerk. The clerk shall remit \$3.50 to the Department of Revenue  
283 for deposit into the Court Education Trust Fund and shall remit  
284 50 cents to the Department of Revenue for deposit into the  
285 Administrative Trust Fund within the Department of Financial  
286 Services to fund clerk education provided by the Florida Clerks

287 of Court Operations Corporation. An additional filing fee of up  
 288 to \$18 shall be paid by the party seeking each severance that is  
 289 granted. The clerk may impose an additional filing fee of up to  
 290 \$85 for all proceedings of garnishment, attachment, replevin,  
 291 and distress. Postal charges incurred by the clerk of the  
 292 circuit court in making service by certified or registered mail  
 293 on defendants or other parties shall be paid by the party at  
 294 whose instance service is made. Additional fees, charges, or  
 295 costs may not be added to the filing fees imposed under this  
 296 section, except as authorized in this section or by general law.

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

299 28.35 Florida Clerks of Court Operations Corporation.—

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

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

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

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

313 clerk's budget.

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

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

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

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

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

338 7. Identify and report pay and benefit increases in any

339 proposed clerk budget, including, but not limited to, cost of  
340 living increases, merit increases, and bonuses.

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

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

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

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

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

365 110.205 Career service; exemptions.—

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

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

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

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

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

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

381 624.307 General powers; duties.—

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

385 1. Receive inquiries and complaints from consumers.

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

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

390 4. With respect to apparent or potential violations of law

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

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

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

409 (c) The department may adopt rules to administer this  
410 subsection.

411 (d) The powers, duties, and responsibilities expressed or  
412 granted in this subsection do not limit the powers, duties, and  
413 responsibilities of the Department of Financial Services, the  
414 Financial Services Commission, the Office of Insurance  
415 Regulation, or the Office of Financial Regulation as otherwise  
416 provided by law.

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417 Section 8. Section 624.502, Florida Statutes, as amended  
418 by chapter 2014-53, Laws of Florida, is amended to read:

419 624.502 Service of process fee.—In all instances as  
420 provided in any section of the insurance code and s. 48.151(3)  
421 in which service of process is authorized to be made upon the  
422 Chief Financial Officer or the director of the office, the  
423 plaintiff shall pay to the department or office a fee of \$15 for  
424 such service of process, which fee shall be deposited into the  
425 Administrative Trust Fund ~~Insurance Regulatory Trust Fund~~.

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