

CHAPTER 2012-138

House Bill No. 5403

An act relating to state court revenues; amending s. 28.241, F.S.; redirecting revenue from filing fees for certain civil actions in circuit court relating to real property or mortgage foreclosure from the State Courts Revenue Trust Fund to the General Revenue Fund; revising the distribution of a portion of the filing fees received for certain civil actions in circuit court relating to real property or mortgage foreclosure; conforming provisions; providing an effective date.

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

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

28.241 Filing fees for trial and appellate proceedings.—

(1)(a)1.a. Except as provided in sub-subparagraph b. and subparagraph 2., the party instituting any civil action, suit, or proceeding in the circuit court shall pay to the clerk of that court a filing fee of up to \$395 in all cases in which there are not more than five defendants and an additional filing fee of up to \$2.50 for each defendant in excess of five. Of the first \$280 in filing fees, \$80 must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, \$195 must be remitted to the Department of Revenue for deposit into the State Courts Revenue Trust Fund, \$3.50 must be remitted to the Department of Revenue for deposit into the Clerks of the Court Trust Fund within the Justice Administrative Commission and used to fund the Florida Clerks of Court Operations Corporation created in s. 28.35, and \$1.50 ~~must shall~~ be remitted to the Department of Revenue for deposit into the Administrative Trust Fund within the Department of Financial Services to fund clerk budget reviews conducted by the Department of Financial Services. One third of any filing fees collected by the clerk of the circuit court in excess of \$100 ~~must shall~~ be remitted to the Department of Revenue for deposit into the Clerks of the Court Trust Fund within the Justice Administrative Commission.

b. The party instituting any civil action, suit, or proceeding in the circuit court under chapter 39, chapter 61, chapter 741, chapter 742, chapter 747, chapter 752, or chapter 753 shall pay to the clerk of that court a filing fee of up to \$295 in all cases in which there are not more than five defendants and an additional filing fee of up to \$2.50 for each defendant in excess of five. Of the first \$180 in filing fees, \$80 must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, \$95 must be remitted to the Department of Revenue for deposit into the State Courts Revenue Trust Fund, \$3.50 must be remitted to the Department of Revenue for deposit into the Clerks of the Court Trust Fund within the Justice Administrative Commission and used to fund the Florida Clerks of

Court Operations Corporation created in s. 28.35, and \$1.50 must shall be remitted to the Department of Revenue for deposit into the Administrative Trust Fund within the Department of Financial Services to fund clerk budget reviews conducted by the Department of Financial Services.

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

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

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

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

d. The party shall pay a filing fee of:

(I) Three hundred and ninety-five dollars in all cases in which the value of the claim is \$50,000 or less and in which there are not more than five defendants. The party shall pay an additional filing fee of up to \$2.50 for each defendant in excess of five. Of the first \$280 in filing fees, \$275 ~~\$80~~ must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, ~~\$195 must be remitted to the Department of Revenue for deposit into the State Courts Revenue Trust Fund,~~ \$3.50 must be remitted to the Department of Revenue for deposit into the Clerks of

the Court Trust Fund within the Justice Administrative Commission and used to fund the Florida Clerks of Court Operations Corporation created in s. 28.35, and \$1.50 must shall be remitted to the Department of Revenue for deposit into the Administrative Trust Fund within the Department of Financial Services to fund clerk budget reviews conducted by the Department of Financial Services;

(II) Nine hundred dollars in all cases in which the value of the claim is more than \$50,000 but less than \$250,000 and in which there are not more than five defendants. The party shall pay an additional filing fee of up to \$2.50 for each defendant in excess of five. Of the first \$785 in filing fees, \$780 ~~\$80~~ must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, ~~\$700~~ \$700 must be remitted to the Department of Revenue for deposit into the State Courts Revenue Trust Fund, \$3.50 must be remitted to the Department of Revenue for deposit into the Clerks of the Court Trust Fund within the Justice Administrative Commission and used to fund the Florida Clerks of Court Operations Corporation described in s. 28.35, and \$1.50 must shall be remitted to the Department of Revenue for deposit into the Administrative Trust Fund within the Department of Financial Services to fund clerk budget reviews conducted by the Department of Financial Services; or

(III) One thousand nine hundred dollars in all cases in which the value of the claim is \$250,000 or more and in which there are not more than five defendants. The party shall pay an additional filing fee of up to \$2.50 for each defendant in excess of five. Of the first \$1,785 in filing fees, \$1,010 ~~\$80~~ must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, ~~\$770~~ \$1,700 must be remitted to the Department of Revenue for deposit into the State Courts Revenue Trust Fund, \$3.50 must be remitted to the Department of Revenue for deposit into the Clerks of the Court Trust Fund within the Justice Administrative Commission to fund the Florida Clerks of Court Operations Corporation created in s. 28.35, and \$1.50 must shall be remitted to the Department of Revenue for deposit into the Administrative Trust Fund within the Department of Financial Services to fund clerk budget reviews conducted by the Department of Financial Services.

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

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

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

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

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

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

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

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

Approved by the Governor April 20, 2012.

Filed in Office Secretary of State April 20, 2012.