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

25
26 Be It Enacted by the Legislature of the State of Florida:
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28 Section 1. Section 28.13, Florida Statutes, is amended to
 29 read:

30 28.13 ~~To keep~~ Papers and electronic filings.—The clerk of
 31 the circuit court shall keep all papers and electronic filings
 32 ~~filed~~ in the clerk's office with the utmost care and security,
 33 storing them in association with related case arranged in
 34 appropriate files and affixing a stamp to the submission
 35 indicating ~~(endorsing upon each~~ the date and time when the
 36 submission ~~same~~ was filed. The clerk ~~), and~~ shall not permit any
 37 attorney or other person to remove documents, ~~take papers~~ once
 38 filed, from the control or custody ~~out of the office~~ of the
 39 clerk without leave of the court, except as otherwise is
 40 ~~hereinafter~~ provided by law.

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

45 28.222 Clerk to be county recorder.—

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

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

51 28.24 ~~Service charges by clerk of the circuit court.~~—The
 52 clerk of the circuit court shall charge for services rendered by
 53 the clerk's office in recording documents and instruments and in
 54 performing the duties enumerated in amounts not to exceed those
 55 specified in this section. Notwithstanding any other provision

56 of this section, the clerk of the circuit court shall provide
 57 without charge to the state attorney, public defender, guardian
 58 ad litem, public guardian, attorney ad litem, criminal conflict
 59 and civil regional counsel, and private court-appointed counsel
 60 paid by the state, and to the authorized staff acting on behalf
 61 of each, access to and a copy of any public record as provided
 62 in s. 28.345, if the requesting party is entitled by law to view
 63 the exempt or confidential record, as maintained by and in the
 64 custody of the clerk of the circuit court as provided in general
 65 law and the Florida Rules of Judicial Administration. The clerk
 66 of the circuit court may provide the requested public record in
 67 an electronic format in lieu of a paper format when capable of
 68 being accessed by the requesting entity. For purposes of this
 69 section, the term "copy of public a record" means any facsimile,
 70 replica, photograph, or other reproduction of a record.

Charges

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

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

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

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

83 (5) (a) For making copies by photographic process of any

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

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112 (b) Each additional page or fraction thereof 4.00

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

116 (d) An additional service charge shall be paid to the
 117 clerk of the circuit court to be deposited in the Public Records
 118 Modernization Trust Fund for each instrument listed in s.

119 28.222, except judgments received from the courts and notices of
 120 lis pendens, recorded in the official records:

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

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

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

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

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

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168 before January 1, 2006; \$1.90 shall be retained by the clerk to
169 be deposited in the Public Records Modernization Trust Fund and
170 used exclusively for funding court-related technology needs of
171 the clerk as defined in s. 29.008(1)(f)2. and (h); and \$2 shall
172 be distributed to the board of county commissioners to be used
173 exclusively to fund court-related technology, and court
174 technology needs as defined in s. 29.008(1)(f)2. and (h) for the
175 state trial courts, state attorney, public defender, and
176 criminal conflict and civil regional counsel in that county. If
177 the counties maintain legal responsibility for the costs of the
178 court-related technology needs as defined in s. 29.008(1)(f)2.
179 and (h), notwithstanding any other provision of law, the county
180 is not required to provide additional funding beyond that
181 provided herein for the court-related technology needs of the
182 clerk as defined in s. 29.008(1)(f)2. and (h). All court records
183 and official records are the property of the State of Florida,
184 including any records generated as part of the Comprehensive
185 Case Information System funded pursuant to this paragraph and
186 the clerk of court is designated as the custodian of such
187 records, except in a county where the duty of maintaining
188 official records exists in a county office other than the clerk
189 of court or comptroller, such county office is designated the
190 custodian of all official records, and the clerk of court is
191 designated the custodian of all court records. The clerk of
192 court or any entity acting on behalf of the clerk of court,
193 including an association, shall not charge a fee to any agency
194 as defined in s. 119.011, the Legislature, or the State Court
195 System for copies of records generated by the Comprehensive Case

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196 Information System or held by the clerk of court or any entity
 197 acting on behalf of the clerk of court, including an
 198 association.

