

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 2962

SPONSOR: Appropriations, Appropriations Subcommittee on Article V Implementation and  
Judiciary, Judiciary Committee, Senators Smith and Villalobos

SUBJECT: Judicial System

DATE: April 15, 2004 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matthews/Brown/Lang</u>	<u>Lang</u>	<u>JU</u>	<u>Favorable/CS</u>
2.	<u>Martin</u>	<u>Martin</u>	<u>AAV</u>	<u>Fav/CS</u>
3.	<u>Martin</u>	<u>Coburn</u>	<u>AP</u>	<u>Fav/CS</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

In November 1998, voters approved Revision 7 to Article V of the Florida Constitution. Article V provides for the judicial branch of government. According to the ballot summary, Revision 7 “allocates state court system funding among state, counties, and users of courts.” Revision 7 must be “fully effectuated” by July 1, 2004.

This bill corrects a number of glitches remaining from last year’s legislation, ch. 2003-402, Laws of Florida (L.O.F.), House Bill 113-A (2003). The bill increases a number of filing fees, service charges and costs to fund the state court system from state dollars as required by the 1998 amendment to the state constitution. The bill also makes other substantive changes including:

- Provides that circuit court Article V indigent services committees are to establish the method for compensating court reporters.
- Provides that a \$100 fee is to be collected from an attorney appearing pro hac vice in any Florida county court, circuit court, district court of appeal, or the Supreme Court.
- Authorizes local governments to contract with state attorneys and public defenders for local code violation prosecution and defense.
- Provides for minimum qualifications for private court-appointed counsel and minimum compensation in a death penalty case.
- Authorizes counties which previously used increased court fees and service charges to secure payment for bonds that finance court facilities to once again impose a surcharge to pay off those existing bonds, and precludes the courts from waiving such surcharges.
- Clarifies the process for permitting collection agents to collect on delinquent court obligations.
- Provides a service charge on certain money judgments and settlement agreements.

- Provides for distribution of revenues attributed to an increase in the Revenue Sharing Trust Fund for Municipalities.
- Provides distributions to help pay for local or regional criminal justice selection centers or criminal justice access and assessment centers or certain criminal justice education and training programs.
- Provides funding for teen court and other juvenile delinquency programs.
- Provides for payments to be made by counties and the state for court services invoices received after July 1, 2004.
- Provides exemptions to filing fees in certain reopened cases and additionally exempts judges, state attorneys, public defenders, capital collateral regional counsel and statewide guardian ad litem employees from clerk of court service charges and fees.
- Requires clerks to distribute moneys electronically to certain entities.
- Increases fees to provide for court education and clerk of court education.
- Increases filing fees for Supreme Court and District Courts of Appeal cases.
- Expands the authorized uses of an existing court cost to fund legal aid and public law libraries, and provides that counties must maintain funding for legal aid programs at specified amounts.
- Provides clarification regarding various entities' responsibility for funding court services and programs.
- Creates the Judicial Information Integration Competency Center and provides for its composition and purpose.
- Appropriates \$500,000 from General Revenue Fund to the Justice Administrative Commission to fund the expenses associated with the Judicial Information Integration Competency Center.

In addition, this bill revises provisions in ch. 721, F.S., (Florida Vacation Plan and Timesharing Act) to tailor regulation of personal property timeshare plans offered in Florida. Personal property timeshares are timeshare interests not permanently affixed to real property, such as cruise ships, houseboats, and recreational vehicles. The bill clarifies language with respect to exchange programs and incidental benefit disclosures and addresses the issues of automatic renewal for timeshare plans, disclosure provisions, advertising, exchange programs, and incidental benefits.

It provides that a timeshare developer may voluntarily file advertising material with the Division of Florida Land Sales, Condominiums, and Mobile Homes (Division), Department of Business and Professional Regulation (Department), and requires the Division to review and comment on any filed advertising deficiencies within 10 days. It provides that notices and other information sent by the timeshare board may be sent via electronic mail. It provides timeframes for review of exchange filings, amendments, and advertising. It provides conforming, clean-up and technical corrections.

This bill substantially amends the following sections of the Florida Statutes related to Article V implementation:

s. 25.241, s. 25.383, s. 25.384, s. 27.02, s. 27.34, s. 27.40, s. 27.42, s. 27.51, s. 27.52, s. 27.5303, s. 27.5304, s. 27.54, s. 27.562, s. 28.24, s. 28.2401, s. 28.2402, s. 28.241, s. 28.245, s. 28.246,

s. 28.345, s. 28.35, s. 28.36, s. 28.37, s. 29.005, s. 29.006 s. 29.007, s. 29.008, s. 29.016, s. 34.01, s. 34.041, s. 34.191, s. 35.22, s. 40.29, s. 40.32, s. 44.108, s. 45.031, s. 55.10, s. 55.141, s. 57.085, s. 61.14, s. 61.181, s. 125.69, s. 125.69, s. 129.02, s. 142.01, s. 218.245, s. 318.14, s. 318.15, s. 318.18; s. 318.21; s. 321.05, s. 327.73, s. 372.72, s. 382.023, s. 384.288, s. 392.68, s. 394.473, s. 395.3025, s. 397.334, s. 588.20, s. 713.24, s. 721.83, s. 744.3678, s. 766.104, s. 849.19, s. 849.22, s. 849.44, s. 903.26, s. 925.09, s. 938.17, s. 938.29, s. 938.35, and s. 939.18 .

In addition, this bill substantially amends the following sections of the Florida Statutes related to timeshare plans:

475.011, 718.103, 721.02, 721.03, 721.05, 721.06, 721.065, 721.07, 721.075, 721.08, 721.09, 721.11, 721.12, 721.13, 721.14, 721.15, 721.16, 721.17, 721.18, 721.19, 721.20, 721.24, 721.26, 721.52, 721.53, 721.54, 721.55, 721.551, 721.552, 721.56, 721.57, 721.84, 721.96, and 721.97.

This bill creates the following sections of the Florida Statutes:

s. 29.0085, s. 29.0051, s. 50.0711, s. 55.312.

This bill repeals the following sections of the Florida Statutes:

s. 11.75, s. 40.30.

This bill redesignates the following section of the Florida Statutes:

Chapter 40.

## II. Present Situation:

### Overview

In 1998, a proposal by the Constitution Revision Commission to amend Article V of the Florida Constitution was adopted by the voters. The essence of Revision 7 to Article V provides for a funding reallocation among the 67 counties, the state, and users for the state court system. Specifically, the pertinent part reads as follows:

#### SECTION 14. Funding.—

(a) All justices and judges shall be compensated only by state salaries fixed by general law. Funding for the state courts system, state attorneys' offices, public defenders' offices, and court-appointed counsel, except as otherwise provided in subsection (c), shall be provided from state revenues appropriated by general law.

(b) All funding for the offices of the clerks of the circuit and county courts performing court-related functions, except as otherwise provided in this subsection and subsection (c), shall be provided by adequate and appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions as required by general law. Selected salaries, costs, and expenses of the state courts system may be funded from appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions, as provided by general law. Where the requirements of either the United States Constitution or the Constitution of the State of Florida preclude the imposition of filing fees for judicial proceedings and service charges and costs for performing court-related functions sufficient to fund the court-related functions

of the offices of the clerks of the circuit and county courts, the state shall provide, as determined by the legislature, adequate and appropriate supplemental funding from state revenues appropriated by general law.

(c) No county or municipality, except as provided in this subsection, shall be required to provide any funding for the state courts system, state attorneys offices, public defenders' offices, court-appointed counsel or the offices of the clerks of the circuit and county courts performing court-related functions. Counties shall be required to fund the cost of communications services, existing radio systems, existing multi-agency criminal justice information systems, and the cost of construction or lease, maintenance, utilities, and security of facilities for the trial courts, public defenders' offices, state attorneys' offices, and the offices of the clerks of the circuit and county courts performing court-related functions. Counties shall also pay reasonable and necessary salaries, costs, and expenses of the state courts system to meet local requirements as determined by general law.

(d) The judiciary shall have no power to fix appropriations.

Article XII, section 25 of the Florida Constitution directed the Legislature to commence funding Revision 7 beginning in the 2000-2001 fiscal year and required Revision 7 to be fully effectuated by July 1, 2004.<sup>1</sup> Thus, Revision 7 must be fully implemented coincident with the beginning of the July 1, 2004 state fiscal year.

### **Implementation**

#### *State Court System*

Chapter 2003-402, Laws of Florida, established the statutory framework for implementation of Revision 7. That bill defined the elements of the state court system, state attorney's offices, public defender's offices, and court-appointed counsel.<sup>2</sup>

#### *Clerks of the Circuit and County Courts*

Clerks of the circuit courts are elected constitutional officials. *See* Art. VIII, s. 1, *Fla. Const.* However, the duties of the clerks are set forth by special or general law. *See* Art V, s. 16, *Fla. Const.* The duties of the clerk may be divided between two officers, one serving as the clerk of court and the other serving as the county financial officer (i.e., clerk for the board of county commissioners, auditor, recorder and custodian of all county funds).

Although the duties of the clerk of the circuit court are set out through numerous statutory chapters to include issuance of marriage licenses, recording of plats, and collection or administration of fines and court charges imposed for a variety of criminal and non-criminal violations, their primary duties are set forth in ch. 28, F.S. The clerk of the court is the official recorder of all instruments. *See* s. 28.222, F.S.; Art. VIII, s. 1, *Fla. Const.*

According to the Florida Association of Court Clerks and Comptroller, Inc., the clerks' offices are funded either as "*fee clerks*" or "*budget clerks*". The *fee clerks* are funded primarily or solely by service charges, fees, and court costs or specific appropriations from the county government. The *budget clerks* submit an annual budget to the county and are funded in the same manner as

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<sup>1</sup> *See also* s. 29.003, F.S.

