

## CHAPTER 2013-44

### Senate Bill No. 1512

An act relating to clerks of court; transferring the Clerks of the Court Trust Fund from the Justice Administrative Commission to the Department of Revenue; amending s. 11.90, F.S.; providing additional duties of the Legislative Budget Commission relating to clerks of court; amending s. 28.241, F.S.; revising distribution of filing fees; revising references to trust funds; repealing s. 28.2455, F.S., relating to transfer of trust funds in excess of amount needed for clerk budgets; amending s. 28.246, F.S.; conforming provisions to changes made by the act; amending s. 28.35, F.S.; deleting provisions providing for the housing of the Florida Clerks of Court Operations Corporation; revising duties of the corporation; defining terms; providing requirements for annual submission of a proposed budget and related information; revising provisions concerning functions that may and may not be funded from specified sources; revising distribution of the corporation's audit report; amending s. 28.36, F.S.; specifying that only certain functions may be funded from fees, service charges, costs, and fines retained by the clerks of the court; revising provisions relating to preparation of budget requests by clerks; providing for reporting and certification of revenue deficits; providing procedures for retention of additional revenues by clerks in the event of a deficit; providing for the release of funds from a specified trust fund to relieve such a deficit in certain circumstances; providing for increases in previously authorized budgets in certain circumstances; deleting provisions relating to review of budgets and related information; amending s. 28.37, F.S.; providing that a portion of all fines, fees, service charges, and costs collected by the clerks of the court which exceed a specified portion of the clerk's annual budget be remitted to a specified trust fund; providing for remission of certain excess collections to the department for deposit into the General Revenue Fund on specified dates; providing for deposit of such funds in a specified trust fund in certain circumstances; providing for collection of certain funds due by the department; amending s. 34.041, F.S.; conforming provisions to changes made by the act; revising distribution of certain fees; amending ss. 43.16 and 110.205, F.S.; conforming provisions to changes made by the act; amending s. 142.01, F.S.; revising the funds deposited in each county's fine and forfeiture fund; deleting provisions specifying that certain moneys are considered state funds; amending s. 213.131, F.S.; conforming provisions to changes made by the act; amending s. 215.22, F.S.; exempting certain moneys deposited in the Clerks of the Court Trust Fund from a specified deduction; amending s. 216.011, F.S.; conforming provisions to changes made by the act; specifying the authorized budget for the clerks of the circuit court and the corporation for specified periods; requiring the corporation to determine budget amounts for the individual clerks for those periods; providing an effective date.

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

Section 1. The Clerks of the Court Trust Fund within the Justice Administrative Commission, FLAIR number 21-2-588, is transferred together with all balances in the fund to the Department of Revenue.

Section 2. Subsection (6) of section 11.90, Florida Statutes, is amended to read:

11.90 Legislative Budget Commission.—

(6) The commission shall have the power and duty to:

(a) Review and approve or disapprove budget amendments recommended by the Governor or the Chief Justice of the Supreme Court as provided in chapter 216.

(b) Develop the long-range financial outlook described in s. 19, Art. III of the State Constitution.

(c) Review and approve, disapprove, or amend and approve the budget of the Florida Clerks of Court Operations Corporation.

(d) Review and approve, disapprove, or amend and approve the total combined budgets of the clerks of the court or the budget of any individual clerk of the court for court-related functions. As part of this review the commission shall consider the workload and expense data submitted pursuant to s. 28.35.

~~(e) In addition to the powers and duties specified in this subsection, the commission shall Exercise all other powers and perform any other duties prescribed by the Legislature.~~

