

CS/HB 481

2012

1 A bill to be entitled
2 An act relating to clerks of court; amending s. 28.13,
3 F.S.; providing requirements for storage of electronic
4 filings; requiring papers and electronic filings to be
5 electronically time stamped; amending s. 28.222, F.S.;
6 authorizing the clerk to remove sealed or expunged
7 court records from the Official Records; amending s.
8 28.24, F.S.; revising language concerning an exemption
9 from charges for services provided to specified
10 officials and their staffs; amending s. 28.244, F.S.;
11 increasing the threshold amount for automatic
12 repayment of overpayments; amending s. 28.345, F.S.;
13 providing for access to clerks' files by state
14 agencies and an exemption from copying fees and
15 charges; limiting the application of an exemption from
16 payment of fees and charges assessed by clerks of
17 circuit courts to official use; amending s. 50.041,
18 F.S.; authorizing the use of electronic proof of
19 publication affidavits; amending s. 119.071, F.S.;
20 requiring certain persons to provide specific
21 information to the clerk to maintain the public
22 records exemption status of certain information;
23 amending s. 197.542, F.S.; authorizing the clerk to
24 issue a refund to the depositor for redeemed property
25 subject to a tax sale; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:
28

CS/HB 481

2012

29 Section 1. Section 28.13, Florida Statutes, is amended to
30 read:

31 28.13 ~~To keep~~ Papers and electronic filings.—The clerk of
32 the circuit court shall keep all papers and electronic filings
33 ~~filed~~ in the clerk's office with the utmost care and security,
34 storing them in association with related case arranged in
35 appropriate files and affixing a stamp to the submission
36 indicating ~~(endorsing upon each~~ the date and time when the
37 submission ~~same~~ was filed. The clerk ~~), and~~ shall not permit any
38 attorney or other person to remove documents, ~~take papers~~ once
39 filed, from the control or custody ~~out of the office~~ of the
40 clerk without leave of the court, except as otherwise is
41 ~~hereinafter~~ provided by law.

42 Section 2. Subsections (4) through (6) of section 28.222,
43 Florida Statutes, are renumbered as subsections (5) through (7),
44 respectively, and a new subsection (4) is added to that section
45 to read:

46 28.222 Clerk to be county recorder.—

47 (4) The county recorder shall remove recorded court
48 documents from the Official Records pursuant to a sealing or
49 expunction order.

50 Section 3. Section 28.24, Florida Statutes, is amended to
51 read:

52 28.24 ~~Service charges by clerk of the circuit court.~~—The
53 clerk of the circuit court shall charge for services rendered by
54 the clerk's office in recording documents and instruments and in
55 performing the duties enumerated in amounts not to exceed those
56 specified in this section, except as provided in s. 28.345.

57 ~~Notwithstanding any other provision of this section, the clerk~~
 58 ~~of the circuit court shall provide without charge to the state~~
 59 ~~attorney, public defender, guardian ad litem, public guardian,~~
 60 ~~attorney ad litem, criminal conflict and civil regional counsel,~~
 61 ~~and private court-appointed counsel paid by the state, and to~~
 62 ~~the authorized staff acting on behalf of each, access to and a~~
 63 ~~copy of any public record, if the requesting party is entitled~~
 64 ~~by law to view the exempt or confidential record, as maintained~~
 65 ~~by and in the custody of the clerk of the circuit court as~~
 66 ~~provided in general law and the Florida Rules of Judicial~~
 67 ~~Administration. The clerk of the circuit court may provide the~~
 68 ~~requested public record in an electronic format in lieu of a~~
 69 ~~paper format when capable of being accessed by the requesting~~
 70 ~~entity.~~

Charges

71
 72 (1) For examining, comparing, correcting, verifying, and
 73 certifying transcripts of record in appellate proceedings,
 74 prepared by attorney for appellant or someone else other than
 75 clerk, per page 5.00

76 (2) For preparing, numbering, and indexing an original
 77 record of appellate proceedings, per instrument 3.50

78 (3) For certifying copies of any instrument in the public
 79 records 2.00

80 (4) For verifying any instrument presented for
 81 certification prepared by someone other than clerk, per page
 82 3.50