<sup>2</sup> *See* s. 29.001(1) and s. 29.004 through s. 29.007, F.S.

any other department of the county government. The clerks collect numerous fees, service charges, and court costs related to the functions of the judicial system. These funds are distributed in accordance with the statute, court rule, local court rule, or ordinance which authorized the charge. Fee clerks retain those amounts authorized by law to cover operating costs and budget clerks deposit the funds collected into county accounts.

Pursuant to the constitutional amendment, ch. 2003-402, L.O.F., provides that funding for the court-related functions of the offices of the clerks of the circuit and county courts are to be provided by adequate and appropriate filing fees, service charges and costs.<sup>3</sup>

#### *Counties*

Pursuant to the constitutional amendment, county funding of court related functions is provided in s. 29.008, F.S.

#### **Article V Indigent Services Advisory Board [Board]**

The Board was created by the Legislature to advise it in establishing qualifications and compensation standards for the expenditure of state funds for those providing state-funded due process services for indigents in the judicial system.<sup>4</sup> Pursuant to the law, the Board submitted its report to the Legislature in early 2004.<sup>5</sup> The Board made recommendations regarding the following due process services: 1) expert witnesses; 2) court interpreters; 3) court-appointed counsel; and 4) court reporters.<sup>6</sup>

#### **Circuit Article V Indigent Services Committees [circuit committee]**

The Legislature required that a circuit committee be established in each judicial circuit.<sup>7</sup> Each circuit committee is composed of: the chief judge of the circuit, or designee; the public defender; an experienced private criminal defense attorney; and an experienced civil trial attorney. Each circuit committee is charged with: 1) managing the appointment and compensation of court-appointed counsel within a circuit available to represent indigent defendants in conflict cases pursuant s. 27.40, F.S., and s. 27.5303, F.S., by applying the eligibility and performance standards set by the Legislature, if any, after receiving recommendations from the Board; 2) maintaining a registry of private counsel available and qualified to represent indigents in public defender conflict cases; and 3) developing a schedule of standard fees and expense allowances for the various categories of cases consistent with standards adopted by the Legislature, if any, after receiving recommendations from the Board.<sup>8</sup>

#### **Timeshare Plans**

With regard to timeshare plans, Chapter 721, F.S., provides for regulation of the offering, sale, management, and operation of real and personal property timeshare plans.<sup>9</sup> It governs timeshare plans consisting of more than seven timeshare periods over a period of at least three years in

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<sup>3</sup> See s. 29.001(2), F.S.

<sup>4</sup> s. 29.014(1), F.S.

<sup>5</sup> Final Report, Article V Indigent Services Board, Jan. 6, 2004.

<sup>6</sup> *Id.* at 7-9.

<sup>7</sup> s. 27.42, F.S.

<sup>8</sup> *Id.* at (2)

<sup>9</sup> Real estate timeshare plans mean plans in which the accommodations are comprised or permanently affixed to real property while personal property timeshare plans are not permanently affixed to real property. S. 721.05, F.S.

which the accommodations and facilities are located or offered within Florida and the total financial obligation of the purchaser over the term of the timeshare plan exceeds \$3,000.<sup>10</sup> A timeshare plan developer must file a public offering statement and the required exhibits with the Division of Florida Land Sales, Condominiums, and Mobile Homes (Division), prior to offering the timeshare plan to the public.<sup>11</sup> The Division is authorized to cite deficiencies in the filing, if any, and approves the filing after the developer has corrected all deficiencies.

The public offering statement includes important disclosures for the timeshare purchaser including the background and experience of the developer, any pending lawsuits, and many details about the operation of the timeshare plan. The purchaser has a 10-day cancellation period after all required documents have been provided,<sup>12</sup> including amendments that the developer deems to be material.<sup>13</sup> The purchaser's purchase deposit is held in escrow by an escrow agent who must be independent from the developer.<sup>14</sup> The purchase deposit cannot be released from escrow until several conditions have been satisfied including expiration of the purchaser's 10-day cancellation period and proof that the developer can convey the timeshare period unencumbered or with a recorded non-disturbance and notice to creditor's instrument or similar protection.<sup>15</sup>

The developer is responsible for any violations of ch. 721, F.S., by any party that occur during the promotion, advertising, contracting and closing of the timeshare plan.<sup>16</sup> The developer must file advertising with the Division prior to using it and if the developer requests a review and approval of the advertising, the Division will perform the review and issue an approval letter.<sup>17</sup>

The developer must continue to file changes to the public offering statement with the Division for review and must provide those changes to purchasers who have not closed, if the developer deems the changes to be material and adverse.<sup>18</sup> When the developer ceases to offer timeshare periods, the duty to file amendments with the Division ends.

A timeshare managing entity must be established upon creation of the timeshare plan.<sup>19</sup> The Timeshare Owners' Association<sup>20</sup> has many duties which are often delegated to a management company.<sup>21</sup> The managing entity acts in the capacity of a fiduciary to the timeshare purchasers. Both are collectively the "managing entity" as defined in s. 721.05(20), F.S., and s. 721.13(1), F.S. The managing entity must annually file with the Division the adopted budget and an audited statement of the books and records of the timeshare plan.<sup>22</sup> Timeshare exchange companies are regulated under s. 721.18, F.S.

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<sup>10</sup> S. 721.03, F.S.

<sup>11</sup> S. 721.07, F.S.

<sup>12</sup> S. 721.10, F.S.

<sup>13</sup> S. 721.07(3), F.S.

<sup>14</sup> S. 721.05(18), F.S. and S. 721.08, F.S.

<sup>15</sup> S. 721.08, F.S.

<sup>16</sup> S. 721.056, F.S.

<sup>17</sup> S. 721.11, F.S.

<sup>18</sup> S. 721.07(3), F.S.

<sup>19</sup> S. 721.13, F.S.

<sup>20</sup> S. 721.05(25), F.S.

<sup>21</sup> S. 721.13(3), F.S.

<sup>22</sup> S. 721.13(3), F.S.

According to representatives with the Department, 517 timeshare plans exist in the state with more than 1.6 million timeshare weeks. Fifty-six out-of-state plans also exist in Florida.

The current statutory timeshare framework is based solely upon the characteristics of *real estate* timeshare plans and does not address the special regulatory and consumer protection issues of *personal property* plans, e.g., plans involving cruise ships, houseboats, yachts, or recreational vehicles. Florida's timeshare law was amended in 1991<sup>23</sup> to include personal property time sharing, but specific personal property statutory provisions were not included in the legislation at that time. Therefore, industry members have not filed personal property plans with the division due to the difficulty of complying with the current real property framework. Only one personal property timeshare has been approved by the Division which involves a recreational vehicle timeshare.

Chapter 721, F.S., currently provides a regulatory framework for exchange programs but lacks specifics as to certain review timeframes for material changes and updates to an approved exchange company filing. The timeshare law is currently interpreted by the Division such that automatic renewal of timeshare plans, incidental benefits, and exchange program memberships will count towards the three-year and monetary jurisdictional thresholds, but the statute lacks specific guidelines. Also, the law currently does not allow the timeshare board to send notices to purchasers via electronic mail.

### III. Effect of Proposed Changes:

With regard to timeshare plans, the following section by section analysis describes the effect of the proposed changes:

#### **Section 1. Purposes**

Section 721.02, F.S., is amended to incorporate certain conforming non-substantive changes and adds personal property examples that include cruise ships, vessels, houseboats, recreational vehicles and other motor vehicles, to a list of timeshare plan regimes regulated under the statute.

#### **Section 2. Scope of chapter**

Section 721.03(1)(d), F.S., is amended to address the effect of automatic renewal provisions in consumer contracts on jurisdiction thresholds. The provision clarifies that automatic renewals are to be counted in determining the term of the plan for purposes of the jurisdictional thresholds of three years and \$3,000.

According to the Department of Business and Professional Regulation (Department), this provision is intended to be applicable to single-site timeshare plans and incidental benefits, which are included in part I, single site vacation plans, and timeshare plans. It excludes multisite timeshares provided in part II, vacation plans. Under part I, the developer cannot negate the automatic renewal provision by providing the purchaser with the ability to cancel the contract

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<sup>23</sup> Ch. 91-236, L.O.F.

and receive a refund or receive special advance notice or renewal. The part I renewal is intended to be different from the automatic renewal provision added to s. 721.52(4)(b), F.S., in the definition of a multisite timeshare plan.

Section 721.03(8), F.S., is also amended to provide that the chapter applies only to personal property timeshare plans offered in Florida. However, as to those personal property plans offered in Florida, limited management-related provisions of the chapter will apply in addition to most of the offering provisions.

Subsection (8)(c) is added to require any developer and any managing entity of a personal property timeshare plan to submit to personal jurisdiction in this state in a form satisfactory to the division at the time of filing a public offering statement.