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

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

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

208 (15) For preparing affidavit of domicile 5.00

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

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

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

216 (b) For signing and sealing only 2.00

217 (19) For approving bond 8.50

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

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

223 (22) For disbursement of excess proceeds of tax deed sale,

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224 first \$100 or fraction thereof 10.00
 225 (23) Upon receipt of an application for a marriage
 226 license, for preparing and administering of oath; issuing,
 227 sealing, and recording of the marriage license; and providing a
 228 certified copy 30.00
 229 (24) For solemnizing matrimony 30.00
 230 (25) For sealing any court file or expungement of any
 231 record 42.00
 232 (26) (a) For receiving and disbursing all restitution
 233 payments, per payment 3.50
 234 (b) For receiving and disbursing all partial payments,
 235 other than restitution payments, for which an administrative
 236 processing service charge is not imposed pursuant to s. 28.246,
 237 per month 5.00
 238 (c) For setting up a payment plan, a one-time
 239 administrative processing charge in lieu of a per month charge
 240 under paragraph (b) 25.00
 241 (27) Postal charges incurred by the clerk of the circuit
 242 court in any mailing by certified or registered mail shall be
 243 paid by the party at whose instance the mailing is made.
 244 (28) For furnishing an electronic copy of information
 245 contained in a computer database: a fee as provided for in
 246 chapter 119.
 247 Section 4. Section 28.244, Florida Statutes, is amended to
 248 read:
 249 28.244 Refunds.—A clerk of the circuit court or a filing
 250 officer of another office where records are filed who receives
 251 payment for services provided and thereafter determines that an

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

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

261 28.345 Exemption from court-related fees and charges.—

262 (1) Notwithstanding any other ~~provision of this chapter or~~
 263 law to the contrary, judges and those court staff acting on
 264 behalf of judges, state attorneys, guardians ad litem, public
 265 guardians, attorneys ad litem, court-appointed private counsel,
 266 criminal conflict and civil regional counsel, and public
 267 defenders, acting in their official capacity, and state
 268 agencies, are exempt from all court-related fees and charges
 269 assessed by the clerks of the circuit courts.

270 (2) The exemption provided in subsection (1) for state
 271 agencies applies only to the state agency and the party it is
 272 representing. The clerk of court shall collect the filing fees
 273 and services charges as required in this chapter from all other
 274 parties.

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

277 50.041 Proof of publication; uniform affidavits required.—

278 (2) Each such affidavit shall be printed upon white bond
 279 paper containing at least 25 percent rag material and shall be 8

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280 1/2 inches in width and of convenient length, not less than 5
 281 1/2 inches. A white margin of not less than 2 1/2 inches shall
 282 be left at the right side of each affidavit form and upon or in
 283 this space shall be substantially pasted a clipping which shall
 284 be a true copy of the public notice or legal advertisement for
 285 which proof is executed. Alternatively, each such affidavit may
 286 be provided in electronic rather than paper form, provided the
 287 notarization of the affidavit complies with the requirements of
 288 s. 117.021.

289 Section 7. Paragraph (d) of subsection (4) of section
 290 119.071, Florida Statutes, is amended to read:

291 119.071 General exemptions from inspection or copying of
 292 public records.—

293 (4) AGENCY PERSONNEL INFORMATION.—

294 (d)1.a. The home addresses, telephone numbers, social
 295 security numbers, and photographs of active or former law
 296 enforcement personnel, including correctional and correctional
 297 probation officers, personnel of the Department of Children and
 298 Family Services whose duties include the investigation of abuse,
 299 neglect, exploitation, fraud, theft, or other criminal
 300 activities, personnel of the Department of Health whose duties
 301 are to support the investigation of child abuse or neglect, and
 302 personnel of the Department of Revenue or local governments
 303 whose responsibilities include revenue collection and
 304 enforcement or child support enforcement; the home addresses,
 305 telephone numbers, social security numbers, photographs, and
 306 places of employment of the spouses and children of such
 307 personnel; and the names and locations of schools and day care

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308 facilities attended by the children of such personnel are exempt
309 from s. 119.07(1).

