

CHAPTER 2011-133

House Bill No. 5405

An act relating to trust funds of the state courts system; amending s. 28.241, F.S.; redirecting proceeds from part of a filing fee from the state courts' Mediation and Arbitration Trust Fund to the State Courts Revenue Trust Fund; amending s. 34.041, F.S.; redirecting the proceeds from a part of a filing fee from the state courts' Mediation and Arbitration Trust Fund to the State Courts Revenue Trust Fund; amending s. 35.22, F.S.; redirecting the proceeds from a fee from the Mediation/Arbitration Trust Fund to the State Courts Revenue Trust Fund; amending s. 44.108, F.S.; redirecting the proceeds from a part of specified fees from the state courts' Mediation and Arbitration Trust Fund to the State Courts Revenue Trust Fund; deleting an obsolete provision relating to use of moneys in the Mediation and Arbitration Trust Fund; providing an effective date.

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

Section 1. 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)(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~~ \$265 in filing fees, \$80 must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, ~~\$195~~ \$180 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 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. ~~The next \$15 of the filing fee collected shall be deposited in the state courts' Mediation and Arbitration Trust Fund.~~ One third of any filing fees collected by the clerk of the circuit court in excess of \$100 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~~ \$165 in filing fees, \$80 must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, ~~\$95~~ \$80 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 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. ~~The next \$15 of the filing fee collected shall be deposited in the state courts' Mediation and Arbitration Trust Fund.~~

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 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~~ \$265 in filing fees, \$80 must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, ~~\$195~~ \$180 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 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. ~~The next \$15 of the filing fee collected shall be deposited in the state courts' Mediation and Arbitration Trust Fund;~~

(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~~ \$770 in filing fees, \$80 must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, ~~\$700~~ \$685 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 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. ~~The next \$15 of the filing fee collected shall be deposited in the state courts' Mediation and Arbitration Trust Fund;~~ 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~~ \$1,770 in filing fees, \$80 must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, ~~\$1,700~~ \$1,685 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 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. ~~The next \$15 of the filing fee collected shall be deposited in the state courts' Mediation and Arbitration Trust Fund.~~

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 shall be added to the filing fees imposed under this section, except as authorized in this section or by general law.

Section 2. Paragraph (b) of subsection (1) of section 34.041, Florida Statutes, is amended to read:

34.041 Filing fees.—

(1)

(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., and the first \$10 of the filing fee collected under subparagraph (a)7., shall be deposited in the State Courts Revenue ~~state courts' Mediation and Arbitration~~ 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 Clerks of the Court Trust Fund within the Justice Administrative Commission to fund clerk education. 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 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 herein, all filing fees shall be 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 3. Subsection (7) of section 35.22, Florida Statutes, is amended to read:

35.22 Clerk of district court; appointment; compensation; assistants; filing fees; teleconferencing.—

(7) The clerk of the district court of appeal is authorized to collect a fee from the parties to an appeal reflecting the actual cost of conducting the proceeding through teleconferencing where the parties have requested that

an oral argument or mediation be conducted through teleconferencing. The fee collected for this purpose shall be used to offset the expenses associated with scheduling the teleconference and shall be deposited in the State Courts Revenue Mediation/Arbitration Trust Fund.

Section 4. Section 44.108, Florida Statutes, is amended to read:

44.108 Funding of mediation and arbitration.—

(1) Mediation and arbitration should be accessible to all parties regardless of financial status. A filing fee of \$1 is levied on all proceedings in the circuit or county courts to fund mediation and arbitration services which are the responsibility of the Supreme Court pursuant to the provisions of s. 44.106. The clerk of the court shall forward the moneys collected to the Department of Revenue for deposit in the State Courts Revenue state courts' Mediation and Arbitration Trust Fund.

(2) When court-ordered mediation services are provided by a circuit court's mediation program, the following fees, unless otherwise established in the General Appropriations Act, shall be collected by the clerk of court:

(a) One-hundred twenty dollars per person per scheduled session in family mediation when the parties' combined income is greater than \$50,000, but less than \$100,000 per year;

(b) Sixty dollars per person per scheduled session in family mediation when the parties' combined income is less than \$50,000; or

(c) Sixty dollars per person per scheduled session in county court cases.

No mediation fees shall be assessed under this subsection in residential eviction cases, against a party found to be indigent, or for any small claims action. Fees collected by the clerk of court pursuant to this section shall be remitted to the Department of Revenue for deposit into the State Courts Revenue state courts' Mediation and Arbitration Trust Fund to fund court-ordered mediation. The clerk of court may deduct \$1 per fee assessment for processing this fee. The clerk of the court shall submit to the chief judge of the circuit and to the Office of the State Courts Administrator, no later than 30 days after the end of each quarter of the fiscal year, ~~beginning July 1, 2008,~~ a report specifying the amount of funds collected and remitted to the State Courts Revenue state courts' Mediation and Arbitration Trust Fund under this section and any other section during the previous quarter of the fiscal year. In addition to identifying the total aggregate collections and remissions from all "statutory sources, the report must identify collections and remissions by each statutory source.

~~(3) For the 2010-2011 fiscal year only and notwithstanding any other provision of law to the contrary, moneys in the Mediation and Arbitration Trust Fund may be used as specified in the General Appropriations Act. This subsection expires July 1, 2011.~~

Section 5. This act shall take effect June 1, 2011.

Approved by the Governor June 2, 2011.

Filed in Office Secretary of State June 2, 2011.