### **Section 3. Definitions**

The following definitions are added or amended in s. 721.05, F.S., to make those definitions relevant to personal property timeshare plans:

- **Accommodation** is amended to add examples of personal property timeshare plans and specify that the property must be designed for overnight occupancy.
- **Agreement for transfer** is added to provide that legal title is not transferred on a written contract for the sale of personal property until the contract price is paid in full and the terms of payment extend for more than 180 days after the contract is executed or the completion of construction, whichever is later.
- **Closing** is amended to include personal property.
- **A common expense** is amended to include fees and taxes associated with the maintenance and operation of a personal property timeshare plan.
- **Completion of construction** is amended to explain the application of this term to personal property plans.
- **Filed public offering statement** is added to distinguish between a public offering statement filed with the division versus a public offering statement intended for purchasers. The bill deletes the definition of “registered public offering statement” and amends the statute in various places to reflect the new definition.
- **Interestholder** is amended to add an owner of underlying personal property.
- **Memorandum of agreement** is amended to add personal property related provisions regarding public notice of all timeshare license plans.
- **Owner of underlying fee** is amended to add the term of “owner of underlying personal property.”
- **Owners association** is amended to clarify that the term includes all owners of timeshare interests in all types of plans, including developers and purchasers.
- **Personal property timeshare interest** is added relating to accommodations not permanently affixed to real property.
- **Registered public offering statement** is deleted.
- **Timeshare estate** is amended to provide that a timeshare estate plan may not include a personal property timeshare interest.
- **Timeshare interest** is amended to include a personal property timeshare interest.
- **Timeshare license** is amended to exclude a personal property timeshare interest.



- **Timeshare plan** is amended to include a “personal property timeshare plan” and a “real property timeshare plan.” A “personal property timeshare plan” means a timeshare plan in which the accommodations are comprised of personal property that is not permanently affixed to real property and a “real property timeshare plan” means a plan in which the accommodations are comprised of or permanently affixed to real property.
- **Vacation ownership plan and vacation membership plan** are deleted because the terms are not used anywhere in the statute.

#### **Section 4. Contracts for purchase of timeshare interests**

Section 721.06, F.S., is amended to reflect different contract disclosures for real property timeshare plans and personal property timeshare plans. It clarifies the notice requirement for assessments, charges, fees, or taxes on the property. It clarifies personal property timeshare purchaser contract cancellation rights by permitting cancellation within 10 days after a purchaser signs a contract or within 10 days after the purchaser receives the last disclosure documents required by s. 721.07(6), F.S. It delineates the filing requirements for agreements for transfer and requires filing of an agreement for deed with the Division of Florida Land Sales, Condominiums, and Mobile Homes (Division), and filing an agreement for transfer in the local public records and the Division.

#### **Section 5. Resale purchase agreements**

Section 721.065, F.S., is amended to include pertinent personal property timeshare plan disclosures of assessments and delinquencies in the resale purchase contract.

#### **Section 6. Public Offering Statement**

Section 721.07, F.S., is amended to make conforming changes consistent with other existing sections or changes in the bill. It adds pertinent disclosures to the public offering statements related to the offering of personal property timeshare plans. It provides that specific disclosures pertaining to point systems are required, and if located in a vessel, identifying numbers, fire safety plans, status of the title to personal property, and a description of any judgments. It clarifies that unlike real property timeshare plans, managing entities for personal property timeshare plans are not required to maintain deferred maintenance and capital expenditure reserve accounts, and imposes a special disclosure for plans that do not maintain such accounts, including notification that the plan may be subject to “substantial special assessments” if no reserve account is established. It provides additional documents that are required under a time share agreement including independence of escrow agent, creditor notice, registry or ownership of vessel, if applicable, and legal compliance of the timeshare instrument.

#### **Section 7. Incidental benefits**

Section 721.075, F.S., is amended to clarify that incidental benefit filings are to be reviewed for compliance purposes by the Division. Pursuant to s. 721.05(17), F.S., an incidental benefit is an “accommodation, product, service, discount, or other benefit which is offered to a prospective purchaser of a timeshare plan prior to the expiration of his or her initial voidability period.” Incidental benefits are benefits that might not be available for the entire term of the timeshare. This provision requires specific disclosures to purchasers so those purchasers will know not to base a purchasing decision on the continued availability of incidental benefits. The bill amends s. 721.075, F.S., to require that the source of incidental benefits be disclosed as part of those disclosures.

**Section 8. Escrow accounts; nondisturbance instruments; alternate security arrangements; transfer of legal title**

Section 721.08, F.S., is amended to deal with the conditions under which purchase deposits may be lawfully released from escrow to ensure that timeshare accommodations are available in the manner portrayed and protected from future encumbrances that would endanger the use rights of purchasers. Specifically, it is amended as follows:

- It clarifies that property other than funds can be the subject of escrow.
- It delineates the circumstances under which a purchaser's funds or other property may be released from escrow upon compliance with specified conditions by the developer, which have been divided into the compliance conditions that apply to timeshare licenses, timeshare estate, and personal property timeshare interest, respectively.
- For timeshare estates, the bill adds the requirement that the escrow agent may release the funds or property in escrow to the developer if evidence is presented that the accommodation and facility is, pursuant to the provisions of ch. 721, F.S., free from claims of other interestholders, is subject to a nondisturbance and notice to creditors, or has been transferred into a trust. For a personal property timeshare interest, funds may be released under the following additional requirements. Any agreement for transfer sale must conform to the requirements in s. 761.06, F.S., for a contract for purchase and this section. Evidence must be provided that the property's legal title has been transferred into a trust, into an owner's association, or by certificate of title.
- Provisions are added that address the specific circumstances that accompany the offering of timeshare plan interests on a cruise ship or passenger vessel. It also covers the circumstances under which a trust or owners' association may be used as a financial assurance vehicle, and provides for a special transfer restriction to be placed on the certificate of title for personal property plan accommodations that are transferred in that manner.
- It clarifies existing law and procedure for the substitution of a financial assurance for funds held in escrow.
- Provisions are reworded to make the plans parallel to the existing nondisturbance and notice to creditor requirements of s. 721.53, F.S., and to address the different manners in which constructive notice of such requirements is given for real property and personal property timeshare plans. It provides for recording of real property plans in the public record and filing personal property plans attached to any security agreement or "other agreement executed by an interestholder."
- In lieu of the requirements in s. 721.08(2)(c)3.e.(III), it gives the division director discretion to accept alternate means of protecting the use rights of purchasers in the subject accommodations and facilities of the timeshare plan against unfilled and inferior claims.
- The director of the division is given discretion to accept other methods of protecting the long-term interests of consumers against the claims of interestholders and their creditors.
- It differentiates between the transfers of title to timeshare estates and to personal property timeshare interests.

- It extends third-degree felony punishment to regulated parties who intentionally fail to comply with the financial assurance provisions of this section pertaining to the creation and operation of trusts and owners' associations.

**Section 9. Reservation agreements; escrows.**

Section 721.09, F.S., is amended to make a conforming change by changing the phrase "registered public offering" to "filed public offering."

**Section 10. Advertising materials; oral statements.**

Section 721.11, F.S., is amended to make filing advertising materials by the developer with the Division "voluntary," but requires the Division to review all materials submitted and notify the developer of any deficiencies within 10 days. Current law requires a developer to file all advertising materials with the Division, but does not require the Division to review such material unless requested by the developer.

**Section 11. Recordkeeping by seller**

Section 721.12, F.S., creates a provision for personal property timeshares that requires a seller to keep a copy of the contract until an instrument of transfer is delivered to the purchaser.

**Section 12. Management**

Section 721.13, F.S., is amended to change the requirements placed on managing entities as follows:

- It clarifies that a developer must create an owners' association (for those plans that have owners' associations) prior to the first closing of a sale of a timeshare interest.
- It provides the managing entity with an alternative to sending out numerous copies of assessment budgets to owners during the budget approval process, if it has been delivered pursuant to ch. 718 (condominium law) or ch. 719 (cooperative law), F.S.
- It also clarifies that any reserves left over upon termination of a timeshare plan are to be refunded pro rata to purchasers.
- It clarifies that an owner's e-mail address in the hands of the managing entity is to remain private without his or her prior consent.
- It permits the use of e-mail, with an owner's consent, to provide notices to an owner. No provision is made in the committee substitute for an owner to revoke his or her consent to receive notice by e-mail. Additionally, proxies and written consents may be transmitted by e-mail as long as the electronic signature can be authenticated.
- It exempts the management of personal property timeshare plans from certain provisions of this section because personal property accommodations are not affixed to real property and are most typically not physically located in Florida and are therefore inherently difficult to regulate as to management and operational functions.

**Section 13. Discharge of managing entity**

Section 721.14, F.S., is amended to exempt personal property timeshare plans from provisions relating to the discharge of the managing entity.

According to the Department, the exemption is based upon the fact that Florida is not asserting jurisdiction or control over most management-related duties because those functions are taking place outside the state.

**Section 14. Assessments for common expenses**

Section 721.15, F.S., is amended to clarify that depreciation expenses for income-producing property may only be excluded from the obligation of a developer under a developer guaranty to the extent that such depreciation expenses exceed the net income produced from the property. It exempts personal property timeshare plans from this section since, by its nature, personal property is movable from jurisdiction to jurisdiction.

**Section 15. Liens for overdue assessments**

Section 721.16, F.S., is amended to provide that lien provisions relating to real property timeshare plans will not be applicable to personal property timeshare plans. The Department commented that the “section presupposes the ability to place liens on a real property timeshare interest and foreclose on such liens, which would not typically be possible in a personal property scenario.”

**Section 16. Transfer of interest**

Section 721.17, F.S., is amended to add personal property timeshare plans to the coverage of the section. It is reworded to make it parallel to the existing nondisturbance and notice to creditor requirements of s. 721.53, F.S., and to the proposed amendments to s. 721.08(3), F.S.

**Section 17. Exchange programs; filing of information and other materials; filing fees; unlawful acts in connection with an exchange program.**

Section 721.18, F.S., is amended to require that purchaser participation in an exchange program is voluntary (other than as it pertains to purchasers of multisite timeshare plans). It requires the disclosure of any conversion or other fees payable to a third party. It requires an exchange company to file consumer membership agreements and applications with the Division for review and established procedures for such review. An exchange company has the discretion to determine whether an amendment to an exchange program materially alters an exchange program in a way that is adverse to a purchaser. An exchange company does not have to provide an amendment to a purchaser who has not closed on the purchase on an exchange program, if the exchange company determines the amendment does not materially alter the program. The Division shall review any promotional material filed by an exchange company upon request.