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

28.241 Filing fees for trial and appellate proceedings.—

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

(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 ~~\$200~~ ~~\$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, ~~\$4~~ \$3.50 must be remitted to the Department of Revenue for deposit into the Administrative Clerks of the Court Trust Fund within the Department of Financial Services Justice Administrative Commission and used to fund the contract with the Florida Clerks of Court Operations Corporation created in s. 28.35, and ~~\$1~~ \$1.50 must be remitted to the Department of Revenue for deposit into the Administrative Trust Fund within the Department of Financial Services to fund audits of individual clerks' court-related expenditures ~~clerk budget reviews~~ conducted by the Department of Financial Services. By the 10th of each month, the clerk shall submit that portion of the filing fees collected in the previous month which is in excess of one-twelfth of the clerk's total budget ~~One third of any filing fees collected by the clerk of the circuit court in excess of \$100 must 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 ~~\$100~~ \$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, ~~\$4~~ \$3.50 must be remitted to the Department of Revenue for deposit into the Administrative Clerks of the Court Trust Fund within the Department of Financial Services Justice Administrative Commission and used to fund the contract with the Florida Clerks of Court Operations Corporation created in s. 28.35, and ~~\$1~~ \$1.50 must be remitted to the Department of Revenue for deposit into the Administrative Trust Fund within the Department of Financial Services to fund audits of individual clerks' court-related expenditures ~~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 Administrative Clerks of the Court Trust Fund within the Department of Financial Services Justice Administrative Commission to fund clerk education provided by the Florida Clerks of Court Operations Corporation. 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. Additional fees, charges, or costs may not 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 ~~\$200~~ \$280 in filing fees, ~~\$195~~ \$275 must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, ~~\$4~~ \$3.50 must be remitted to the Department of Revenue for deposit into the ~~Administrative Clerks of the Court~~ Trust Fund within the ~~Department of Financial Services~~ Justice Administrative Commission and used to fund the ~~contract with the~~ Florida Clerks of Court Operations Corporation created in s. 28.35, and ~~\$1~~ \$1.50 must be remitted to the Department of Revenue for deposit into the Administrative Trust Fund within the Department of Financial Services to fund audits of individual clerks' court-related expenditures ~~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 ~~\$705~~ \$785 in filing fees, ~~\$700~~ \$780 must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, ~~\$4~~ \$3.50 must be remitted to the Department of Revenue for deposit into the ~~Administrative Clerks of the Court~~ Trust Fund within the ~~Department of Financial Services~~ Justice Administrative Commission and used to fund the ~~contract with the~~ Florida Clerks of Court Operations Corporation ~~created~~ described in s. 28.35, and ~~\$1~~ \$1.50 must be remitted to the Department of Revenue for deposit into the Administrative Trust Fund within the Department of Financial Services to

fund audits of individual clerks' court-related expenditures ~~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 ~~\$1,705~~ \$1,785 in filing fees, ~~\$930~~ \$1,010 must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, \$770 must be remitted to the Department of Revenue for deposit into the State Courts Revenue Trust Fund, ~~\$4~~ \$3.50 must be remitted to the Department of Revenue for deposit into the Administrative Clerks of the Court Trust Fund within the Department of Financial Services ~~Justice Administrative Commission~~ to fund the contract with the Florida Clerks of Court Operations Corporation created in s. 28.35, and ~~\$1~~ \$1.50 must be remitted to the Department of Revenue for deposit into the Administrative Trust Fund within the Department of Financial Services to fund audits of individual clerks' court-related expenditures ~~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 Administrative Clerks of the Court Trust Fund within the Department of Financial Services ~~Justice Administrative Commission~~ to fund clerk education provided by the Florida Clerks of Court Operations Corporation. 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. Additional fees, charges, or costs may not be added to the filing fees imposed under this section, except as authorized in this section or by general law.

Section 4. Effective upon this act becoming a law, s. 28.2455, Florida Statutes, is repealed.

Section 5. Paragraph (b) of subsection (5) of section 28.246, Florida Statutes, is amended to read:

28.246 Payment of court-related fines or other monetary penalties, fees, charges, and costs; partial payments; distribution of funds.—

(5) When receiving partial payment of fees, service charges, court costs, and fines, clerks shall distribute funds according to the following order of priority:

(b) That portion of fees, service charges, court costs, and fines required to be retained by the clerk of the court or deposited into the Clerks of the Court Trust Fund within the Department of Revenue ~~Justice Administrative Commission~~.

To offset processing costs, clerks may impose either a per-month service charge pursuant to s. 28.24(26)(b) or a one-time administrative processing service charge at the inception of the payment plan pursuant to s. 28.24(26)(c).

Section 6. Section 28.35, Florida Statutes, is amended to read:

28.35 Florida Clerks of Court Operations Corporation.—

(1)(a) The Florida Clerks of Court Operations Corporation is created as a public corporation organized to perform the functions specified in this section and s. 28.36 and shall be ~~administratively housed within the Justice Administrative Commission. The corporation shall be a budget entity within the Justice Administrative Commission, and its employees shall be considered state employees. The corporation is not subject to control, supervision, or direction by the Justice Administrative Commission in the performance of its duties, but the employees of the corporation shall be governed by the classification plan and salary and benefits plan of the Justice Administrative Commission. The classification plan must have a separate chapter for the corporation.~~ All clerks of the circuit court shall be members of the corporation and hold their position and authority in an ex officio capacity. The functions assigned to the corporation shall be performed by an executive council pursuant to the plan of operation approved by the members.