83 (5) (a) For making copies by photographic process of any
 84 instrument in the public records consisting of pages of not more

CS/HB 481

2012

85 | than 14 inches by 8 1/2 inches, per page 1.00
 86 | (b) For making copies by photographic process of any
 87 | instrument in the public records of more than 14 inches by 8 1/2
 88 | inches, per page 5.00
 89 | (6) For making microfilm copies of any public records:
 90 | (a) 16 mm 100' microfilm roll 42.00
 91 | (b) 35 mm 100' microfilm roll 60.00
 92 | (c) Microfiche, per fiche 3.50
 93 | (7) For copying any instrument in the public records by
 94 | other than photographic process, per page 6.00
 95 | (8) For writing any paper other than herein specifically
 96 | mentioned, same as for copying, including signing and sealing
 97 | 7.00
 98 | (9) For indexing each entry not recorded 1.00
 99 | (10) For receiving money into the registry of court:
 100 | (a)1. First \$500, percent 3
 101 | 2. Each subsequent \$100, percent 1.5
 102 | (b) Eminent domain actions, per deposit 170.00
 103 | (11) For examining, certifying, and recording plats and
 104 | for recording condominium exhibits larger than 14 inches by 8
 105 | 1/2 inches:
 106 | (a) First page 30.00
 107 | (b) Each additional page 15.00
 108 | (12) For recording, indexing, and filing any instrument
 109 | not more than 14 inches by 8 1/2 inches, including required
 110 | notice to property appraiser where applicable:
 111 | (a) First page or fraction thereof 5.00
 112 | (b) Each additional page or fraction thereof 4.00

113 (c) For indexing instruments recorded in the official
 114 records which contain more than four names, per additional name
 115 1.00

116 (d) An additional service charge shall be paid to the
 117 clerk of the circuit court to be deposited in the Public Records
 118 Modernization Trust Fund for each instrument listed in s.
 119 28.222, except judgments received from the courts and notices of
 120 lis pendens, recorded in the official records:

- 121 1. First page 1.00
- 122 2. Each additional page 0.50

123
 124 Said fund shall be held in trust by the clerk and used
 125 exclusively for equipment and maintenance of equipment,
 126 personnel training, and technical assistance in modernizing the
 127 public records system of the office. In a county where the duty
 128 of maintaining official records exists in an office other than
 129 the office of the clerk of the circuit court, the clerk of the
 130 circuit court is entitled to 25 percent of the moneys deposited
 131 into the trust fund for equipment, maintenance of equipment,
 132 training, and technical assistance in modernizing the system for
 133 storing records in the office of the clerk of the circuit court.
 134 The fund may not be used for the payment of travel expenses,
 135 membership dues, bank charges, staff-recruitment costs, salaries
 136 or benefits of employees, construction costs, general operating
 137 expenses, or other costs not directly related to obtaining and
 138 maintaining equipment for public records systems or for the
 139 purchase of furniture or office supplies and equipment not
 140 related to the storage of records. On or before December 1,

141 1995, and on or before December 1 of each year immediately
142 preceding each year during which the trust fund is scheduled for
143 legislative review under s. 19(f)(2), Art. III of the State
144 Constitution, each clerk of the circuit court shall file a
145 report on the Public Records Modernization Trust Fund with the
146 President of the Senate and the Speaker of the House of
147 Representatives. The report must itemize each expenditure made
148 from the trust fund since the last report was filed; each
149 obligation payable from the trust fund on that date; and the
150 percentage of funds expended for each of the following:
151 equipment, maintenance of equipment, personnel training, and
152 technical assistance. The report must indicate the nature of the
153 system each clerk uses to store, maintain, and retrieve public
154 records and the degree to which the system has been upgraded
155 since the creation of the trust fund.