**Section 18. Provisions requiring purchase or lease of timeshare property by owners' association or purchasers; validity.**

Section 721.19, F.S., is amended to apply the law to personal property timeshares.

**Section 19. Licensing requirements; suspension or revocation of license; exceptions to applicability; collection of advance fees for listings unlawful.**

Section 721.20, F.S., is amended to make it unlawful to charge an advance fee for the listing of a personal property timeshare interest. It exempts personal property timeshare plans from certain provisions of the section since personal property, by its nature, is movable from jurisdiction to jurisdiction.

**Section 20. Firesafety**

Section 721.24, F.S., is amended to exempt personal property timeshares from the provisions of the section since personal property, by its nature, is movable from jurisdiction to jurisdiction.

**Section 21. Regulation by division**

Section 721.26, F.S., is amended to make conforming changes so that it is clear that the Division's enforcement and compliance powers apply to personal property timeshares.

**Section 22. Definitions**

Section 721.52, F.S., is contained in Part II of ch. 721, F.S., related to vacation clubs (multisite timeshare plans). The definitions under this section are amended as follows:

- **Multisite timeshare plan** is amended to provide that automatic renewal of the membership contract is counted for purposes of determining jurisdictional thresholds of \$3,000 and three years, unless the purchaser can terminate the membership at any time with a pro rata refund or receives notice of no less than 30 days and no more than 60 days prior to renewal as to the right to terminate prior to automatic renewal;
- **Nonspecific multisite timeshare plan** is added to include personal property timeshare plans and multisite timeshare license plans for which the purchaser receives a right to use all accommodations through the reservation system but no right to use particular accommodations in the event of termination of the plan; and
- **Specific multisite timeshare plan** is added to include a multisite timeshare license plan or personal property timeshare plan for which the purchaser receives a specific right to use accommodations at a particular component site with use rights in the other accommodations through a reservation system.

**Section 23. Subordination instruments; alternate security arrangements.**

Section 721.53, F.S., is amended to require that developers must comply with applicable provisions of s. 721.08, F.S. (relating to nondisturbance of accommodations and facilities), relating to personal property timeshares in multisite timeshare plans.

**Sections 24 – 28.**

These sections make conforming changes to the definition changes made elsewhere in the bill. These sections amend s. 721.54, s. 721.55, s. 721.551, s. 721.552, and s. 721.56, F.S.

**Section 29. Offering of timeshare estates in multisite timeshare plans; required provisions in the timeshare instrument.**

Section 721.57, F.S., is amended to clarify that trust timeshare estate plans are governed by s. 721.08, F.S., and not s. 721.57, F.S.

**Section 30 – 32.**

These sections make conforming changes to s. 721.84, 721.96, and s. 721.97, F.S., to make these sections applicable to personal property timeshares.

**Section 33.**

This section makes conforming changes to s. 475.011, F.S.

**Section 34.**

This section makes conforming changes to s. 718.103, F.S.

**Section 35.**

This section provides that the bill takes effect upon becoming law. However, with respect to any timeshare plan or exchange program filing approved by the Division prior to the date the act becomes law, certain amendments to ch. 721, F.S., shall not apply until the earlier of January 1, 2005, or the date that any amendments to such filings are made subsequent to the date the act becomes a law. With respect to timeshare plan filings approved by the Division prior to the date the act becomes law, amendments to s. 721.08(3), F.S., do not apply to the nondisturbance and notice to creditors instruments required by s. 721.08, F.S., unless and only to the extent that the developer otherwise voluntarily complies with all or a portion of the provisions.

The bill makes the changes noted in the table below related to Article V implementation:

<b>Entity Affected</b>	<b>Effect(s) of Proposed Changes</b>	<b>Statutory Section(s)</b>	<b>Other Persons or Entities Affected</b>
<b>Clerks</b>	Clarifies that the responsibility of the clerk in determining indigence is a ministerial function.	27.52	Indigent Defendants
	Increases by \$4 per page the service charge for recording instruments by the clerk of the court. Of the \$4 increase, 10 cents will be used to fund the clerks' comprehensive case information system, \$1.90 will be used to fund the information technology needs of the clerks statewide, \$1 will be used to fund the information technology needs of the state courts, 60 cents will be used to fund the information technology needs of the state attorneys, and 40 cents will be used to fund the information technology needs of the public defenders. The total charge for recording an instrument will be \$10 for the first page and \$8.50 for each additional page. The average number of pages recorded per document is three pages, according to the Florida Association of Court Clerks and Comptroller, Inc.	28.24	General public/courts
	Modifies the filing fee and authorizes additional costs for contesting local ordinance violations. The filing fee is reduced from \$200 to \$10, and a court cost of \$40 is required to be paid by the non-prevailing party for violations contested in court.	28.2402	Counties/ Municipalities/ Violators
	Increases the additional filing fee for the Court Education Trust Fund from \$2.50 to \$4, with 50 cents distributed to the Clerk of Court Operations Conference for clerk education functions.	28.241	Courts
	Imposes filing fees for reopening cases in county court; provides exemptions.	Circuit court - 28.241[current law, \$50];	Plaintiffs

Entity Affected	Effect(s) of Proposed Changes	Statutory Section(s)	Other Persons or Entities Affected
		county court - 34.041 [current law, \$50]	
	Authorizes the clerk in each county to establish a court docket fund from a \$1 service charge added to filing fees on circuit court actions. The fund is used to pay for publication of court filings in local newspapers.	50.0711	News publishers
	Authorizes the clerks or collection agents to recover collection costs not to exceed 40% of the balance owed.	28.246 34.191 938.29	Clerks' Collection Agents/Delinquent Payers
	Requires moneys collected by the clerks to be distributed in accordance with the law that is in effect at the time the funds are collected; clarifies that clerks are authorized to distribute funds to state entities and the courts electronically through the Department of Revenue.	28.245	County
	Authorizes the clerks to offset processing costs for partial payments by collecting up to \$4 per month as a service charge.	28.246	Payers
	Modifies reporting requirements for court assessments and collections to require the clerk to separately identify the amount assessed as community service, the amount reduced to a judgment or lien and the amount satisfied by time served.	28.246	Courts
	Deletes the Clerk of Court Operations Conference authority to adjust maximum fines, fees, service charges & costs based on the Consumer Price Index, and deletes the requirement that the conference publish a fee schedule.	28.35	
	Clarifies the definition of revenues available to fund the clerk's budget for court-related services.	28.36	
	Requires clerk's remittance of excess fee revenue to the county for the period 10-1-03 to 06-30-04.	28.37	County
	Equipment and furnishings owned by the county but located in the office of clerk of court are transferred to the state. Certain computer related items are excluded from transfer to the state.	29.008	County/State
	Clarifies the appellate filing fee for county court cases appealed to circuit court.	34.041	Litigants
	Clarifies what portion of fee and service charge revenue is to be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund.	34.041	State
	Increases the Court Education Trust Fund additional filing fee in county court civil filings from \$2.50 to \$4.00, \$.50 of which is to be distributed to the clerks' conference for clerk education programs.	34.041	Courts
	Clarifies and revises the procedures for payment of due process services; clerks are to pay for jurors and ordinary witnesses; Justice Administrative Commission pays for expert witnesses, court reporters, interpreters and court-	40.29	State

Entity Affected	Effect(s) of Proposed Changes	Statutory Section(s)	Other Persons or Entities Affected
	appointed counsel.		
	Deletes obsolete language and inserts conforming language relating to procedures for payment of due process services.	40.32	
	Increases the service charge in forced judicial sales [increases from \$40 to “up to” \$60]	45.031	Litigants
	Increases the service charge for delinquency fee on support payments [increases from \$5 to “up to” \$7.50].	61.14	Litigants
	Increases the service charge for driver’s license reinstatement [increases from up to \$37.50 to “up to” \$47.50] and provides for partial distribution [\$10] to Highway Safety Operating Trust Fund.	318.15	State
	Redirects county court costs for driving without a license into the clerk’s fine and forfeiture fund.	318.14	County
	Redirects county fine and forfeitures arising from forfeited bail bonds into the clerk’s fine and forfeiture fund.	321.05	County
	Changes ‘Fee’ to ‘Service Charge’ relating to lien certificates; correct a cross-reference.	55.10, 55.141	
	Adds a new service charge for civil settlements in excess of \$100,000; provides for distribution of funds collected thereunder.	55.312	Litigants/State
	Make permanent an additional fee on certain child support cases.	61.181	
	Clarifies clerk’s fine and forfeiture fund to include criminal traffic fine revenue; clarifies the exclusion of funds pursuant to s. 318.18(1)(a)	142.01	
	Increases the failure-to-pay penalty [increases from \$12 to \$18] and clarifies that \$6 of \$18 is to be deposited into the clerk’s fine and forfeiture fund; provides for a \$3 additional court cost for traffic violations in the four counties that have created criminal justice selection centers or assessment centers by special law (Alachua, Bay, Brevard, and Pinellas); provides for a \$2.50 additional court cost for traffic violations to be distributed to counties to fund criminal justice education and training; deletes obsolete language for funding Criminal Justice training and school crossing guards now redirected to clerk’s fine and forfeiture fund; redirects fines and forfeitures relating to fines, fees, and forfeitures of bail bonds to clerk’s fine and forfeiture fund; deletes language which provided for a percentage distribution of civil penalties to various entities that exceeded 100 percent.	318.18; 318.21; 321.05	Local law enforcement agencies/county
	Increases dismissal fees for boating infractions from \$5 to “up to” \$7.50; increases court costs for swimming or nonmoving boating infractions by 50%.	327.73	Litigants
	Redirects county fines, penalties or forfeiture of bail relating to wildlife	372.72	County