(b) The executive council shall be composed of eight clerks of the court elected by the clerks of the courts for a term of 2 years, with two clerks from counties with a population of fewer than 100,000, two clerks from counties with a population of at least 100,000 but fewer than 500,000, two clerks from counties with a population of at least 500,000 but fewer than 1 million, and two clerks from counties with a population of more than 1 million. The executive council shall also include, as ex officio members, a designee of the President of the Senate and a designee of the Speaker of the House of Representatives. The Chief Justice of the Supreme Court shall designate one additional member to represent the state courts system.

(c) The corporation shall be considered a political subdivision of the state and shall be exempt from the corporate income tax. The corporation is not subject to ~~the provisions of~~ chapter 120.

(d) The functions assigned to the corporation under this section and ss. 28.36 and 28.37 are considered to be for a valid public purpose.

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

(a) Adopting a plan of operation.

(b) Conducting the election of an executive council ~~directors~~ as required in paragraph ~~(1)(b)~~ (1)(a).

(c) Recommending to the Legislature changes in the amounts of the various court-related fines, fees, service charges, and court costs established by law to ensure reasonable and adequate funding of the clerks of the court in the performance of their court-related functions.

(d) Developing and certifying a uniform system of workload performance measures and applicable workload performance standards for court-related functions as developed by the corporation ~~the functions specified in paragraph (3)(a) and the service unit costs required in s. 28.36~~ and measures ~~for~~ clerk workload performance in meeting the workload performance standards. ~~These workload measures and workload performance standards shall be designed to facilitate an objective determination of the performance of each clerk in accordance with minimum standards for fiscal management, operational efficiency, and effective collection of fines, fees, service charges, and court costs. The corporation shall develop the workload performance measures and workload performance standards in consultation with the Legislature and the Supreme Court. The Legislature may modify the clerk performance measures and performance standards in legislation implementing the General Appropriations Act or other law. When the corporation finds a clerk has not met the workload performance standards, the corporation shall identify the nature of each deficiency and any corrective action recommended and taken by the affected clerk of the court. The corporation shall notify the Legislature and the Supreme Court of any clerk not meeting workload performance standards and provide a copy of any corrective action plans. As used in this subsection, the term:~~

1. “Workload measures” means the measurement of the activities and frequency of the work required for the clerk to adequately perform the court-related duties of the office as defined by the membership of the Florida Clerks of Court Operations Corporation.

2. “Workload performance standards” means the standards developed to measure the timeliness and effectiveness of the activities that are accomplished by the clerk in the performance of the court-related duties of the office as defined by the membership of the Florida Clerks of Court Operations Corporation.

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

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

1. Calculate the minimum amount of revenue necessary for each clerk of the court to efficiently perform the list of court-related functions specified in

paragraph (3)(a). The corporation shall apply the workload measures appropriate for determining the individual level of review required to fund the clerk's budget.

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

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

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

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

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

7. Identify and report pay and benefit increases in any proposed clerk budget, including, but not limited to, cost of living increases, merit increases, and bonuses.

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

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

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

~~(g) Publishing a uniform schedule of actual fees, service charges, and costs charged by a clerk of the court pursuant to general law.~~

(h) Beginning August 1, 2014, and each August 1 thereafter, submitting to the Legislative Budget Commission, as provided in s. 11.90, its proposed budget and the information described in paragraph (f), as well as the proposed budgets for each clerk of the court. Before October 1 of each year beginning in 2014, the Legislative Budget Commission shall consider the submitted budgets and shall approve, disapprove, or amend and approve the corporation's budget and shall approve, disapprove, or amend and approve



the total of the clerks' combined budgets or any individual clerk's budget. If the Legislative Budget Commission fails to approve or amend and approve the corporation's budget or the clerks' combined budgets before October 1, the clerk shall continue to perform the court-related functions based upon the clerk's budget for the previous county fiscal year.

(3)(a) The list of court-related functions that clerks may fund from filing fees, service charges, costs, and fines is perform are limited to those functions expressly authorized by law or court rule. Those functions include the following: case maintenance; records management; court preparation and attendance; processing the assignment, reopening, and reassignment of cases; processing of appeals; collection and distribution of fines, fees, service charges, and court costs; processing of bond forfeiture payments; payment of jurors and witnesses; payment of expenses for meals or lodging provided to jurors; data collection and reporting; processing of jurors; determinations of indigent status; and paying reasonable administrative support costs to enable the clerk of the court to carry out these court-related functions.