156 (e) An additional service charge of \$4 per page shall be
157 paid to the clerk of the circuit court for each instrument
158 listed in s. 28.222, except judgments received from the courts
159 and notices of lis pendens, recorded in the official records.
160 From the additional \$4 service charge collected:

161 1. If the counties maintain legal responsibility for the
162 costs of the court-related technology needs as defined in s.
163 29.008(1)(f)2. and (h), 10 cents shall be distributed to the
164 Florida Association of Court Clerks and Comptroller, Inc., for
165 the cost of development, implementation, operation, and
166 maintenance of the clerks' Comprehensive Case Information
167 System, in which system all clerks shall participate on or
168 before January 1, 2006; \$1.90 shall be retained by the clerk to

169 be deposited in the Public Records Modernization Trust Fund and
170 used exclusively for funding court-related technology needs of
171 the clerk as defined in s. 29.008(1)(f)2. and (h); and \$2 shall
172 be distributed to the board of county commissioners to be used
173 exclusively to fund court-related technology, and court
174 technology needs as defined in s. 29.008(1)(f)2. and (h) for the
175 state trial courts, state attorney, public defender, and
176 criminal conflict and civil regional counsel in that county. If
177 the counties maintain legal responsibility for the costs of the
178 court-related technology needs as defined in s. 29.008(1)(f)2.
179 and (h), notwithstanding any other provision of law, the county
180 is not required to provide additional funding beyond that
181 provided herein for the court-related technology needs of the
182 clerk as defined in s. 29.008(1)(f)2. and (h). All court records
183 and official records are the property of the State of Florida,
184 including any records generated as part of the Comprehensive
185 Case Information System funded pursuant to this paragraph and
186 the clerk of court is designated as the custodian of such
187 records, except in a county where the duty of maintaining
188 official records exists in a county office other than the clerk
189 of court or comptroller, such county office is designated the
190 custodian of all official records, and the clerk of court is
191 designated the custodian of all court records. The clerk of
192 court or any entity acting on behalf of the clerk of court,
193 including an association, shall not charge a fee to any agency
194 as defined in s. 119.011, the Legislature, or the State Court
195 System for copies of records generated by the Comprehensive Case
196 Information System or held by the clerk of court or any entity

197 acting on behalf of the clerk of court, including an
 198 association.

199 2. If the state becomes legally responsible for the costs
 200 of court-related technology needs as defined in s.
 201 29.008(1)(f)2. and (h), whether by operation of general law or
 202 by court order, \$4 shall be remitted to the Department of
 203 Revenue for deposit into the General Revenue Fund.

204 (13) Oath, administering, attesting, and sealing, not
 205 otherwise provided for herein 3.50

206 (14) For validating certificates, any authorized bonds,
 207 each 3.50

208 (15) For preparing affidavit of domicile 5.00

209 (16) For exemplified certificates, including signing and
 210 sealing 7.00

211 (17) For authenticated certificates, including signing and
 212 sealing 7.00

213 (18)(a) For issuing and filing a subpoena for a witness,
 214 not otherwise provided for herein (includes writing, preparing,
 215 signing, and sealing) 7.00

216 (b) For signing and sealing only 2.00

217 (19) For approving bond 8.50

218 (20) For searching of records, for each year's search 2.00

219 (21) For processing an application for a tax deed sale
 220 (includes application, sale, issuance, and preparation of tax
 221 deed, and disbursement of proceeds of sale), other than excess
 222 proceeds 60.00

223 (22) For disbursement of excess proceeds of tax deed sale,
 224 first \$100 or fraction thereof 10.00

CS/HB 481

2012

225 (23) Upon receipt of an application for a marriage
 226 license, for preparing and administering of oath; issuing,
 227 sealing, and recording of the marriage license; and providing a
 228 certified copy 30.00

229 (24) For solemnizing matrimony 30.00

230 (25) For sealing any court file or expungement of any
 231 record 42.00

232 (26) (a) For receiving and disbursing all restitution
 233 payments, per payment 3.50

234 (b) For receiving and disbursing all partial payments,
 235 other than restitution payments, for which an administrative
 236 processing service charge is not imposed pursuant to s. 28.246,
 237 per month 5.00

238 (c) For setting up a payment plan, a one-time
 239 administrative processing charge in lieu of a per month charge
 240 under paragraph (b) 25.00

241 (27) Postal charges incurred by the clerk of the circuit
 242 court in any mailing by certified or registered mail shall be
 243 paid by the party at whose instance the mailing is made.