310 b. The home addresses, telephone numbers, and photographs
311 of firefighters certified in compliance with s. 633.35; the home
312 addresses, telephone numbers, photographs, and places of
313 employment of the spouses and children of such firefighters; and
314 the names and locations of schools and day care facilities
315 attended by the children of such firefighters are exempt from s.
316 119.07(1).

317 c. The home addresses and telephone numbers of justices of
318 the Supreme Court, district court of appeal judges, circuit
319 court judges, and county court judges; the home addresses,
320 telephone numbers, and places of employment of the spouses and
321 children of justices and judges; and the names and locations of
322 schools and day care facilities attended by the children of
323 justices and judges are exempt from s. 119.07(1).

324 d. The home addresses, telephone numbers, social security
325 numbers, and photographs of current or former state attorneys,
326 assistant state attorneys, statewide prosecutors, or assistant
327 statewide prosecutors; the home addresses, telephone numbers,
328 social security numbers, photographs, and places of employment
329 of the spouses and children of current or former state
330 attorneys, assistant state attorneys, statewide prosecutors, or
331 assistant statewide prosecutors; and the names and locations of
332 schools and day care facilities attended by the children of
333 current or former state attorneys, assistant state attorneys,
334 statewide prosecutors, or assistant statewide prosecutors are
335 exempt from s. 119.07(1) and s. 24(a), Art. I of the State

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336 Constitution.

337 e. The home addresses and telephone numbers of general
338 magistrates, special magistrates, judges of compensation claims,
339 administrative law judges of the Division of Administrative
340 Hearings, and child support enforcement hearing officers; the
341 home addresses, telephone numbers, and places of employment of
342 the spouses and children of general magistrates, special
343 magistrates, judges of compensation claims, administrative law
344 judges of the Division of Administrative Hearings, and child
345 support enforcement hearing officers; and the names and
346 locations of schools and day care facilities attended by the
347 children of general magistrates, special magistrates, judges of
348 compensation claims, administrative law judges of the Division
349 of Administrative Hearings, and child support enforcement
350 hearing officers are exempt from s. 119.07(1) and s. 24(a), Art.
351 I of the State Constitution if the general magistrate, special
352 magistrate, judge of compensation claims, administrative law
353 judge of the Division of Administrative Hearings, or child
354 support hearing officer provides a written statement that the
355 general magistrate, special magistrate, judge of compensation
356 claims, administrative law judge of the Division of
357 Administrative Hearings, or child support hearing officer has
358 made reasonable efforts to protect such information from being
359 accessible through other means available to the public. This
360 sub-subparagraph is subject to the Open Government Sunset Review
361 Act in accordance with s. 119.15, and shall stand repealed on
362 October 2, 2013, unless reviewed and saved from repeal through
363 reenactment by the Legislature.

364 f. The home addresses, telephone numbers, and photographs
365 of current or former human resource, labor relations, or
366 employee relations directors, assistant directors, managers, or
367 assistant managers of any local government agency or water
368 management district whose duties include hiring and firing
369 employees, labor contract negotiation, administration, or other
370 personnel-related duties; the names, home addresses, telephone
371 numbers, and places of employment of the spouses and children of
372 such personnel; and the names and locations of schools and day
373 care facilities attended by the children of such personnel are
374 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
375 Constitution.

376 g. The home addresses, telephone numbers, and photographs
377 of current or former code enforcement officers; the names, home
378 addresses, telephone numbers, and places of employment of the
379 spouses and children of such personnel; and the names and
380 locations of schools and day care facilities attended by the
381 children of such personnel are exempt from s. 119.07(1) and s.
382 24(a), Art. I of the State Constitution.

