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CS/HB 977

2023 Legislature

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 2 An act relating to clerks of court; amending s.
 3 28.101, F.S.; revising the collections requirements of
 4 a clerk of court when a party petitions for a
 5 dissolution of marriage; amending s. 28.2401, F.S.;
 6 revising the collections requirements of a clerk of
 7 court in probate matters; amending s. 28.241, F.S.;
 8 revising the collections requirements of a clerk of
 9 court in trial and appellate proceedings; revising the
 10 allocation of filing fees in trial and appellate
 11 proceedings in certain instances; amending s. 28.37,
 12 F.S.; revising the collections requirements of a clerk
 13 of court as it relates to fines, fees, service
 14 charges, and costs remitted to the state; providing an
 15 effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Paragraph (c) of subsection (1) of section
 20 28.101, Florida Statutes, is amended to read:

21 28.101 Petitions and records of dissolution of marriage;
 22 additional charges.—

23 (1) When a party petitions for a dissolution of marriage,
 24 in addition to the filing charges in s. 28.241, the clerk shall
 25 collect and receive:

ENROLLED

CS/HB 977

2023 Legislature

26 (c) A charge of \$37.50. ~~On a monthly basis,~~ The clerk
 27 shall deposit the moneys collected pursuant to this paragraph in
 28 the fine and forfeiture fund established pursuant to s. 142.01
 29 ~~transfer the moneys collected pursuant to this paragraph to the~~
 30 ~~Department of Revenue for deposit in the General Revenue Fund.~~

31 Section 2. Subsection (1) of section 28.2401, Florida
 32 Statutes, is amended to read:

33 28.2401 Service charges and filing fees in probate
 34 matters.—

35 (1) Except when otherwise provided, the clerk may impose
 36 service charges or filing fees for the following services or
 37 filings, not to exceed the following amounts:

38 (a) Fee for the opening of any estate of one document or
 39 more, including, but not limited to, petitions and orders to
 40 approve settlement of minor's claims; to open a safe-deposit
 41 box; to enter rooms and places; for the determination of heirs,
 42 if not formal administration; and for a foreign guardian to
 43 manage property of a nonresident; but not to include issuance of
 44 letters or order of summary administration.....\$230

45 (b) Charge for caveat\$40

46 (c) Fee for petition and order to admit foreign wills,
 47 authenticated copies, exemplified copies, or transcript to
 48 record\$230

49 (d) Fee for disposition of personal property without
 50 administration.....\$230

ENROLLED

CS/HB 977

2023 Legislature

- 51 (e) Fee for summary administration—estates valued at
- 52 \$1,000 or more.....\$340
- 53 (f) Fee for summary administration—estates valued at less
- 54 than \$1,000\$230
- 55 (g) Fee for formal administration, guardianship,
- 56 ancillary, curatorship, or conservatorship proceedings\$395
- 57 (h) Fee for guardianship proceedings of person only ...\$230
- 58 (i) Fee for veterans' guardianship pursuant to chapter 744\$230
- 59 (j) Charge for exemplified certificates.....\$7
- 60 (k) Fee for petition for determination of incompetency \$230

61

62 The clerk shall remit \$115 of each filing fee collected under

63 paragraphs (a), (c)-(i), and (k) to the Department of Revenue

64 for deposit into the State Courts Revenue Trust Fund and shall

65 ~~remit \$15 of each filing fee collected under paragraphs (a),~~

66 ~~(c), (d), (f), (h), (i), and (k), \$1 of each filing fee~~

67 ~~collected under paragraph (j), \$5 of each filing fee collected~~

68 ~~under paragraph (b), \$25 of each filing fee collected under~~

69 ~~paragraph (c), and \$30 of each filing fee collected under~~

70 ~~paragraph (g) to the Department of Revenue for deposit into the~~

71 ~~General Revenue Fund.~~

72 Section 3. Paragraphs (a) and (d) of subsection (1) of

73 section 28.241, Florida Statutes, are amended to read:

74 28.241 Filing fees for trial and appellate proceedings.—

75 (1) Filing fees are due at the time a party files a

ENROLLED

CS/HB 977

2023 Legislature

76 pleading to initiate a proceeding or files a pleading for
77 relief. Reopen fees are due at the time a party files a pleading
78 to reopen a proceeding if at least 90 days have elapsed since
79 the filing of a final order or final judgment with the clerk. If
80 a fee is not paid upon the filing of the pleading as required
81 under this section, the clerk shall pursue collection of the fee
82 pursuant to s. 28.246.

83 (a)1.a. Except as provided in sub-subparagraph b. and
84 subparagraph 2., the party instituting any civil action, suit,
85 or proceeding in the circuit court shall pay to the clerk of
86 that court a filing fee of up to \$395 in all cases in which
87 there are not more than five defendants and an additional filing
88 fee of up to \$2.50, from which the clerk shall remit \$0.50 to
89 the Department of Revenue for deposit into the General Revenue
90 Fund, for each defendant in excess of five. Of the first \$200 in
91 filing fees, \$195 must be remitted to the Department of Revenue
92 for deposit into the State Courts Revenue Trust Fund, \$4 must be
93 remitted to the Department of Revenue for deposit into the
94 Administrative Trust Fund within the Department of Financial
95 Services and used to fund the contract with the Florida Clerks
96 of Court Operations Corporation created in s. 28.35, and \$1 must
97 be remitted to the Department of Revenue for deposit into the
98 Administrative Trust Fund within the Department of Financial
99 Services to fund audits of individual clerks' court-related
100 expenditures conducted by the Department of Financial Services.