244 (28) For furnishing an electronic copy of information
 245 contained in a computer database: a fee as provided for in
 246 chapter 119.

247 Section 4. Section 28.244, Florida Statutes, is amended to
 248 read:

249 28.244 Refunds.—A clerk of the circuit court or a filing
 250 officer of another office where records are filed who receives
 251 payment for services provided and thereafter determines that an
 252 overpayment has occurred shall refund to the person who made the

CS/HB 481

2012

253 payment the amount of any overpayment that exceeds \$10 ~~\$5~~. If
 254 the amount of the overpayment is \$10 ~~\$5~~ or less, the clerk of
 255 the circuit court or a filing officer of another office where
 256 records are filed is not required to refund the amount of the
 257 overpayment unless the person who made the overpayment makes a
 258 written request.

259 Section 5. Section 28.345, Florida Statutes, is amended to
 260 read:

261 28.345 State access to records; exemption from court-
 262 related fees and charges.—

263 (1) Notwithstanding any other provision of law to the
 264 contrary, the clerk of the circuit court shall provide without
 265 charge to the state attorney, public defender, guardian ad
 266 litem, public guardian, attorney ad litem, criminal conflict and
 267 civil regional counsel, and private court-appointed counsel paid
 268 by the state, and to the authorized staff acting on behalf of
 269 each, access to and a copy of any public record. If the public
 270 record is exempt or confidential, the requesting party is only
 271 entitled by law to view or copy the exempt or confidential
 272 record if authority is provided in general law or the Florida
 273 Rules of Judicial Administration. The clerk of the circuit court
 274 may provide the requested public record in an electronic format
 275 in lieu of a paper format when the requesting entity is capable
 276 of accessing it in an electronic format. For purposes of this
 277 subsection, the term "copy of a public record" means any
 278 facsimile, replica, photograph, or other reproduction of a
 279 record.

280 (2) Notwithstanding any other ~~provision of this chapter or~~

281 law to the contrary, judges and those court staff acting on
 282 behalf of judges, state attorneys, guardians ad litem, public
 283 guardians, attorneys ad litem, court-appointed private counsel,
 284 criminal conflict and civil regional counsel, ~~and~~ public
 285 defenders, and state agencies, while acting in their official
 286 capacity, ~~and state agencies,~~ are exempt from all court-related
 287 fees and charges assessed by the clerks of the circuit courts.

288 (3) The exemptions provided in subsections (1) and (2)
 289 apply only to state agencies and state entities and the party
 290 that an agency or entity is representing. The clerk of court
 291 shall collect the filing fees and services charges as required
 292 in this chapter from all other parties.

293 Section 6. Subsection (2) of section 50.041, Florida
 294 Statutes, is amended to read:

295 50.041 Proof of publication; uniform affidavits required.—

296 (2) Each such affidavit shall be printed upon white bond
 297 paper containing at least 25 percent rag material and shall be 8
 298 1/2 inches in width and of convenient length, not less than 5
 299 1/2 inches. A white margin of not less than 2 1/2 inches shall
 300 be left at the right side of each affidavit form and upon or in
 301 this space shall be substantially pasted a clipping which shall
 302 be a true copy of the public notice or legal advertisement for
 303 which proof is executed. Alternatively, each such affidavit may
 304 be provided in electronic rather than paper form, provided the
 305 notarization of the affidavit complies with the requirements of
 306 s. 117.021.

307 Section 7. Paragraph (d) of subsection (4) of section
 308 119.071, Florida Statutes, is amended to read:

309 119.071 General exemptions from inspection or copying of
 310 public records.—

311 (4) AGENCY PERSONNEL INFORMATION.—

312 (d)1.a. The home addresses, telephone numbers, social
 313 security numbers, and photographs of active or former law
 314 enforcement personnel, including correctional and correctional
 315 probation officers, personnel of the Department of Children and
 316 Family Services whose duties include the investigation of abuse,
 317 neglect, exploitation, fraud, theft, or other criminal
 318 activities, personnel of the Department of Health whose duties
 319 are to support the investigation of child abuse or neglect, and
 320 personnel of the Department of Revenue or local governments
 321 whose responsibilities include revenue collection and
 322 enforcement or child support enforcement; the home addresses,
 323 telephone numbers, social security numbers, photographs, and
 324 places of employment of the spouses and children of such
 325 personnel; and the names and locations of schools and day care
 326 facilities attended by the children of such personnel are exempt
 327 from s. 119.07(1).