383 h. The home addresses, telephone numbers, places of
384 employment, and photographs of current or former guardians ad
385 litem, as defined in s. 39.820; the names, home addresses,
386 telephone numbers, and places of employment of the spouses and
387 children of such persons; and the names and locations of schools
388 and day care facilities attended by the children of such persons
389 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
390 Constitution, if the guardian ad litem provides a written
391 statement that the guardian ad litem has made reasonable efforts

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392 to protect such information from being accessible through other
393 means available to the public. This sub-subparagraph is subject
394 to the Open Government Sunset Review Act in accordance with s.
395 119.15 and shall stand repealed on October 2, 2015, unless
396 reviewed and saved from repeal through reenactment by the
397 Legislature.

398 i. The home addresses, telephone numbers, and photographs
399 of current or former juvenile probation officers, juvenile
400 probation supervisors, detention superintendents, assistant
401 detention superintendents, juvenile justice detention officers I
402 and II, juvenile justice detention officer supervisors, juvenile
403 justice residential officers, juvenile justice residential
404 officer supervisors I and II, juvenile justice counselors,
405 juvenile justice counselor supervisors, human services counselor
406 administrators, senior human services counselor administrators,
407 rehabilitation therapists, and social services counselors of the
408 Department of Juvenile Justice; the names, home addresses,
409 telephone numbers, and places of employment of spouses and
410 children of such personnel; and the names and locations of
411 schools and day care facilities attended by the children of such
412 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of
413 the State Constitution.

414 j. The home addresses, telephone numbers, and photographs
415 of current or former public defenders, assistant public
416 defenders, criminal conflict and civil regional counsel, and
417 assistant criminal conflict and civil regional counsel; the home
418 addresses, telephone numbers, and places of employment of the
419 spouses and children of such defenders or counsel; and the names

420 and locations of schools and day care facilities attended by the
 421 children of such defenders or counsel are exempt from s.
 422 119.07(1) and s. 24(a), Art. I of the State Constitution. This
 423 sub-subparagraph is subject to the Open Government Sunset Review
 424 Act in accordance with s. 119.15 and shall stand repealed on
 425 October 2, 2015, unless reviewed and saved from repeal through
 426 reenactment by the Legislature.

427 2. An agency that is the custodian of the information
 428 specified in subparagraph 1. and that is not the employer of the
 429 officer, employee, justice, judge, or other person specified in
 430 subparagraph 1. shall maintain the exempt status of that
 431 information only if the officer, employee, justice, judge, other
 432 person, or employing agency of the designated employee submits a
 433 written request for maintenance of the exemption to the
 434 custodial agency. The request must specify the document type,
 435 name, identification number, and page number of the record that
 436 contains the exempt or confidential information.

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

439 197.542 Sale at public auction.—

440 (2) The certificateholder has the right to bid as others
 441 present may bid, and the property shall be struck off and sold
 442 to the highest bidder. The high bidder shall post with the clerk
 443 a nonrefundable deposit of 5 percent of the bid or \$200,
 444 whichever is greater, at the time of the sale, to be applied to
 445 the sale price at the time of full payment. Notice of the
 446 deposit requirement must be posted at the auction site, and the
 447 clerk may require bidders to show their willingness and ability

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448 | to post the deposit. If full payment of the final bid and of
449 | documentary stamp tax and recording fees is not made within 24
450 | hours, excluding weekends and legal holidays, the clerk shall
451 | cancel all bids, readvertise the sale as provided in this
452 | section, and pay all costs of the sale from the deposit. Any
453 | remaining funds must be applied toward the opening bid. If the
454 | property is redeemed prior to the clerk receiving full payment
455 | for the issuance of a tax deed, in order to receive a refund of
456 | the deposit described in this subsection, the high bidder must
457 | submit a request for such refund in writing to the clerk. Upon
458 | receipt of the refund request, the clerk shall refund the cash
459 | deposit consistent with s. 197.182(1)(c). The clerk may refuse
460 | to recognize the bid of any person who has previously bid and
461 | refused, for any reason, to honor such bid.

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