ENROLLED

CS/HB 977

2023 Legislature

101 ~~By the 10th of each month, the clerk shall submit that portion~~
 102 ~~of the filing fees collected in the previous month which is in~~
 103 ~~excess of one-twelfth of the clerk's total budget to the~~
 104 ~~Department of Revenue for deposit into the Clerks of the Court~~
 105 ~~Trust Fund.~~

106 b. The party instituting any civil action, suit, or
 107 proceeding in the circuit court under chapter 39, chapter 61,
 108 chapter 741, chapter 742, chapter 747, chapter 752, or chapter
 109 753 shall pay to the clerk of that court a filing fee of up to
 110 \$295 in all cases in which there are not more than five
 111 defendants and an additional filing fee of up to \$2.50 for each
 112 defendant in excess of five. Of the first \$100 in filing fees,
 113 \$95 must be remitted to the Department of Revenue for deposit
 114 into the State Courts Revenue Trust Fund, \$4 must be remitted to
 115 the Department of Revenue for deposit into the Administrative
 116 Trust Fund within the Department of Financial Services and used
 117 to fund the contract with the Florida Clerks of Court Operations
 118 Corporation created in s. 28.35, and \$1 must be remitted to the
 119 Department of Revenue for deposit into the Administrative Trust
 120 Fund within the Department of Financial Services to fund audits
 121 of individual clerks' court-related expenditures conducted by
 122 the Department of Financial Services.

123 c. An additional filing fee of \$4 shall be paid to the
 124 clerk. The clerk shall remit \$3.50 to the Department of Revenue
 125 for deposit into the Court Education Trust Fund and shall remit

ENROLLED

CS/HB 977

2023 Legislature

126 | 50 cents to the Department of Revenue for deposit into the
 127 | Administrative Trust Fund within the Department of Financial
 128 | Services to fund clerk education provided by the Florida Clerks
 129 | of Court Operations Corporation. An additional filing fee of up
 130 | to \$18 shall be paid by the party seeking each severance that is
 131 | granted, from which the clerk shall remit \$3 to the Department
 132 | of Revenue for deposit into the General Revenue Fund. The clerk
 133 | may impose an additional filing fee of up to \$85, from which the
 134 | clerk shall remit \$10 to the Department of Revenue for deposit
 135 | into the General Revenue Fund, for all proceedings of
 136 | garnishment, attachment, replevin, and distress. Postal charges
 137 | incurred by the clerk of the circuit court in making service by
 138 | certified or registered mail on defendants or other parties
 139 | shall be paid by the party at whose instance service is made.
 140 | Additional fees, charges, or costs may not be added to the
 141 | filing fees imposed under this section, except as authorized in
 142 | this section or by general law.

143 | 2.a. Notwithstanding the fees prescribed in subparagraph
 144 | 1., a party instituting a civil action in circuit court relating
 145 | to real property or mortgage foreclosure shall pay a graduated
 146 | filing fee based on the value of the claim.

147 | b. A party shall estimate in writing the amount in
 148 | controversy of the claim upon filing the action. For purposes of
 149 | this subparagraph, the value of a mortgage foreclosure action is
 150 | based upon the principal due on the note secured by the

ENROLLED

CS/HB 977

2023 Legislature

151 mortgage, plus interest owed on the note and any moneys advanced
 152 by the lender for property taxes, insurance, and other advances
 153 secured by the mortgage, at the time of filing the foreclosure.
 154 The value shall also include the value of any tax certificates
 155 related to the property. In stating the value of a mortgage
 156 foreclosure claim, a party shall declare in writing the total
 157 value of the claim, as well as the individual elements of the
 158 value as prescribed in this sub-subparagraph.

159 c. In its order providing for the final disposition of the
 160 matter, the court shall identify the actual value of the claim.
 161 The clerk shall adjust the filing fee if there is a difference
 162 between the estimated amount in controversy and the actual value
 163 of the claim and collect any additional filing fee owed or
 164 provide a refund of excess filing fee paid.