328 b. The home addresses, telephone numbers, and photographs
 329 of firefighters certified in compliance with s. 633.35; the home
 330 addresses, telephone numbers, photographs, and places of
 331 employment of the spouses and children of such firefighters; and
 332 the names and locations of schools and day care facilities
 333 attended by the children of such firefighters are exempt from s.
 334 119.07(1).

335 c. The home addresses and telephone numbers of justices of
 336 the Supreme Court, district court of appeal judges, circuit

CS/HB 481

2012

337 court judges, and county court judges; the home addresses,
338 telephone numbers, and places of employment of the spouses and
339 children of justices and judges; and the names and locations of
340 schools and day care facilities attended by the children of
341 justices and judges are exempt from s. 119.07(1).

342 d. The home addresses, telephone numbers, social security
343 numbers, and photographs of current or former state attorneys,
344 assistant state attorneys, statewide prosecutors, or assistant
345 statewide prosecutors; the home addresses, telephone numbers,
346 social security numbers, photographs, and places of employment
347 of the spouses and children of current or former state
348 attorneys, assistant state attorneys, statewide prosecutors, or
349 assistant statewide prosecutors; and the names and locations of
350 schools and day care facilities attended by the children of
351 current or former state attorneys, assistant state attorneys,
352 statewide prosecutors, or assistant statewide prosecutors are
353 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
354 Constitution.

355 e. The home addresses and telephone numbers of general
356 magistrates, special magistrates, judges of compensation claims,
357 administrative law judges of the Division of Administrative
358 Hearings, and child support enforcement hearing officers; the
359 home addresses, telephone numbers, and places of employment of
360 the spouses and children of general magistrates, special
361 magistrates, judges of compensation claims, administrative law
362 judges of the Division of Administrative Hearings, and child
363 support enforcement hearing officers; and the names and
364 locations of schools and day care facilities attended by the

CS/HB 481

2012

365 children of general magistrates, special magistrates, judges of
366 compensation claims, administrative law judges of the Division
367 of Administrative Hearings, and child support enforcement
368 hearing officers are exempt from s. 119.07(1) and s. 24(a), Art.
369 I of the State Constitution if the general magistrate, special
370 magistrate, judge of compensation claims, administrative law
371 judge of the Division of Administrative Hearings, or child
372 support hearing officer provides a written statement that the
373 general magistrate, special magistrate, judge of compensation
374 claims, administrative law judge of the Division of
375 Administrative Hearings, or child support hearing officer has
376 made reasonable efforts to protect such information from being
377 accessible through other means available to the public. This
378 sub-subparagraph is subject to the Open Government Sunset Review
379 Act in accordance with s. 119.15, and shall stand repealed on
380 October 2, 2013, unless reviewed and saved from repeal through
381 reenactment by the Legislature.

382 f. The home addresses, telephone numbers, and photographs
383 of current or former human resource, labor relations, or
384 employee relations directors, assistant directors, managers, or
385 assistant managers of any local government agency or water
386 management district whose duties include hiring and firing
387 employees, labor contract negotiation, administration, or other
388 personnel-related duties; the names, home addresses, telephone
389 numbers, and places of employment of the spouses and children of
390 such personnel; and the names and locations of schools and day
391 care facilities attended by the children of such personnel are
392 exempt from s. 119.07(1) and s. 24(a), Art. I of the State

393 Constitution.

394 g. The home addresses, telephone numbers, and photographs
395 of current or former code enforcement officers; the names, home
396 addresses, telephone numbers, and places of employment of the
397 spouses and children of such personnel; and the names and
398 locations of schools and day care facilities attended by the
399 children of such personnel are exempt from s. 119.07(1) and s.
400 24(a), Art. I of the State Constitution.