Entity Affected	Effect(s) of Proposed Changes	Statutory Section(s)	Other Persons or Entities Affected
	violations into the clerk's fine and forfeiture fund.		
	Changes reference to "circuit court" to "clerk of circuit court" to clarify the disposition of 43% of the specified fee for court costs in divorce matters.	382.023	
	Changes terminology from "fee" to "service charge" as it relates to the transfer of liens to security (conforms with other changes in the bill).	713.24	
	Modifies the provisions governing consolidation of timeshare foreclosures. No more than 15 timeshare estates may be joined within the same foreclosure action. In addition, the clerk of the circuit court may charge an additional \$5 filing fee for each timeshare estate joined in an action; deletes the authority of the clerk of court to charge a separate filing fee for each defendant in a consolidated foreclosure.	721.83	Litigants
	Increases service charge from \$25 to not to exceed \$37.50 for pleadings in medical negligence cases.	766.104	Litigants
	Redirects county fine and forfeiture fund into clerk's fine and forfeiture fund as relates to money and value of confiscated gambling machines.	849.19	County; Litigants
	Redirects proceeds of forfeited property under gambling laws from county fine and forfeiture fund to clerk's fine and forfeiture fund.	849.44	County
	Redirects forfeited bail bond dollars from the county fine and forfeiture fund to the clerk's fine and forfeiture fund.	903.26	County
	Provides that the Inventory Audit Fee for guardianship may be waived only upon a showing of insufficient funds in the ward's estate.	744.365	
	Provides that the financial return audit fee for guardianship may be waived only upon showing of insufficient funds in the ward's estate.	744.3678	
<b>Counties/ Municipalities</b>	Authorizes counties/municipalities to enter into contracts for local ordinance violations prosecution.	27.34	State Attorneys
	Authorizes counties/municipalities to contract with the public defenders to provide indigent representation in local ordinance violation cases.	27.54	Public Defenders
	Authorizes an additional surcharge of \$30 on circuit court, county court and probate filing fees and \$15 on traffic violations to continue current revenue streams to certain counties to be used to pay their bond debt for court facilities. Courts may not waive this surcharge.	28.2401 28.241 34.041 318.18	Payers
	Clarifies county responsibility to pay for multi-task computer equipment and information technology support staff; excludes clerks equipment and telephonic infrastructure and computer equipment from transfer to the state on 7/1/05.	29.008	State

Entity Affected	Effect(s) of Proposed Changes	Statutory Section(s)	Other Persons or Entities Affected
	Requires counties to continue to provide facility space and furnishings for the Statewide Office of Guardian Ad Litem at least to the extent it was provided during the state fiscal year 2003-2004.	29.008	State
	Includes sign language interpretation in the list of auxiliary aids to be provided by the county to persons who are not entitled to have such services provided them by the state to comply with constitutional requirements.	29.008	
	Clarifies that the local requirement for providing legal aid programs, which was part of HB 113A last year, is funded in part by the \$150 court cost on convictions currently authorized in s. 939.18, F.S.; requires, to the extent possible, a maintenance of effort on the part of the counties to continue funding the legal aid programs as they were funded during the local fiscal year ended September 30, 2003; counties with populations of less than 75,000 are no longer exempt from this requirement.	29.008	Legal aid providers/general public
	Deletes authority for a county prosecutor and substitutes state attorney authority to prosecute in the name of the state; authorizes the county to contract with public defenders for local ordinance violations defense.	125.69	Public Defenders, State Attorneys
	Deletes an obsolete reference to the county fine and forfeiture fund under s. 142.01, F.S.	129.02	
	Includes a hold harmless provision for revenue sharing, such that the individual municipalities' increase in revenue sharing is to be distributed in proportion to their respective loss from the half-cent sales tax, as effected by HB 113A in 2003. The distribution to municipalities in the aggregate statewide is unchanged.	218.245	
	Eliminates the county authority but retains the municipality authority to levy a parking surcharge to pay for school crossing guard programs.	318.21	
	Eliminates the reference to the county general revenue or fine and forfeiture funds as the specific sources of funds the county is to use to pay for court-related fees, mileage, and charges relating to sexually transmitted disease cases.	384.288	
	Eliminates the reference to the county general revenue or fine and forfeiture funds as the specific sources of funds the county is to use to pay for court-related fees, mileage, and charges relating to enforcement of tuberculosis control cases.	392.68	
	Replaces the county with the state to be responsible for funding attorney's fees and expert witness fees for indigents in Baker Act cases.	394.473	State
	Authorizes counties to use funds from state agencies and other grants to fund drug court treatment programs	397.334	

<b>Entity Affected</b>	<b>Effect(s) of Proposed Changes</b>	<b>Statutory Section(s)</b>	<b>Other Persons or Entities Affected</b>
	Eliminates the reference to the county fine and forfeiture fund as the source of funds the county is to use to pay for costs associated with impounding, serving notice, care, feeding, etc. of livestock at large.	588.20	
	Eliminates the reference to the county fine and forfeiture fund as the source of funds the county is to use to pay for sheriffs and clerk costs related to the enforcement of gambling laws.	849.22	
	Eliminates the reference to the county fine and forfeiture fund as the source of funds the county is to use to pay for autopsies.	925.09	
	Provides county authority through a local ordinance to assess a \$3 court assessment to fund teen court programs and other juvenile delinquency prevention programs.	938.17	Local delinquency programs
	Authorizes the county to recover 40% of total recovery of collections.	938.35	
	Provides county responsibility for payment of due-process services rendered before 7/1/04, and state responsibility for payment of due-process services rendered on or after 7/1/04.		
<b>Courts</b>	Increases the filing fee in the Supreme Court from \$250 to \$400, and provides that \$100 of the filing fee is to be deposited into the courts' Grants and Donations Trust Fund to fund court improvements as authorized in the General Appropriations Act.	25.241	Litigants
	Directs each circuit Article V indigent services committee to establish a compensation schedule for court reporters; clarifies that court reporting services provided through state employee models are not subject to the fees and methods established by the circuit Article V indigent services committees.	25.383	Private court reporters
	Deletes obsolete language that related to the use of the courts' appropriated contingency fund for court-appointed counsel.	29.016	
	Creates the Judicial Information Integration Competency Center composed of representatives of the courts, counties, state attorneys, public defenders, clerks of circuit court, sheriffs and Florida Department of Law Enforcement; a 7 member steering committee along with two 18 member workgroups subordinate to the steering committee will develop recommendations for the Legislature on integrating data and information systems throughout the state courts system. Appropriates \$500,000 from General Revenue Fund for costs associated with the center.	29.0085	state attorneys/ public defenders/ clerks/ sheriffs/ counties

Entity Affected	Effect(s) of Proposed Changes	Statutory Section(s)	Other Persons or Entities Affected
	Authorizes the courts, state attorneys, public defenders, and court-appointed conflict counsel to enter into contractual agreements to share costs associated with court reporting services, foreign language translators and interpreters, court experts and all other due process costs.		state attorneys/ public defenders/ private counsel
	Authorizes the court to recover, from those with ability to pay, the reasonable costs of state funded services that are available to all litigants, with such costs to be determined by the Trial Court Budget Commission; authorizes the county to recover the costs of services provided by the county, with such costs to be determined by the chief judge of the circuit for those local requirements.		Litigants
	Imposes a \$100 Pro Hac Vice fee for appearances in county court, circuit court, district court of appeal and Supreme Court; and provides for deposit of these fees into the General Revenue Fund.	34.041, 28.241, 25.241, 35.22	Private Counsel/ Litigants/ State
	Increases the filing fee in the District Courts of Appeal from \$250 to \$350 and provides that \$100 of the filing fee is to be deposited into the courts' Grants and Donations Trust Fund and used to fund court improvements as authorized in the General Appropriations Act. [When combined with the \$50 collected by the clerk of circuit court for appeals filed in the DCA, the total fee for a DCA appeal will be \$400, equal to the fee in the Supreme Court.]	35.22	
	Provides access to confidential clerk's records without charge to state attorneys, the statewide prosecutor, public defenders, guardians ad litem, capital collateral regional counsels, and the courts, if they are entitled by law to access such records.	28.24	State Attorney/ Statewide Prosecutor/Public Defender/Appointed Counsel/Clerk
	Increases the Court Education Trust Fund service charge from \$2.50 to \$4.00, and provides that \$.50 of the fee is to be distributed to the clerks' conference for clerk education programs. Deletes from s. 25.384, F.S., the authorization to use the Court Education Trust Fund for clerk education.	28.241 25.384 28.2401	Clerk
	Reduces the fee that will be collected after July 1, 2004 by the clerk of the circuit court for appeals to the district court of appeal from \$250 to \$50, which is what is currently charged.	28.241	Clerk
	Extends to judges the exemption from clerk's fees and charges, along with state attorneys, public defenders, capital collateral regional counsels and statewide guardian ad litem employees.	28.345	Clerk/ State Attorneys/ Public Defenders/ Capital Collateral Regional Counsel/ and Statewide Guardian Ad Litem employees
	Updates a reference to the Florida Rules of Family Law; updates a reference to the Rules of Court regarding filing fees in civil actions.	34.01	