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

166 (I) Three hundred and ninety-five dollars in all cases in
 167 which the value of the claim is \$50,000 or less and in which
 168 there are not more than five defendants. The party shall pay an
 169 additional filing fee of up to \$2.50 for each defendant in
 170 excess of five. Of the first \$200 in filing fees, \$195 must be
 171 remitted by the clerk to the Department of Revenue for deposit
 172 into the General Revenue Fund, \$4 must be remitted to the
 173 Department of Revenue for deposit into the Administrative Trust
 174 Fund within the Department of Financial Services and used to
 175 fund the contract with the Florida Clerks of Court Operations

ENROLLED

CS/HB 977

2023 Legislature

176 Corporation created in s. 28.35, and \$1 must be remitted to the
 177 Department of Revenue for deposit into the Administrative Trust
 178 Fund within the Department of Financial Services to fund audits
 179 of individual clerks' court-related expenditures conducted by
 180 the Department of Financial Services;

181 (II) Nine hundred dollars in all cases in which the value
 182 of the claim is more than \$50,000 but less than \$250,000 and in
 183 which there are not more than five defendants. The party shall
 184 pay an additional filing fee of up to \$2.50 for each defendant
 185 in excess of five. Of the first \$355 ~~\$705~~ in filing fees, \$350
 186 ~~\$700~~ must be remitted by the clerk to the Department of Revenue
 187 for deposit into the General Revenue Fund, ~~except that the first~~
 188 ~~\$1.5 million in such filing fees remitted to the Department of~~
 189 ~~Revenue and deposited into the General Revenue Fund in fiscal~~
 190 ~~year 2018-2019 shall be distributed to the Miami-Dade County~~
 191 ~~Clerk of Court;~~ \$4 must be remitted to the Department of Revenue
 192 for deposit into the Administrative Trust Fund within the
 193 Department of Financial Services and used to fund the contract
 194 with the Florida Clerks of Court Operations Corporation created
 195 in s. 28.35, + and \$1 must be remitted to the Department of
 196 Revenue for deposit into the Administrative Trust Fund within
 197 the Department of Financial Services to fund audits of
 198 individual clerks' court-related expenditures conducted by the
 199 Department of Financial Services; or

200 (III) One thousand nine hundred dollars in all cases in

ENROLLED

CS/HB 977

2023 Legislature

201 | which the value of the claim is \$250,000 or more and in which
 202 | there are not more than five defendants. The party shall pay an
 203 | additional filing fee of up to \$2.50 for each defendant in
 204 | excess of five. Of the first \$1,705 in filing fees, \$930 must be
 205 | remitted by the clerk to the Department of Revenue for deposit
 206 | into the General Revenue Fund, \$770 must be remitted to the
 207 | Department of Revenue for deposit into the State Courts Revenue
 208 | Trust Fund, \$4 must be remitted to the Department of Revenue for
 209 | deposit into the Administrative Trust Fund within the Department
 210 | of Financial Services to fund the contract with the Florida
 211 | Clerks of Court Operations Corporation created in s. 28.35, and
 212 | \$1 must be remitted to the Department of Revenue for deposit
 213 | into the Administrative Trust Fund within the Department of
 214 | Financial Services to fund audits of individual clerks' court-
 215 | related expenditures conducted by the Department of Financial
 216 | Services.

217 | e. An additional filing fee of \$4 shall be paid to the
 218 | clerk. The clerk shall remit \$3.50 to the Department of Revenue
 219 | for deposit into the Court Education Trust Fund and shall remit
 220 | 50 cents to the Department of Revenue for deposit into the
 221 | Administrative Trust Fund within the Department of Financial
 222 | Services to fund clerk education provided by the Florida Clerks
 223 | of Court Operations Corporation. An additional filing fee of up
 224 | to \$18 shall be paid by the party seeking each severance that is
 225 | granted. The clerk may impose an additional filing fee of up to

ENROLLED

CS/HB 977

2023 Legislature

226 \$85 for all proceedings of garnishment, attachment, replevin,
 227 and distress. Postal charges incurred by the clerk of the
 228 circuit court in making service by certified or registered mail
 229 on defendants or other parties shall be paid by the party at
 230 whose instance service is made. Additional fees, charges, or
 231 costs may not be added to the filing fees imposed under this
 232 section, except as authorized in this section or by general law.

233 (d) The clerk of court shall collect a service charge of
 234 \$10 for issuing an original, a certified copy, or an electronic
 235 certified copy of a summons, which the clerk shall deposit into
 236 the fine and forfeiture fund established pursuant to s. 142.01
 237 ~~remit to the Department of Revenue for deposit into the General~~
 238 ~~Revenue Fund~~. The clerk shall assess the fee against the party
 239 seeking to have the summons issued.

240 Section 4. Subsection (3) of section 28.37, Florida
 241 Statutes, is amended to read:

242 28.37 Fines, fees, service charges, and costs remitted to
 243 the state.—

244 (3) The portion of all fines, fees, service charges, and
 245 costs collected by the clerks of the court for the previous
 246 quarter ~~month~~ which is in excess of one-fourth ~~one-twelfth~~ of
 247 the clerks' total budget for the performance of court-related
 248 functions must be remitted to the Department of Revenue for
 249 deposit into the Clerks of the Court Trust Fund. Such
 250 collections do not include funding received for the operation of

ENROLLED

CS/HB 977

2023 Legislature

251 | the Title IV-D child support collections and disbursement
252 | program. The clerk of the court shall remit the revenues
253 | collected during the previous quarter ~~month~~ due to the state on
254 | or before the 10th day of the next preceding month immediately
255 | following the quarterly calculation ~~each month~~.

256 | Section 5. This act shall take effect July 1, 2023.