401 h. The home addresses, telephone numbers, places of
402 employment, and photographs of current or former guardians ad
403 litem, as defined in s. 39.820; the names, home addresses,
404 telephone numbers, and places of employment of the spouses and
405 children of such persons; and the names and locations of schools
406 and day care facilities attended by the children of such persons
407 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
408 Constitution, if the guardian ad litem provides a written
409 statement that the guardian ad litem has made reasonable efforts
410 to protect such information from being accessible through other
411 means available to the public. This sub-subparagraph is subject
412 to the Open Government Sunset Review Act in accordance with s.
413 119.15 and shall stand repealed on October 2, 2015, unless
414 reviewed and saved from repeal through reenactment by the
415 Legislature.

416 i. The home addresses, telephone numbers, and photographs
417 of current or former juvenile probation officers, juvenile
418 probation supervisors, detention superintendents, assistant
419 detention superintendents, juvenile justice detention officers I
420 and II, juvenile justice detention officer supervisors, juvenile

CS/HB 481

2012

421 justice residential officers, juvenile justice residential
422 officer supervisors I and II, juvenile justice counselors,
423 juvenile justice counselor supervisors, human services counselor
424 administrators, senior human services counselor administrators,
425 rehabilitation therapists, and social services counselors of the
426 Department of Juvenile Justice; the names, home addresses,
427 telephone numbers, and places of employment of spouses and
428 children of such personnel; and the names and locations of
429 schools and day care facilities attended by the children of such
430 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of
431 the State Constitution.

432 j. The home addresses, telephone numbers, and photographs
433 of current or former public defenders, assistant public
434 defenders, criminal conflict and civil regional counsel, and
435 assistant criminal conflict and civil regional counsel; the home
436 addresses, telephone numbers, and places of employment of the
437 spouses and children of such defenders or counsel; and the names
438 and locations of schools and day care facilities attended by the
439 children of such defenders or counsel are exempt from s.
440 119.07(1) and s. 24(a), Art. I of the State Constitution. This
441 sub-subparagraph is subject to the Open Government Sunset Review
442 Act in accordance with s. 119.15 and shall stand repealed on
443 October 2, 2015, unless reviewed and saved from repeal through
444 reenactment by the Legislature.

445 2. An agency that is the custodian of the information
446 specified in subparagraph 1. and that is not the employer of the
447 officer, employee, justice, judge, or other person specified in
448 subparagraph 1. shall maintain the exempt status of that

CS/HB 481

2012

449 information only if the officer, employee, justice, judge, other
450 person, or employing agency of the designated employee submits a
451 written request for maintenance of the exemption to the
452 custodial agency. The request must specify the document type,
453 name, identification number, and page number of the record that
454 contains the exempt or confidential information.

455 Section 8. Subsection (2) of section 197.542, Florida
456 Statutes, is amended to read:

457 197.542 Sale at public auction.—

458 (2) The certificateholder has the right to bid as others
459 present may bid, and the property shall be struck off and sold
460 to the highest bidder. The high bidder shall post with the clerk
461 a nonrefundable deposit of 5 percent of the bid or \$200,
462 whichever is greater, at the time of the sale, to be applied to
463 the sale price at the time of full payment. Notice of the
464 deposit requirement must be posted at the auction site, and the
465 clerk may require bidders to show their willingness and ability
466 to post the deposit. If full payment of the final bid and of
467 documentary stamp tax and recording fees is not made within 24
468 hours, excluding weekends and legal holidays, the clerk shall
469 cancel all bids, readvertise the sale as provided in this
470 section, and pay all costs of the sale from the deposit. Any
471 remaining funds must be applied toward the opening bid. If the
472 property is redeemed prior to the clerk receiving full payment
473 for the issuance of a tax deed, in order to receive a refund of
474 the deposit described in this subsection, the high bidder must
475 submit a request for such refund in writing to the clerk. Upon
476 receipt of the refund request, the clerk shall refund the cash

CS/HB 481

2012

477 deposit. The clerk may refuse to recognize the bid of any person
478 who has previously bid and refused, for any reason, to honor
479 such bid.

480 Section 9. This act shall take effect upon becoming a law.