<b>Entity Affected</b>	<b>Effect(s) of Proposed Changes</b>	<b>Statutory Section(s)</b>	<b>Other Persons or Entities Affected</b>
	Provides an add-on fee to county court cases of \$4. Of the \$4 fee, \$3.50 is to be distributed to the Court Education Trust Fund in the state courts and \$0.50 is to be distributed to the clerks' conference for clerk education programs.	34.041	Litigants
	Authorizes the courts to charge fees for mediation services above the \$1 additional filing fee already in law. Fees are to be set by the Trial Court Budget Commission in accordance with Supreme Court guidelines to fund mediation services.	44.108	Litigants
	Clarifies that the \$1 mediation fee is supplemental to other fees and charges assessed.	44.108	
	Redirects the receipt of funds for the foster care citizen review panels from the state courts to the Justice Administrative Commission.	318.21	
<b>Appointed Counsel: Public Defenders/ CCRC/Private Counsel</b>	Enumerates qualifications for court-appointed counsel (pursuant to Indigent Services Advisory Board recommendations).	27.40	
	Collapses "mental health professional" category into a general "witness" category to be paid by the state, and clarifies that public defender representation is also in cases other than criminal cases.	29.006	
	Clarifies that the circuit Article V indigent services committee is also required to maintain private attorney registry even when procuring counsel through a competitive bid; adds the state attorney to the circuit Article V indigent services committee, since under this bill that committee is now charged with determining fees for court reporter services; specifies that the state attorney shall not participate in discussions or decisions relating to court-appointed counsel as a member of the circuit Article V indigent services advisory board; requires the circuit Article V indigent services committees to develop <u>maximum</u> fees and expense allowances for due process services so that the Justice Administrative Commission will be able to review invoices with clear payment limits.	27.42	
	Provides that the public defender can defend local ordinance violations if ancillary to state prosecution, unless judge files an order of no imprisonment; authorizes the public defender to represent indigent defendants charged with any violation of a local ordinance if it is punishable by imprisonment; allows the public defender to defend local ordinance violations that are not ancillary to a state prosecution, provided that the public defender has a contract with the county or	27.51	

<b>Entity Affected</b>	<b>Effect(s) of Proposed Changes</b>	<b>Statutory Section(s)</b>	<b>Other Persons or Entities Affected</b>
	municipality to be reimbursed for costs; clarifies that public defenders with appellate divisions will handle appeals arising from circuit courts or district courts of appeal to the state or federal courts.		
	Provides that for indigence determination, the clerk must notify the court if a person cannot complete the affidavit of indigence due to incapacity; clarifies that the clerk's determination of indigence is a ministerial function; clarifies that only one fee may be imposed for all court-related services.	27.52	
	Provides standards for public defender conflict of interest determinations, and removes the court from the requirement to use such standards; references the Indigent Services Advisory Board Report.	27.5303	
	Amends the compensation for court-appointed counsel to conform to Indigent Services Advisory Board recommendations; provides that court-appointed counsel may file a motion for partial compensation for costs and services rendered to date in a case if there is a particular financial hardship upon counsel.	27.5304	
	Changes 'Waiver' to 'Deferral' in the statute section title to reflect the new policy for court costs and fees imposed on prisoners, as established in HB 113A in 2003.	57.085	
	Provides that the circuit Article V indigent services committees shall develop a schedule of recommended costs for judges to consider when they assess court costs for defendants represented by the public defender or conflict attorney.	938.29	
	Provides that the additional court cost of up to \$150 for persons found guilty of any criminal offense may be used to pay for legal aid programs and local public law libraries. Currently, funds from the assessment may be used only for providing and maintaining court facilities.	939.18	Legal aid providers/ General public/ county
	Requires that cash balances within county funds previously established to fund specific court-related programs shall continue to fund those programs after July 1, 2004 (to include teen court programs where cash balances could potentially fund the programs through state FY 2004-05).	Bill section 84	Local court programs
<b>State Attorneys/ Public Defenders/ Statewide Prosecutors</b>	Authorizes the state attorney to prosecute local ordinances if state attorney has a contract for full reimbursement or as the parties may otherwise agree.	27.02	County

<b>Entity Affected</b>	<b>Effect(s) of Proposed Changes</b>	<b>Statutory Section(s)</b>	<b>Other Persons or Entities Affected</b>
	Clarifies that state attorneys and public defenders may expend state funds for the purchase of computer systems and technology staff, per current practice.	27.34 27.54	
	Provides that 25 percent of funds collected from public defender liens for attorney costs shall be deposited in the Indigent Criminal Defense Trust Fund of the public defenders; and the remainder is to be deposited into the General Revenue Fund of the state. Currently 100% of these collections are to be deposited into the General Revenue Fund after July 1, 2004.	27.562	State
	Requires that counties must transfer the title to the state for motor vehicles that have been provided by the county to the state attorney and public defender, effective July 1, 2004.	29.005 29.006	
	Eliminates the expert witness subcategory of "mental health professionals" and includes them with the general witness and expert witness category for payment by the state; clarifies that the state attorney may represent the State in cases other than criminal cases.	29.005	
<b>State of Florida</b>	Requires the state to pay for statewide prosecutor trial expenses; (\$75,000 per year is included in the Senate budget proposed for 2004-05.)	29.0051	
	Clarifies the portion of the filing fees that are to be the state's share for county court cases: first \$50 of the \$250 filing fees, plus 1/3 of all other fees excluding the first \$50. (Technical redraft of law as enacted through HB 113A in 2003.)	34.041	
	Requires the State to pay for witness costs in cases handled by a private court-appointed attorney; also provides that fees for court appointed counsel pretrial consultation fees and travel expenses are to be paid in accordance with the circuit Article V indigent service committee's policies.	29.007	
<b>Misc.</b>	Eliminates obsolete cross-references for fees for copies of patient records.	395.3025	
	Redesignates title of Chapter 40, F.S., from "Jurors and Payment of Jurors and Witnesses" to "Juries; Payment of Jurors and Due Process Costs".	Chapter 40 Bill section 81	
<b>Transition</b>	<p>Specifies that the county pays: 1) bills submitted for due process services if the services were rendered before 7-1-04; and 2) flat fee per case contracts &amp; service agreements for court appointed counsel made before 7-1-04.</p> <p>Essentially, the state pays for services rendered on or after 7-1-04 and the county pays for services rendered before 7-1-04.</p>	Bill section 82	Counties/State

<b>Entity Affected</b>	<b>Effect(s) of Proposed Changes</b>	<b>Statutory Section(s)</b>	<b>Other Persons or Entities Affected</b>
	Clarifies that counties must provide equipment and furnishings after July 1, 2005 for facilities occupied by the courts, state attorneys, and public defenders; counties must pay for telephone long distance charges, pagers, cell phones, fax machines and video teleconferencing equipment.	29.008	Counties/State
<b>Repealers</b>	Repeals:  s. 11.75, F.S., relating to the creation of the Joint Legislative Committee on Article V;  s.40.30, F.S., relating to state courts administrator endorsement of requisition.	11.75 40.30	
<b>Effective Date</b>	Provides an effective date of July 1, 2004.		

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

**Municipalities**

Chapter 2003-402, L.O.F., increased the distribution to municipalities from the Revenue Sharing Trust Fund. This was done to compensate for a reduction in half cent sales tax distribution for municipalities. The bill revises s. 218.245, F.S., to change the method used to distribute the increase in the Revenue Sharing Trust Fund to mirror the distribution formula used in the half cent sales tax distribution. The fiscal impact in total remains revenue neutral but ensures that individual municipalities will receive the same funding as they would have under the half cent sales tax distribution.

**General Public**



The additional \$4 service charge on documents recorded by the clerk of the court will have a negative impact on the general public. According to the Florida Association of Court Clerks and Comptroller, Inc., the average number of pages per document recorded by the clerks is three pages. The \$4 increase brings the total charge to \$10 for the first page, and \$8.50 for each additional page, for a total charge of \$27 for the average three page document. The total funds projected to be collected annually from the \$4 increase is \$108.4 million.

### **Court System Users**

Court system users will be negatively impacted by numerous provisions of this bill that raise clerk of the court service charges effective July 1, 2004. There is insufficient data available to estimate the individual or total impacts from any or all of the service charges that are increased by 50 percent in this bill. As part of the analysis conducted for ch. 2003-402, L.O.F., it was estimated that raising all service charges by 50 percent would increase revenues to the clerks by over \$41.7 million per year, using data that was available in the aggregate for all service charges combined. That analysis assumed that all service charges specified in law were raised effective July 1, 2004. However, subsequent research revealed that many service charges in law had been overlooked. Those that were inadvertently overlooked are the ones raised by 50 percent in this bill.

Court system users will also be negatively impacted by the additional surcharges authorized in this bill for counties with bond issues that were secured with court revenues. Counties that imposed increased fees or service charges by local ordinance (under various sections of state law) to secure payment of bonds issued to finance state court facilities will be authorized to again impose by local ordinance surcharges to pay for those bonds issued before July 1, 2003. Provisions in s. 28.2401, s. 28.241, s. 34.041 and s. 318.18, F.S., provide for \$30 surcharges on circuit civil, circuit probate and county court filings, and \$15 surcharges on traffic fines or forfeitures. Since these provisions are permissive, the total impact on court system users is indeterminate.

The addition of the Court Education Trust Fund fee on county court cases in s. 34.041, F.S., will not result in a change for court system users because that fee is already charged for county court cases, but was omitted from the law in error when ch. 2003-402, L.O.F., was enacted. However, the increases in the Court Education Trust Fund fees contained in the bill from \$2.50 to \$4.00 will negatively impact users. Approximately \$1.2 million more is expected to be paid as a result of these increases, according to filing data provided by the Office of the State Courts Administrator.

The case reopening fee added to county court cases will require court system users to pay an additional \$50 for any reopening of a case in county court, with an expected annual impact on users of \$6.4 million, according to data provided by the Florida Association of Court Clerks and Comptroller, Inc.