(b) The list of court-related functions that clerks may not fund from filing fees, service charges, costs, and fines includes state appropriations include:

1. Those functions not specified within paragraph (a).
2. Functions assigned by administrative orders which are not required for the clerk to perform the functions in paragraph (a).
3. Enhanced levels of service which are not required for the clerk to perform the functions in paragraph (a).
4. Functions identified as local requirements in law or local optional programs.

(4) The corporation shall prepare a legislative budget request for the resources necessary to perform its duties, submit the request pursuant to chapter 216, and be funded pursuant to a contract with the Chief Financial Officer. Funds shall be provided to the Chief Financial Officer for such purpose as appropriated by general law. Such funds shall be available to the corporation for the performance of the duties and responsibilities set forth in this section as a budget entity in the General Appropriations Act. The corporation shall participate in the Florida Retirement System for its eligible employees as provided in chapter 121. The corporation may hire staff and pay other expenses from such funds state appropriations as necessary to perform the official duties and responsibilities of the corporation as described in this section by law.

(5) Certified public accountants conducting audits of counties pursuant to s. 218.39 shall report, as part of the audit, whether ~~or not~~ the clerks of the courts have complied with the requirements of this section and s. 28.36. In addition, each clerk of court shall forward a copy of ~~the portion of the financial audit relating to the court-related duties of the clerk of court~~ to the Florida

Clerks of Court Operations Corporation Supreme Court. The Auditor General shall develop a compliance supplement for the audit of compliance with the budgets and applicable workload performance standards certified by the corporation.

Section 7. Section 28.36, Florida Statutes, is amended to read:

28.36 Budget procedure.—There is established a budget procedure ~~for preparing budget requests for funding~~ for the court-related functions of the clerks of the court.

(1) ~~Only those functions listed in s. 28.35(3)(a) may be funded from fees, service charges, costs, and fines retained by the clerks of the court~~ Each clerk of court shall prepare a budget request for the last quarter of the county fiscal year and the first three quarters of the next county fiscal year. The proposed budget shall be prepared, summarized, and submitted by the clerk in each county to the Florida Clerks of Court Operations Corporation in the manner and form prescribed by the corporation to meet the requirements of law. Each clerk shall forward a copy of his or her budget request to the Supreme Court. The budget requests must be provided to the corporation by October 1 of each year.

(2) ~~Each clerk shall include in his or her budget request a projection of the amount of court related fees, service charges, and any other court-related clerk fees which will be collected during the proposed budget period. If the corporation determines that the proposed budget is limited to the standard list of court-related functions in s. 28.35(3)(a) and the projected court-related revenues are less than the proposed budget, the clerk shall increase all fees, service charges, and any other court-related clerk fees and charges to the maximum amounts specified by law or the amount necessary to resolve the deficit, whichever is less.~~

(2)(3) Each proposed budget shall further conform to the following requirements ~~clerk shall include in his or her budget request the number of personnel and the proposed budget for each of the following core services:~~

(a) On or before June 1 of each year beginning in 2014, the proposed budget shall be prepared, summarized, and submitted by the clerk in each county to the Florida Clerks of Court Operations Corporation in the manner and form prescribed by the corporation. The proposed budget must provide detailed information on the anticipated revenues available and expenditures necessary for the performance of the court-related functions listed in s. 28.35(3)(a) of the clerk's office for the county fiscal year beginning October 1.

(b) The proposed budget must be balanced such that the total of the estimated revenues available equals or exceeds the total of the anticipated expenditures. Such revenues include revenue projected to be received from fees, service charges, costs, and fines for court-related functions during the fiscal period covered by the budget. The anticipated expenditures must be itemized as required by the corporation.

- (a) ~~Circuit criminal.~~
- (b) ~~County criminal.~~
- (c) ~~Juvenile delinquency.~~
- (d) ~~Criminal traffic.~~
- (e) ~~Circuit civil.~~
- (f) ~~County civil.~~
- (g) ~~Civil traffic.~~
- (h) ~~Probate.~~
- (i) ~~Family.~~
- (j) ~~Juvenile dependency.~~

~~Central administrative costs shall be allocated among the core services categories.~~

