

PCB JUAS 12-02

ORIGINAL

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1 A bill to be entitled
 2 An act relating to state court revenues; amending s.
 3 28.241, F.S.; redirecting revenue from filing fees for
 4 civil actions in circuit court relating to real
 5 property or mortgage foreclosure from the State Courts
 6 Revenue Trust Fund to the General Revenue Fund;
 7 conforms provisions; providing an effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Paragraphs (a) and (c) of subsection (1) of
 12 section 28.241, Florida Statutes, are amended to read:

13 28.241 Filing fees for trial and appellate proceedings.—

14 (1) (a) 1.a. Except as provided in sub-subparagraph b. and
 15 subparagraph 2., the party instituting any civil action, suit,
 16 or proceeding in the circuit court shall pay to the clerk of
 17 that court a filing fee of up to \$395 in all cases in which
 18 there are not more than five defendants and an additional filing
 19 fee of up to \$2.50 for each defendant in excess of five. Of the
 20 first \$280 in filing fees, \$80 must be remitted by the clerk to
 21 the Department of Revenue for deposit into the General Revenue
 22 Fund, \$195 must be remitted to the Department of Revenue for
 23 deposit into the State Courts Revenue Trust Fund, \$3.50 must be
 24 remitted to the Department of Revenue for deposit into the
 25 Clerks of the Court Trust Fund within the Justice Administrative
 26 Commission and used to fund the Florida Clerks of Court
 27 Operations Corporation created in s. 28.35, and \$1.50 must ~~shall~~
 28 be remitted to the Department of Revenue for deposit into the

29 Administrative Trust Fund within the Department of Financial
 30 Services to fund clerk budget reviews conducted by the
 31 Department of Financial Services. One third of any filing fees
 32 collected by the clerk of the circuit court in excess of \$100
 33 must ~~shall~~ be remitted to the Department of Revenue for deposit
 34 into the Clerks of the Court Trust Fund within the Justice
 35 Administrative Commission.

36 b. The party instituting any civil action, suit, or
 37 proceeding in the circuit court under chapter 39, chapter 61,
 38 chapter 741, chapter 742, chapter 747, chapter 752, or chapter
 39 753 shall pay to the clerk of that court a filing fee of up to
 40 \$295 in all cases in which there are not more than five
 41 defendants and an additional filing fee of up to \$2.50 for each
 42 defendant in excess of five. Of the first \$180 in filing fees,
 43 \$80 must be remitted by the clerk to the Department of Revenue
 44 for deposit into the General Revenue Fund, \$95 must be remitted
 45 to the Department of Revenue for deposit into the State Courts
 46 Revenue Trust Fund, \$3.50 must be remitted to the Department of
 47 Revenue for deposit into the Clerks of the Court Trust Fund
 48 within the Justice Administrative Commission and used to fund
 49 the Florida Clerks of Court Operations Corporation created in s.
 50 28.35, and \$1.50 must ~~shall~~ be remitted to the Department of
 51 Revenue for deposit into the Administrative Trust Fund within
 52 the Department of Financial Services to fund clerk budget
 53 reviews conducted by the Department of Financial Services.

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

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57 | 50 cents to the Department of Revenue for deposit into the
58 | Clerks of the Court Trust Fund within the Justice Administrative
59 | Commission to fund clerk education. An additional filing fee of
60 | up to \$18 shall be paid by the party seeking each severance that
61 | is granted. The clerk may impose an additional filing fee of up
62 | to \$85 for all proceedings of garnishment, attachment, replevin,
63 | and distress. Postal charges incurred by the clerk of the
64 | circuit court in making service by certified or registered mail
65 | on defendants or other parties shall be paid by the party at
66 | whose instance service is made. ~~No~~ Additional fees, charges, or
67 | costs may not shall be added to the filing fees imposed under
68 | this section, except as authorized in this section or by general
69 | law.

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

74 | b. A party shall estimate in writing the amount in
75 | controversy of the claim upon filing the action. For purposes of
76 | this subparagraph, the value of a mortgage foreclosure action is
77 | based upon the principal due on the note secured by the
78 | mortgage, plus interest owed on the note and any moneys advanced
79 | by the lender for property taxes, insurance, and other advances
80 | secured by the mortgage, at the time of filing the foreclosure.
81 | The value shall also include the value of any tax certificates
82 | related to the property. In stating the value of a mortgage
83 | foreclosure claim, a party shall declare in writing the total
84 | value of the claim, as well as the individual elements of the

85 value as prescribed in this sub-subparagraph.

86 c. In its order providing for the final disposition of the
 87 matter, the court shall identify the actual value of the claim.
 88 The clerk shall adjust the filing fee if there is a difference
 89 between the estimated amount in controversy and the actual value
 90 of the claim and collect any additional filing fee owed or
 91 provide a refund of excess filing fee paid.