Increasing the filing fees by \$100 to \$350 in the District Courts of Appeal and by \$150 to \$400 in the Supreme Court is expected to cost system users approximately \$674,500 more each year for DCA clerk fees and \$37,000 more each year for Supreme Court clerk fees, according to information provided by the Office of the State Courts Administrator.

Offsetting these increases is the \$200 decrease in the \$250 fee to be paid to the clerk of the circuit court when filing an appeal in the DCA's, bringing the total fees paid for DCA cases down from \$500 (\$250 paid to the clerk of the circuit court and \$250 paid to the clerk of the DCA) to \$400 (\$50 paid to the clerk of the circuit court and \$350 paid to the clerk of the DCA). Although the \$250 fee paid to the clerk of the circuit court for DCA appeals would not have gone into effect until July 1, 2004, the \$200 decrease in that amount represents a \$1,389,000 cost avoidance to future users. The bill's net impact to users is therefore a savings of \$714,500 annually for DCA filings (\$1,389,000 savings in circuit court clerk fees less the \$674,500 increase in DCA clerk fees) and an increase of \$37,000 annually for Supreme Court filings.

Court system users who choose to pay their fines and costs under the terms of a payment plan may be required by the clerk to pay an additional \$4 per month for each month they make payments. The total impact of this on users statewide on an annual basis is indeterminate.

New authorization in s. 44.108, F.S., for the courts to charge for mediation services from those with the ability to pay will negatively impact court system users. The courts have estimated they will generate \$2,229,292 annually from these fees.

#### **Driver's License Reinstatement**

Persons seeking to have their drivers licenses reinstated will pay an additional \$10 pursuant to the increase in the service charge in s. 318.15, F.S. effective July 1, 2004. The annual impact of this is approximately \$2.6 million.

#### **Pro Hac Vice Fee**

The imposition of a \$100 fee charged to attorneys appearing pro hac vice is a negative but indeterminate impact. The number of annual appearances wherein this fee will be charged is unknown.

#### **Timeshare Plans**

A fee of \$100 is imposed for filing each amendment to materially change an approved exchange company filing. Revenues are not anticipated to be significant according to the representatives with the Department. The Department has received 3 amendments (totaling \$300) from July 2003, to January 2004, which materially changes an exchange company filing.

### **B. Private Sector Impact:**

#### **Private Court Appointed Counsel**

Private attorneys are currently paid by the counties when the court finds that the public defender assigned to a case has a conflict of interest in representing the defendant. The impact of changes to s. 27.5303 (1) (d), F.S., on the private sector may be positive or negative and cannot be determined. The bill requires the use of a uniform set of standards to determine any conflict of interest on the part of the public defender. To the extent that these new standards result in fewer instances of conflicts of interest and fewer

appointments of private counsel, the private sector would be negatively impacted. To the extent that these new standards result in more instances of conflicts of interest and a greater number of appointments of private counsel, the private sector would be positively impacted.

Private attorneys appointed by the court to represent indigent persons in court proceedings under the Baker Act as well as expert witnesses are currently reimbursed by the county at rates that vary by judicial circuit. The bill amends s. 394.473, F.S., to clarify that such attorneys and expert witnesses will be compensated by the state. To the extent that the state rates differ from those paid by the county, private attorneys and experts could be either negatively or positively impacted.

### **Recovery and Cost of Collection**

Several sections of this bill restore the authority for clerks of the court, counties, and collection agencies to recover the cost of collection which was deleted by ch. 2003-402, L.O.F., effective July 1, 2004. While the fiscal impact of this is unknown, the effect is to allow current cost recoveries now being collected to continue past July 1, 2004.

### **Timeshare Plans**

Developers of personal property timeshares will benefit under the provisions of this bill because it provides a specific framework for developers to follow in filing, promoting, and selling their timeshare plans.

## **C. Government Sector Impact:**

### *LOCAL GOVERNMENT IMPACTS*

#### **Additional Recording Service Charge**

The additional \$4 service charge authorized in s. 28.24, F.S., will provide \$54.2 million for the clerks of the circuit court (\$2 of the \$4 increase). Of this amount, \$2.7 million is distributed to the Florida Association of Court Clerks and Comptroller, Inc., to fund development and statewide implementation of the clerks' Comprehensive Case Information System, and the remaining \$51.5 million is distributed to the Public Records Modernization Trust Fund to pay for the local information technology needs of the clerk's court-related functions. This \$51.5 million represents a positive impact for not only the clerks but also for the counties since these funds will directly supplant the funds that counties are required to provide for information technology pursuant to s. 29.008, F.S. The projected annual information technology costs for the clerks are projected by the Florida Association of Court Clerks and Comptroller, Inc., to be \$65.8 million. The provision of the \$51.5 million from this additional service charge leaves a funding liability of \$14.3 million for counties to provide for the clerks.

In addition, \$1 of the \$4 increase is distributed to the state courts, \$0.60 is distributed to state attorneys, and \$0.40 is distributed to public defenders. Combined, this represents another \$54.2 million positive impact for counties as well, since these funds will be used

to offset the cost of information technology needs that the counties are responsible for providing pursuant to s. 29.008, F.S.

### **Bonding**

Counties that imposed by local ordinance increased fees or service charges under various sections of law to secure payment of bonds issued to finance state court facilities will be authorized to again impose by ordinance surcharges to pay for those bonds issued before July 1, 2003. Provisions in s. 28.2401, s. 28.241, s. 34.041 and s. 318.18, F.S., provide for \$30 surcharges on circuit civil, circuit probate and county court filings, and \$15 surcharges on traffic fines or forfeitures. While it is indeterminate how many counties will avail themselves of these provisions, it is expected that the minimum revenues that will be raised will be approximately \$7 million per year in Miami-Dade. These provisions will result in positive fiscal impacts to those counties that are eligible by virtue of having previously issued bonds secured by court surcharges and now choose to impose an ordinance pursuant to these provisions. It is unknown how many other counties are eligible to implement these provisions.

### **Fine and Forfeiture Funds**

There are various sections of this bill wherein fine and forfeiture funds currently accruing to the benefit of counties are being redirected to the clerks of the court to fund their court-related functions. As part of the analysis conducted for ch. 2003-402, L.O.F., it was estimated that redirecting all fine and forfeitures to the clerks would result in approximately \$116 million being shifted. That analysis was done using aggregate data for all fine and forfeiture revenues combined, as was also done with service charge increases. Data on the individual fine and forfeiture receipts was not and is not available. Subsequent research revealed that a number of sources of county fine and forfeiture receipts were inadvertently overlooked in ch. 2003-402, L.O.F. This bill redirects the fine and forfeiture receipts from those sources to the clerks of the court. The counties are therefore negatively impacted by these changes, and the clerks are positively impacted, but the total dollar impacts are indeterminate. However, the result of making these changes will be to bring the actual total impact on counties in line with the previously forecasted fiscal impacts of ch. 2003-402, L.O.F.

### **Public Law Libraries**

Section 29.008, F.S., is amended to require counties to fund public law libraries as a local requirement. Revision 7 to article v specifies that "counties shall also pay reasonable and necessary salaries, costs, and expenses of the state court system to meet local requirements as determined by general law." the statewide estimated cost of the current local law libraries maintained by the counties is \$8.2 million.

### **Statewide Office of Guardian Ad Litem**

Section 29.008, F.S., is amended to require counties to continue to provide facility space and furnishings for the Statewide Office of Guardian Ad Litem at least to the extent it was provided during the state fiscal year 2003-2004.

### **Criminal Justice Selection Centers/Local Criminal Justice Education and Training**

The impact of changes to s. 318.18, F.S., will be positive for local governments. Providing the \$3 additional court cost for traffic violations to pay for selection centers that were created by special law in Alachua, Bay, Brevard, and Pinellas counties will continue the same level of revenue as is currently derived from authorization in current law. Approximately \$900,000 per year will be collected in those four counties combined to continue the current operation of these centers.

The \$2.50 additional court cost for local criminal justice education and training should generate approximately \$10 million statewide, assuming about 4 million traffic violations per year.

#### **Teen Court/Delinquency Prevention Programs**

The fiscal impact of revisions to s. 938.17, F.S., relating to teen court and other juvenile delinquency prevention programs cannot be determined. The bill is permissive and allows counties to adopt an ordinance for the imposition of \$3 court costs on a variety of judgments in order to fund a teen court or other juvenile delinquency prevention programs. However, a survey conducted by the Florida Association of Court Clerks and Comptroller, Inc., in October, 2003 showed that 44 counties had enacted a local ordinance to collect an additional \$3 court cost for Teen Court pursuant to s. 938.19, F.S. The total funds collected for Teen Court annually in these 44 counties was \$7.9 million. It is reasonable to expect that the provisions of this bill that allow for a broader use of these funds for other delinquency prevention programs will encourage counties to pass local ordinances and collect funds exceeding the \$7.9 million collected previously for Teen Court.

#### **Court Cost for Court Facilities**

The \$150 additional court cost for court facilities authorized in s. 939.18, F.S., currently generates revenue for counties of approximately \$26.4 million, according to data provided by the Florida Association of Court Clerks, Inc. The expansion of the permitted uses of these funds for legal aid programs and public law libraries may induce more assessments to be made by judges, but the fiscal impact of the changes included in the bill is indeterminate.

#### *STATE GOVERNMENT IMPACTS*

##### **Pro Hac Vice**

The increase in funds that will accrue to the state General Revenue Fund due to the imposition of a \$100 fee charged to attorneys appearing pro hac vice is indeterminate. The number of annual appearances wherein this fee will be charged is unknown.