(3) If a clerk of the court estimates that available funds plus projected revenues from fines, fees, service charges, and costs for court-related services are insufficient to meet the anticipated expenditures for the standard list of court-related functions in s. 28.35(3)(a) performed by his or her office, the clerk must report the revenue deficit to the corporation in the manner and form prescribed by the corporation. The corporation shall verify that the proposed budget is limited to the standard list of court-related functions in s. 28.35(3)(a). If the corporation verifies that a revenue deficit is projected, the corporation shall certify a revenue deficit and notify the Department of Revenue that the clerk is authorized to retain revenues, in an amount necessary to fully fund the projected revenue deficit, which he or she would otherwise be required to remit to the Department of Revenue for deposit into the department's Clerks of the Court Trust Fund pursuant to s. 28.37. If a revenue deficit is projected for that clerk after retaining all of the projected collections from the court-related fines, fees, service charges, and costs, the corporation shall certify the amount of the revenue deficit to the Executive Office of the Governor and request release authority for funds from the department's Clerks of the Court Trust Fund. Notwithstanding s. 216.192 relating to the release of funds, the Executive Office of the Governor may approve the release of funds in accordance with the notice, review, and objection procedures set forth in s. 216.177 and shall provide notice to the Department of Revenue and the Chief Financial Officer. The Department of Revenue shall request monthly distributions from the Chief Financial Officer in equal amounts to each clerk certified to have a revenue deficit, in accordance with the releases approved by the Governor.

(4) The Legislative Budget Commission may approve increases or decreases to the previously authorized budgets approved for individual clerks of the court pursuant to s. 28.35 for court-related functions, if:

(a) The additional budget authority is necessary to pay the cost of performing new or additional functions required by changes in law or court rule; or

(b) The additional budget authority is necessary to pay the cost of supporting increases in the number of judges or magistrates authorized by the Legislature.

~~(4) The budget request must identify the service units to be provided within each core service. The service units shall be developed by the corporation, in consultation with the Supreme Court, the Chief Financial Officer, and the appropriations committees of the Senate and the House of Representatives.~~

~~(5) The budget request must propose a unit cost for each service unit. The corporation shall provide a copy of each clerk's budget request to the Supreme Court.~~

~~(6) The corporation shall review each individual clerk's prior-year expenditures, projected revenue, proposed unit costs, and the proposed budget for each of the core-services categories. The corporation shall compare each clerk's prior-year expenditures and unit costs for core services with a peer group of clerks' offices having a population of a similar size and a similar number of case filings. If the corporation finds that the expenditures, unit costs, or proposed budget of a clerk is significantly higher than those of clerks in that clerk's peer group, the corporation shall require the clerk to submit documentation justifying the difference in each core-services category. Justification for higher expenditures may include, but is not limited to, collective bargaining agreements, county civil service agreements, and the number and distribution of courthouses served by the clerk. If the expenditures and unit costs are not justified, the corporation shall recommend a reduction in the funding for that core-services category in the budget request to an amount similar to the peer group of clerks or to an amount that the corporation determines is justified.~~

~~(7) The corporation shall complete its review and adjustments to the clerks' budget requests and make its recommendations to the Legislature and the Supreme Court by December 1 each year.~~

~~(8) The Chief Financial Officer shall review the proposed unit costs associated with each clerk of court's budget request and make recommendations to the Legislature. The Chief Financial Officer may conduct any audit of the corporation or a clerk of court as authorized by law. The Chief Justice of the Supreme Court may request an audit of the corporation or any clerk of court by the Chief Financial Officer.~~

~~(9) The Legislature shall appropriate the total amount for the budgets of the clerks in the General Appropriations Act. The Legislature may reject or modify any or all of the unit costs recommended by the corporation. If the Legislature does not specify the unit costs in the General Appropriations Act or other law, the unit costs recommended by the corporation shall be the official unit costs for that budget period.~~

~~(10)(a) Beginning in the 2010-2011 fiscal year, the corporation shall release appropriations to each clerk quarterly. If funds in the Clerks of Court Trust Fund are insufficient to provide a release in a quarter in a single release, the corporation may release partial amounts for that quarter so long as the total of those partial amounts does not exceed that quarter's release. If funds in the Clerks of Court Trust Fund are insufficient for the first quarter release, the corporation may make a request to the Governor for a trust fund loan pursuant to chapter 215. The amount of the first three releases shall be based on one quarter of the estimated budget for each clerk as identified in the General Appropriations Act.~~

~~(b) The corporation shall estimate the fourth quarter's number of units to be performed by each clerk. The amount of the fourth quarter release shall be based on the approved unit cost times the estimated number of units of the fourth quarter with the following adjustment: the fourth quarter release shall be adjusted based on the first three quarters' actual number of service units provided as reported to the corporation by each clerk. If the clerk has performed fewer service units in the first three quarters of the year compared to three quarters of the estimated number of service units in the General Appropriations Act, the corporation shall decrease the fourth quarter release. The amount of the decrease shall equal the amount of the difference between the estimated number of service units for the first three quarters and the actual number of service units provided in the first three quarters times the approved unit cost.~~