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

93 (I) Three hundred and ninety-five dollars in all cases in
 94 which the value of the claim is \$50,000 or less and in which
 95 there are not more than five defendants. The party shall pay an
 96 additional filing fee of up to \$2.50 for each defendant in
 97 excess of five. Of the first \$280 in filing fees, \$275 ~~\$80~~ must
 98 be remitted by the clerk to the Department of Revenue for
 99 deposit into the General Revenue Fund, ~~\$195 must be remitted to~~
 100 ~~the Department of Revenue for deposit into the State Courts~~
 101 ~~Revenue Trust Fund,~~ \$3.50 must be remitted to the Department of
 102 Revenue for deposit into the Clerks of the Court Trust Fund
 103 within the Justice Administrative Commission and used to fund
 104 the Florida Clerks of Court Operations Corporation created in s.
 105 28.35, and \$1.50 must ~~shall~~ be remitted to the Department of
 106 Revenue for deposit into the Administrative Trust Fund within
 107 the Department of Financial Services to fund clerk budget
 108 reviews conducted by the Department of Financial Services;

109 (II) Nine hundred dollars in all cases in which the value
 110 of the claim is more than \$50,000 but less than \$250,000 and in
 111 which there are not more than five defendants. The party shall
 112 pay an additional filing fee of up to \$2.50 for each defendant

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113 | in excess of five. Of the first \$785 in filing fees, \$780 ~~\$80~~
 114 | must be remitted by the clerk to the Department of Revenue for
 115 | deposit into the General Revenue Fund, ~~\$700 must be remitted to~~
 116 | ~~the Department of Revenue for deposit into the State Courts~~
 117 | ~~Revenue Trust Fund,~~ \$3.50 must be remitted to the Department of
 118 | Revenue for deposit into the Clerks of the Court Trust Fund
 119 | within the Justice Administrative Commission and used to fund
 120 | the Florida Clerks of Court Operations Corporation described in
 121 | s. 28.35, and \$1.50 must ~~shall~~ be remitted to the Department of
 122 | Revenue for deposit into the Administrative Trust Fund within
 123 | the Department of Financial Services to fund clerk budget
 124 | reviews conducted by the Department of Financial Services; or
 125 | (III) One thousand nine hundred dollars in all cases in
 126 | which the value of the claim is \$250,000 or more and in which
 127 | there are not more than five defendants. The party shall pay an
 128 | additional filing fee of up to \$2.50 for each defendant in
 129 | excess of five. Of the first \$1,785 in filing fees, \$1,780 ~~\$80~~
 130 | must be remitted by the clerk to the Department of Revenue for
 131 | deposit into the General Revenue Fund, ~~\$1,700 must be remitted~~
 132 | ~~to the Department of Revenue for deposit into the State Courts~~
 133 | ~~Revenue Trust Fund,~~ \$3.50 must be remitted to the Department of
 134 | Revenue for deposit into the Clerks of the Court Trust Fund
 135 | within the Justice Administrative Commission to fund the Florida
 136 | Clerks of Court Operations Corporation created in s. 28.35, and
 137 | \$1.50 must ~~shall~~ be remitted to the Department of Revenue for
 138 | deposit into the Administrative Trust Fund within the Department
 139 | of Financial Services to fund clerk budget reviews conducted by
 140 | the Department of Financial Services.

141 e. An additional filing fee of \$4 shall be paid to the
 142 clerk. The clerk shall remit \$3.50 to the Department of Revenue
 143 for deposit into the Court Education Trust Fund and shall remit
 144 50 cents to the Department of Revenue for deposit into the
 145 Clerks of the Court Trust Fund within the Justice Administrative
 146 Commission to fund clerk education. An additional filing fee of
 147 up to \$18 shall be paid by the party seeking each severance that
 148 is granted. The clerk may impose an additional filing fee of up
 149 to \$85 for all proceedings of garnishment, attachment, replevin,
 150 and distress. Postal charges incurred by the clerk of the
 151 circuit court in making service by certified or registered mail
 152 on defendants or other parties shall be paid by the party at
 153 whose instance service is made. ~~No~~ Additional fees, charges, or
 154 costs may not shall be added to the filing fees imposed under
 155 this section, except as authorized in this section or by general
 156 law.

157 (c)1. A party in addition to a party described in sub-
 158 subparagraph (a)1.a. who files a pleading in an original civil
 159 action in circuit court for affirmative relief by cross-claim,
 160 counterclaim, counterpetition, or third-party complaint shall
 161 pay the clerk of court a fee of \$395. A party in addition to a
 162 party described in sub-subparagraph (a)1.b. who files a pleading
 163 in an original civil action in circuit court for affirmative
 164 relief by cross-claim, counterclaim, counterpetition, or third-
 165 party complaint shall pay the clerk of court a fee of \$295. The
 166 clerk shall remit the fee to the Department of Revenue for
 167 deposit into the General Revenue Fund.

168 2. A party in addition to a party described in

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169 | subparagraph (a)2. who files a pleading in an original civil
 170 | action in circuit court for affirmative relief by cross-claim,
 171 | counterclaim, counterpetition, or third-party complaint shall
 172 | pay the clerk of court a graduated fee of:

173 | a. Three hundred and ninety-five dollars in all cases in
 174 | which the value of the pleading is \$50,000 or less;

175 | b. Nine hundred dollars in all cases in which the value of
 176 | the pleading is more than \$50,000 but less than \$250,000; or

177 | c. One thousand nine hundred dollars in all cases in which
 178 | the value of the pleading is \$250,000 or more.

179 |

180 | The clerk shall remit the fees collected under this subparagraph
 181 | to the Department of Revenue for deposit into the General
 182 | Revenue Fund, ~~except that the clerk shall remit \$100 of the fee~~
 183 | ~~collected under sub-subparagraph a., \$605 of the fee collected~~
 184 | ~~under sub-subparagraph b., and \$1,605 of the fee collected under~~
 185 | ~~sub-subparagraph c. to the Department of Revenue for deposit~~
 186 | ~~into the State Courts Revenue Trust Fund.~~

187 | Section 2. This act shall take effect June 1, 2012.