##### **Conflict Counsel**

The impact on the state from changes to s. 27.5303 (1) (d), F.S., is indeterminate. Both the effect of the new standards for conflicts of interest for public defenders and the differences in the cost between the public defender and the private attorneys are unknown.

##### **Public Defender Liens**

Changes to s. 27.562, F.S., direct 25 percent of the revenues received from the attorney costs assessed under s. 938.29, F.S., to the Indigent Criminal Defense Trust Fund of the public defenders. Under the law that was to become effective July 1, 2004, all those funds, except for the \$40 application fee, would have been deposited into the state General Revenue Fund. According to the 2002 data submitted by counties in their Annual Financial Reports, \$2.9 million in revenue statewide was received by counties in that year pursuant to this statute. Assuming this figure will remain around \$3 million during state Fiscal Year 2004-05, \$750,000 would be diverted from the General Revenue Fund to the public defenders' Indigent Criminal Defense Trust Fund. Funds received in the trust fund could not be expended except as authorized in the General Appropriations Act. Proponents of this change contend that this redirection of funds will actually provide a positive fiscal impact to the state because public defenders will have an incentive to assist in identifying defendants with assets from whom costs may be recovered over time. While this may be a reasonable assumption, there is no statistical information available for calculating a net positive fiscal impact.

#### **Additional Recording Service Charge**

The additional \$4 service charge for recording documents by the clerk of the circuit court authorized in s. 28.24, F.S., will provide \$54.2 million (\$2 of the \$4 increase) for the state courts', state attorneys', and public defenders' information technology (\$1 for courts, 60 cents for state attorneys, and 40 cents for public defenders). While these funds will be deposited into the Grants and Donations Trust Fund of the respective entities, the funds may not be expended except as authorized in the General Appropriations Act.

#### **Local Ordinance Violations**

The revisions to the local ordinance filing fee in s. 28.2402, F.S., may or may not result in a positive fiscal impact to the state. As part of the analysis conducted for ch. 2003-402, L.O.F., it was estimated that a \$200 filing fee for local ordinances would raise almost \$26 million in annual revenues for the clerks, which in turn contributed to the \$81 million annual share of revenues accruing to the state. It is now estimated that the projected revenues will not materialize due to the negative cost benefit that local governments would experience were they to pay a \$200 fee for ordinance violations when the penalty revenues are far less than \$200. Therefore, by lowering the fee to \$10 for each violation filed with the court, with an additional \$40 cost paid by the non-prevailing party for contested cases, the revenue expected statewide can be estimated at \$1.4 million, assuming 95 percent of the cases are uncontested in court. Whether or not this represents a net positive fiscal impact to the state depends entirely on how many local governments would have actually paid the \$200 filing fee, and for how many cases they would have been willing to pay it.

#### **Filing Fees for Appeals**

The provision in s. 28.241, F.S., to remit \$50 from each \$250 appeals filing fee collected by the clerk of the circuit court to the state General Revenue Fund will have no fiscal impact on the state during FY 2004-05. Although the full \$250 appeal fee now accrues to the clerk, excess funds not needed by the clerks then accrue to the state. Therefore, to the extent the state is projected to receive excess fee revenue from the clerks over the amount collected from appeal fees, the state is already benefiting in part from the collection of the

appeal fees. Remitting the \$50 directly to the state when the fee is collected also reduces the revenues to the clerks, which directly reduces the excess revenues remitted to the state after clerks' budget needs are met. However, at some time in the future, if there are no excess revenues collected by the clerks, then this provision secures an additional \$65,000 per year for the state, based on approximately 1,300 appeal fees being filed per year.

Increasing the filing fees by \$100 (from \$250 to \$350) in the District Courts of Appeal (DCA) and by \$150 (from \$250 to \$400) in the Supreme Court is expected generate approximately \$674,500 more each year for DCA filings and \$37,000 more each year for Supreme Court filings, according to information provided by the Office of the State Courts Administrator. Of these increases, all of the \$674,500 DCA increase and \$24,667 of the Supreme Court increase will benefit the courts' Grants and Donations Trust Fund. Of the increase in the Supreme Court filing fee, \$12,333 (\$50 of the \$150 increase) will benefit the state General Revenue Fund.

Offsetting these increases is the \$200 decrease in the \$250 fee to be paid to the clerk of the circuit court when filing an appeal in the DCA's, bringing the total fee paid for DCA cases to \$400 (\$50 paid to the clerk of the circuit court and \$350 paid to the clerk of the DCA). Although the \$250 DCA fee would not have gone into effect until July 1, 2004, the \$200 decrease in the amount paid to the clerk of the circuit court represents a \$1,389,000 loss of future revenue. All of this amount would have contributed to the excess revenues collected by the clerks that would have been remitted to the state General Revenue Fund. The bill's net impact from these two appellate fees is therefore a loss of \$1,376,667 from the General Revenue Fund (\$1,389,000 DCA fee loss plus \$12,333 Supreme Court fee gain) and an increase of \$699,167 for the courts' Grants and Donations Trust Fund (\$674,500 from DCA fees and \$24,667 from Supreme Court fees).

### **Court Education Trust Fund**

The addition of the Court Education Trust Fund fee to county court cases in s. 34.041, F.S., represents no change in revenue for the courts. This revenue is already being received by the courts because the fee is currently being collected in practice on all county cases. However, according to information provided by the Office of the State Courts Administrator, the increases in the Court Education Trust Fund fees contained in the bill from \$2.50 to \$4.00 will generate approximately \$798,920 more revenue for the courts, and \$399,460 for the clerks' education programs, based on the clerks receiving 50 cents of the \$1.50 increase.

### **Reopen Fee**

The case reopening fee added to county court cases will require court system users to pay an additional \$50. According to the Florida Association of Court Clerks and Comptroller, Inc., this will provide an additional \$6.4 million in revenue to the state as these revenues will contribute to the excess revenues to be remitted to the state by the clerks.

### **Private Court Appointed Counsel**

Private attorneys appointed by the court to represent indigent persons in court proceedings under the Baker Act and expert witnesses are currently reimbursed by the

county at rates that vary by judicial circuit. The bill clarifies that such attorneys and expert witnesses will be compensated by the state. The rates at which private attorneys and expert witnesses are paid cannot be estimated at this time as they may vary by circuit.

#### **Service Charge on Settlements**

The service charge on settlements in excess of \$100,000 imposed in s. 55.312, F.S., will have a positive but indeterminate impact on state revenue. There is no historical data available to estimate the amount of settlements that would be subject to this provision. Further, it is expected that the volatility inherent in these settlements from year to year may make future estimates based on historical data speculative at best. However, if sufficient revenue is generated, up to \$5 million will be available for the Florida Access to Civil Legal Assistance Program administered by the Department of Community Affairs, pursuant to the provisions of the bill.

#### **Driver's License Reinstatement**

Persons seeking to have their drivers licenses reinstated will pay an additional \$10 pursuant to the increase in the service charge in s. 318.15, F.S., effective July 1, 2004. The annual impact of this is approximately \$2.6 million, but this does not represent increased revenue to the Department of Highway Safety and Motor Vehicles. This is because SB 26A from the 2003A legislative session raised the fee by \$10 to \$35 effective on July 1, 2003, with the \$10 increase in revenue directed to the DHSMV. Chapter 2003-402, L.O.F., increased the same service charge by \$12.50 to \$37.50 effective July 1, 2004, with the revenue directed to the clerks. This latter revision, as of July 1, 2004, effectively overwrites the revision made by SB 26A. Therefore, in order to preserve both the revenue generated for DHSMV and the revenue generated for the clerks, this bill raises the service charge to \$47.50, with \$10 directed to DHSMV. Yet neither the DHSMV nor the clerks should receive significantly more revenue than they would have received in the absence of this bill. However, without the provision in this bill, the DHSMV would automatically lose \$2.6 million per year effective July 1, 2004.

#### **Statewide Prosecutor's Trial Costs**

The provision in s. 29.0051, F.S., requiring the state to pay for the trial expenses of the statewide prosecutor is expected to cost the state General Revenue Fund approximately \$75,000 per year. This amount has been included in the Senate's proposed budget for FY 2004-05.

#### **Judicial Information Integration Competency Center**

\$500,000 from the General Revenue Fund is appropriated in this bill for the staffing and expenses associated with the creation of this entity.

#### **Mediation Fees**

New authorization provided in s. 44.108, F.S., for the courts to charge for mediation services from those with the ability to pay will generate an additional \$2,229,292 annually for mediation programs, according to projections made by the Office of the State Courts Administrator.



**Timeshare Plans**

Representatives with the Department of Business and Professional Regulation anticipate that the net effect of the bill is neither an increase nor a decrease in their expenditures. The Division already has authority to regulate personal property timeshare plans but it lacks the specific framework to fully implement its personal property jurisdiction. The increase in filings is not anticipated to necessitate increased staffing.

**VI. Technical Deficiencies:**

Amendments to s. 721.08, F.S., relating to timeshare plans, provide for recording of real property plans in the public record and filing personal property plans attached to any security agreement or “other agreement executed by an interestholder.” The committee substitute does not define what other agreements qualify as an “other agreement executed by an interestholder.” Division staff suggest that the broad language will provide flexibility to regulate personal property timeshare interests with which the Division has had little experience. The amendment to this statute also gives the division director discretion to accept alternate means of protecting the use rights of purchasers in the subject accommodations and facilities of the timeshare plan against unfilled and inferior claims. The committee substitute does not specify what will constitute an “alternate means” to protect the rights of purchasers. According to the Division, however, in applying similar provisions in existing law, the Division has required a letter of credit or a bond in the past to protect consumers. The Division suggests that this broad grant of discretionary authority will provide the flexibility to regulate personal property time share interests with which the Division has had little experience.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.