~~(c) No adjustment for the fourth quarter release shall be made if the clerk has performed more units than the estimate for the first three quarters.~~

~~(d) If the clerk performs fewer units in the fourth quarter than estimated by the corporation, the corporation shall decrease the first quarter release for the clerk in the next fiscal year by the amount of the difference between the estimated number of service units for the fourth quarter and the actual number of service units performed in that quarter times the approved unit cost.~~

~~(e) The total of all releases to the clerks of court may not exceed the amount appropriated in the General Appropriations Act. If, during the year, the corporation determines that the projected releases of appropriations for service units will exceed the estimate used in the General Appropriations Act and result in statewide expenditures greater than the amount appropriated by law, the corporation shall reduce all service unit costs of all clerks by the amount necessary to ensure that service units are funded within the total amount appropriated to the clerks of court. If such action is necessary, the~~

~~corporation shall notify the Legislative Budget Commission. If the Legislative Budget Commission objects to the adjustments, the Legislative Budget Commission shall adjust all service unit costs by the amount necessary to ensure that projected units of service are funded within the total amount appropriated to the clerks of court at its next scheduled meeting.~~

~~(11) The corporation may submit proposed legislation to the Governor, the President of the Senate, and the Speaker of the House of Representatives relating to the preparation of budget requests of the clerks of court.~~

Section 8. Section 28.37, Florida Statutes, is amended to read:

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

(1) Pursuant to s. 14(b), Art. V of the State Constitution, selected salaries, costs, and expenses of the state courts system and court-related functions shall be funded from a portion of the revenues derived from statutory fines, fees, service charges, and costs collected by the clerks of the court.

(2) Beginning November 1, 2013, that portion of all fines, fees, service charges, and costs collected by the clerks of the court for the previous month which is in excess of one-twelfth of the clerks' total budget for the performance of court-related functions shall be remitted to the Department of Revenue for deposit into the Clerks of the Court Trust Fund. Such collections do not include funding received for the operation of the Title IV-D child support collections and disbursement program. The clerk of the court shall remit the revenues collected during the previous month due to the state on or before the 10th day of each month.

(3) No later than January 25, 2015, and each January 25 thereafter for the previous county fiscal year, the clerks of court, in consultation with the Florida Clerks of Court Operations Corporation, shall remit to the Department of Revenue for deposit in the General Revenue Fund the cumulative excess of all fines, fees, service charges, and costs retained by the clerks of the court, plus any funds received by the clerks of the court from the Clerks of the Court Trust Fund under s. 28.36(3), which exceed the amount needed to meet their authorized budget amounts established under s. 28.35. The Department of Revenue shall transfer from the Clerks of Court Trust Fund to the General Revenue Fund the cumulative excess of all fines, fees, service charges, and costs submitted by the clerks of court pursuant to subsection (2). However, if the official estimate for funds accruing to the clerks of court made by the Revenue Estimating Conference for the current fiscal year or the next fiscal year is less than the cumulative amount of authorized budgets for the clerks of court for the current fiscal year, the Department of Revenue shall retain in the Clerks of the Court Trust Fund the estimated amount needed to fully fund the clerks of court for the current and next fiscal year based upon the current budget established under s. 28.35.

(4) The Department of Revenue shall collect any funds that the Florida Clerks of Court Operations Corporation determines upon investigation were

due but not remitted to the Department of Revenue. The corporation shall notify the clerk of the court and the Department of Revenue of the amount due to the Department of Revenue. The clerk of the court shall remit the amount due no later than the 10th day of the month following the month in which notice is provided by the corporation to the clerk of the court.

~~(5)(2) Ten Except as otherwise provided in ss. 28.241 and 34.041, all court-related fines, fees, service charges, and costs are considered state funds and shall be remitted by the clerk to the Department of Revenue for deposit into the Clerks of the Court Trust Fund within the Justice Administrative Commission. However, 10 percent of all court-related fines collected by the clerk, except for penalties or fines distributed to counties or municipalities under s. 316.0083(1)(b)3. or s. 318.18(15)(a), shall be deposited into the clerk’s Public Records Modernization Trust Fund to be used exclusively for additional clerk court-related operational needs and program enhancements.~~

Section 9. Paragraph (b) of subsection (1) of section 34.041, Florida Statutes, is amended, and paragraph (a) of that subsection is republished, to read:

34.041 Filing fees.—

(1)(a) Filing fees are due at the time a party files a pleading to initiate a proceeding or files a pleading for relief. Reopen fees are due at the time a party files a pleading to reopen a proceeding if at least 90 days have elapsed since the filing of a final order or final judgment with the clerk. If a fee is not paid upon the filing of the pleading as required under this section, the clerk shall pursue collection of the fee pursuant to s. 28.246. Upon the institution of any civil action, suit, or proceeding in county court, the party shall pay the following filing fee, not to exceed:

- 1. For all claims less than \$100.....\$50.
- 2. For all claims of \$100 or more but not more than \$500.....\$75.
- 3. For all claims of more than \$500 but not more than \$2,500.....\$170.
- 4. For all claims of more than \$2,500..... \$295.
- 5. In addition, for all proceedings of garnishment, attachment, replevin, and distress..... \$85.
- 6. Notwithstanding subparagraphs 3. and 5., for all claims of not more than \$1,000 filed simultaneously with an action for replevin of property that is the subject of the claim.....\$125.
- 7. For removal of tenant action..... \$180.

The filing fee in subparagraph 6. is the total fee due under this paragraph for that type of filing, and no other filing fee under this paragraph may be assessed against such a filing.

(b) ~~The first \$80 of the filing fee collected under subparagraph (a)4. shall be remitted to the Department of Revenue for deposit into the General Revenue Fund. The next \$15 of the filing fee collected under subparagraph (a)4.7, and the first \$10 of the filing fee collected under subparagraph (a)7., shall be deposited in the State Courts Revenue Trust Fund. By the 10th day of each month, the clerk shall submit that portion of the fees collected in the previous month which is in excess of one-twelfth of the clerk's total budget for the performance of court-related functions to the Department of Revenue for deposit into the Clerks of the Court Trust Fund. An additional filing fee of \$4 shall be paid to the clerk. The clerk shall transfer \$3.50 to the Department of Revenue for deposit into the Court Education Trust Fund and shall transfer 50 cents to the Department of Revenue for deposit into the Administrative Clerks of the Court Trust Fund within the Department of Financial Services Justice Administrative Commission to fund clerk education provided by the Florida Clerks of Court Operations Corporation.~~ Postal charges incurred by the clerk of the county court in making service by mail on defendants or other parties shall be paid by the party at whose instance service is made. Except as provided in this section herein, filing fees and service charges for performing duties of the clerk relating to the county court shall be as provided in ss. 28.24 and 28.241. Except as otherwise provided in this section herein, all filing fees shall be retained as fee income of the office of the clerk of the circuit court remitted to the Department of Revenue for deposit into the Clerks of the Court Trust Fund within the Justice Administrative Commission. Filing fees imposed by this section may not be added to any penalty imposed by chapter 316 or chapter 318.

Section 10. Subsection (5) of section 43.16, Florida Statutes, is amended to read:

43.16 Justice Administrative Commission; membership, powers and duties.—

(5) The duties of the commission shall include, but not be limited to, the following:

(a) The maintenance of a central state office for administrative services and assistance when possible to and on behalf of the state attorneys and public defenders of Florida, the capital collateral regional counsel of Florida, the criminal conflict and civil regional counsel, and the Guardian Ad Litem Program, ~~and the Florida Clerks of Court Operations Corporation.~~

(b) Each state attorney, public defender, and criminal conflict and civil regional counsel and, the Guardian Ad Litem Program, ~~and the Florida Clerks of Court Operations Corporation~~ shall continue to prepare necessary budgets, vouchers that represent valid claims for reimbursement by the state for authorized expenses, and other things incidental to the proper administrative operation of the office, such as revenue transmittals to the Chief Financial Officer and automated systems plans, but will forward such items ~~same~~ to the commission for recording and submission to the proper state officer. However, when requested by a state attorney, a public defender, a



criminal conflict and civil regional counsel, or the Guardian Ad Litem Program, the commission will either assist in the preparation of budget requests, voucher schedules, and other forms and reports or accomplish the entire project involved.

Section 11. Paragraph (x) of subsection (2) of section 110.205, Florida Statutes, is amended to read:

110.205 Career service; exemptions.—

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

(x) All officers and employees of the Justice Administrative Commission, Office of the State Attorney, Office of the Public Defender, regional offices of capital collateral counsel, offices of criminal conflict and civil regional counsel, and Statewide Guardian Ad Litem Office, including the circuit guardian ad litem programs and the Florida Clerks of Court Operations Corporation.

