

**HOUSE OF REPRESENTATIVES  
FINAL BILL ANALYSIS**

**BILL #:** HB 4029

**FINAL HOUSE FLOOR ACTION:**

**SPONSOR(S):** Sprowls and others

117 Y's                      0 N's

**COMPANION SB 396  
BILLS:**

**GOVERNOR'S ACTION:** Approved

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**SUMMARY ANALYSIS**

HB 4029 passed the House on February 24, 2016, as SB 396.

Current law requires a nonresident plaintiff, or a plaintiff who leaves the state after filing a lawsuit, to file a surety bond of \$100 to apply against court costs for which the plaintiff may be liable. The bill repeals this requirement.

This bill is expected to have an insignificant fiscal impact to the state.

The bill was approved by the Governor on March 10, 2016, ch. 2016-43, L.O.F., and will become effective on July 1, 2016.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Security by Nonresident Plaintiffs

Enacted in 1828 and 1829 by the Legislative Council of the Territory of Florida,<sup>1</sup> s. 57.011, F.S., requires a nonresident plaintiff, or a plaintiff who leaves the state after beginning an action, to file a surety bond of \$100 within 30 days after the commencement of the action or leaving the state. The bond must be conditioned to pay all costs for which the plaintiff may be liable in the action. A defendant may, after providing 20 days' notice to the plaintiff, move to dismiss the action or hold the plaintiff's attorney liable for any costs for which the plaintiff may be liable in the action up to the amount of the bond.

Costs for which a plaintiff may be liable in a lawsuit (which a cost bond in 57.011, F.S. would at least partially pay) may include court reporting costs, costs related to depositions, costs related to witnesses and testifying expert witnesses, electronic discovery expenses, and mediation fees and expenses.<sup>2</sup> Generally, these costs are only taxed against a plaintiff when the defendant prevails in the action unless a contract or statute provides otherwise.

More than 40 states have statutes similar to s. 57.011, F.S.<sup>3</sup>

#### Effect of Proposed Changes

The bill repeals the nonresident plaintiffs' bond requirement in s. 57.011, F.S.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The Florida Association of Court Clerks and Comptrollers indicates that they expect an insignificant fiscal impact from this bill.<sup>4</sup>

#### 2. Expenditures:

The bill does not appear to have any impact on state expenditures.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The bill does not appear to have any impact on local government revenues.

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<sup>1</sup> s. 8, Nov. 23, 1828; s. 4 Nov. 21, 1829.

<sup>2</sup> See ss. 57.041, 57.071 F.S.; Fla. R. Civ. P. Taxation of Costs (2013).

<sup>3</sup> See *Gerace v. Bentley*, 62 V.I. 254 (V.I. Super. 2015) (analyzing nonresident cost bond statutes in all federal jurisdictions and states). Section 57.011, F.S., has one notable distinction from similar statutes in other states: "in the event the plaintiff fails to post the statutory cost bond, plaintiffs [sic] counsel must stand in the absent surety's shoes-so that plaintiff's counsel is personally liable for the costs adjudged in the cause against the plaintiff . . ." *Id.* at 267-68

<sup>4</sup> Email from Fred Baggett, General Counsel of the Florida Association of Court Clerks & Comptrollers (Nov. 19, 2015) (on file with the House Justice Appropriations Subcommittee).

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The minimum premium charged by a leading surety for a cost bond like the one required in s. 57.011, F.S., is \$100.<sup>5</sup>

D. FISCAL COMMENTS:

None.

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<sup>5</sup> Jurisco, Inc., *Cost Bond*, <http://jurisco.com/bonds/plaintiffs-bonds/cost-bond/> (last visited Nov.12, 2015).