Section 12. Section 142.01, Florida Statutes, is amended to read:

142.01 Fine and forfeiture fund; disposition of revenue; clerk of the circuit court.—

(1) There shall be established by the clerk of the circuit court in each county of this state a separate fund to be known as the fine and forfeiture fund for use by the clerk of the circuit court in performing court-related functions. The fund shall consist of the following:

(a) Fines and penalties pursuant to ss. 28.2402(2), 34.045(2), 316.193, 327.35, 327.72, 379.2203(1), and 775.083(1).

(b) That portion of civil penalties directed to this fund pursuant to s. 318.21.

(c) Court costs pursuant to ss. 28.2402(1)(b), 34.045(1)(b), 318.14(10)(b), 318.18(11)(a), 327.73(9)(a) and (11)(a), and 938.05(3).

(d) Proceeds from forfeited bail bonds, unclaimed bonds, unclaimed moneys, or recognizances pursuant to ss. 321.05(4)(a), 379.2203(1), and 903.26(3)(a).

(e) Fines and forfeitures pursuant to s. 34.191.

(f) Filing fees received pursuant to ss. 28.241 and 34.041, unless the disposition of such fees is otherwise required by law.

~~(g)~~(f) All other revenues received by the clerk as revenue authorized by law to be retained by the clerk.

(2)—All revenues received by the clerk in the fine and forfeiture fund from court-related fees, fines, costs, and service charges are considered state funds and shall be remitted monthly to the Department of Revenue for deposit into the Clerks of the Court Trust Fund within the Justice Administrative Commission.

(2)(3) Notwithstanding the provisions of this section, all fines and forfeitures arising from operation of the provisions of s. 318.1215 shall be disbursed in accordance with that section.

Section 13. Section 213.131, Florida Statutes, is amended to read:

213.131 Clerks of the Court Trust Fund within the Department of Revenue Justice Administrative Commission.—The Clerks of the Court Trust Fund is created within the Department of Revenue Justice Administrative Commission.

Section 14. Subsection (2) of section 215.22, Florida Statutes, is amended to read:

215.22 Certain income and certain trust funds exempt.—

(2) Moneys and income of a revenue nature shared with political subdivisions or received from taxes or fees authorized to be levied by any political subdivision, including moneys from service charges, fees, costs, and fines deposited into the Clerks of the Court Trust Fund within the Department of Revenue, shall be exempt from the deduction required by s. 215.20(1).

Section 15. Paragraph (qq) of subsection (1) of section 216.011, Florida Statutes, is amended to read:

216.011 Definitions.—

(1) For the purpose of fiscal affairs of the state, appropriations acts, legislative budgets, and approved budgets, each of the following terms has the meaning indicated:

(qq) “State agency” or “agency” means any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government. For purposes of this chapter and chapter 215, “state agency” or “agency” includes, but is not limited to, state attorneys, public defenders, criminal conflict and civil regional counsel, capital collateral regional counsel, ~~the Florida Clerks of Court Operations Corporation~~, the Justice Administrative Commission, the Florida Housing Finance Corporation, and the Florida Public Service Commission. Solely for the purposes of implementing s. 19(h), Art. III of the State Constitution, the terms “state agency” or “agency” include the judicial branch.

Section 16. For the period of July 1, 2013, through September 30, 2013, the clerks of the court are permitted to spend \$110,845,078 of their total

collected revenues and the Florida Clerks of Court Operations Corporation is permitted to spend \$405,412 of the revenues collected to fund the corporation's contract with the Department of Financial Services pursuant to s. 27.35(4), Florida Statutes. The Florida Clerks of Court Operations Corporation shall determine budget amounts for the individual clerks for that period. For the county fiscal year beginning October 1, 2013, and ending September 30, 2014, the clerks of the court are permitted to spend \$443,380,312 of their total collected revenues and the Florida Clerks of Court Operations Corporation is permitted to spend \$1,621,648 of the revenues collected to fund the corporation's contract with the Department of Financial Services pursuant to s. 27.35(4), Florida Statutes. The Florida Clerks of Court Operations Corporation shall determine budget amounts for the individual clerks for that period.

Section 17. Notwithstanding the requirement in s. 28.245, Florida Statutes, that all moneys collected by the clerks of court be distributed pursuant to the law in effect at the time of collection, the modifications in the distribution of moneys made in sections 3, 9, and 12 of this act shall be applied to moneys collected during June 2013. This section shall take effect upon becoming law.

Section 18. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2013.

Approved by the Governor May 20, 2013.

Filed in Office Secretary of State May 20, 2013.