

**By** the Appropriations Committee on Criminal and Civil Justice; the Committee on Judiciary; and Senators Simon, Wright, Osgood, Rodriguez, Calatayud, Jones, Smith, Bracy Davis, Boyd, Massullo, Rouson, DiCeglie, Garcia, and Leek

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1                                   A bill to be entitled  
 2       An act relating to clerks of the court; amending s.  
 3       28.37, F.S.; authorizing the cumulative excess of  
 4       funds to be used in the development of the total  
 5       combined budgets of the clerks of the court; amending  
 6       ss. 28.35 and 28.36, F.S.; conforming provisions to  
 7       changes made by the act; amending s. 45.031, F.S.;  
 8       requiring that a court use certain sale procedures in  
 9       a foreclosure action; providing that only a clerk of  
 10      court may conduct a foreclosure sale; providing an  
 11      effective date.

12  
 13 Be It Enacted by the Legislature of the State of Florida:

14  
 15       Section 1. Paragraph (b) of subsection (4) of section  
 16       28.37, Florida Statutes, is amended to read:

17       28.37 Fines, fees, service charges, and costs remitted to  
 18       the state.—

19       (4)

20       (b) ~~No later than February 1, 2022, and each February 1~~  
 21 ~~thereafter, the Department of Revenue shall transfer 50 percent~~  
 22 ~~of The cumulative excess of the original revenue projection from~~  
 23 ~~the Clerks of the Court Trust Fund to the General Revenue Fund.~~  
 24 ~~The remaining 50 percent in the Clerks of the Court Trust Fund~~  
 25 may be used in the development of the total combined budgets of  
 26 the clerks of the court as provided in s. 28.35(2)(f)6. However,  
 27 a minimum of 10 percent of ~~the clerk-retained portion of the~~  
 28 cumulative excess ~~amount~~ must be held in reserve until such  
 29 funds reach an amount equal to at least 16 percent of the total

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30 budget authority from the current county fiscal year, as  
31 provided in s. 28.36(3)(a).

32 Section 2. Paragraph (f) of subsection (2) of section  
33 28.35, Florida Statutes, is amended to read:

34 28.35 Florida Clerks of Court Operations Corporation.—

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

37 (f) Approving the proposed budgets submitted by clerks of  
38 the court pursuant to s. 28.36. The corporation must ensure that  
39 the total combined budgets of the clerks of the court do not  
40 exceed the total estimated revenues from fees, service charges,  
41 court costs, and fines for court-related functions available for  
42 court-related expenditures as determined by the most recent  
43 Revenue Estimating Conference, plus the total of unspent  
44 budgeted funds for court-related functions carried forward by  
45 the clerks of the court from the previous county fiscal year,  
46 plus the cumulative excess as provided in ~~balance of funds~~  
47 ~~remaining in the Clerks of the Court Trust Fund after the~~  
48 ~~transfer of funds to the General Revenue Fund required pursuant~~  
49 ~~to~~ s. 28.37(4)(b), and plus any appropriations for court-related  
50 functions. The corporation may amend any individual clerk of the  
51 court budget to ensure compliance with this paragraph and must  
52 consider performance measures, workload performance standards,  
53 workload measures, and expense data before modifying the budget.  
54 As part of this process, the corporation shall:

55 1. Calculate the minimum amount of revenue necessary for  
56 each clerk of the court to efficiently perform the list of  
57 court-related functions specified in paragraph (3)(a). The  
58 corporation shall apply the workload measures appropriate for

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59 determining the individual level of review required to fund the  
60 clerk's budget.

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

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

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

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

82 6. Use revenue estimates based on the official estimate for  
83 funds from fees, service charges, court costs, and fines for  
84 court-related functions accruing to the clerks of the court made  
85 by the Revenue Estimating Conference, as well as any unspent  
86 budgeted funds for court-related functions carried forward by  
87 the clerks of the court from the previous county fiscal year and

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88 the cumulative excess as provided in ~~balance of funds remaining~~  
89 ~~in the Clerks of the Court Trust Fund after the transfer of~~  
90 ~~funds to the General Revenue Fund required pursuant to s.~~

91 28.37(4)(b), plus any appropriations for the purpose of funding  
92 court-related functions.

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

96 8. Identify increases in anticipated expenditures in any  
97 clerk budget that exceeds the current year budget by more than 3  
98 percent.

99 9. Identify the budget of any clerk which exceeds the  
100 average budget of similarly situated clerks by more than 10  
101 percent.

102

103 For the purposes of this paragraph, the term "unspent budgeted  
104 funds for court-related functions" means undisbursed funds  
105 included in the clerks of the courts budgets for court-related  
106 functions established pursuant to this section and s. 28.36.

107 Section 3. Paragraph (b) of subsection (2) and paragraph  
108 (a) of subsection (3) of section 28.36, Florida Statutes, are  
109 amended to read:

110 28.36 Budget procedure.—There is established a budget  
111 procedure for the court-related functions of the clerks of the  
112 court.

113 (2) Each proposed budget shall further conform to the  
114 following requirements:

115 (b) The proposed budget must be balanced such that the  
116 total of the estimated revenues available equals or exceeds the

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117 total of the anticipated expenditures. Such revenues include  
118 revenue projected to be received from fees, service charges,  
119 court costs, and fines for court-related functions during the  
120 fiscal period covered by the budget, plus the total of unspent  
121 budgeted funds for court-related functions carried forward by  
122 the clerk of the court from the previous county fiscal year and  
123 the cumulative excess as provided in ~~plus the portion of the~~  
124 ~~balance of funds remaining in the Clerks of the Court Trust Fund~~  
125 ~~after the transfer of funds to the General Revenue Fund required~~  
126 ~~pursuant to~~ s. 28.37(4) (b) which has been allocated to each  
127 respective clerk of the court by the Florida Clerks of Court  
128 Operations Corporation. For the purposes of this paragraph, the  
129 term "unspent budgeted funds for court-related functions" means  
130 undisbursed funds included in the clerk of the courts' budget  
131 for court related functions established pursuant to s. 28.35 and  
132 this section. The anticipated expenditures must be itemized as  
133 required by the corporation.

134 (3) (a) The Florida Clerks of Court Operations Corporation  
135 shall establish and manage a reserve for contingencies within  
136 the Clerks of the Court Trust Fund which must consist of an  
137 amount not to exceed 16 percent of the total budget authority  
138 for the clerks of court during the current county fiscal year,  
139 to be carried forward at the end of the fiscal year. Funds to be  
140 held in reserve include the ~~transfers of~~ cumulative excess, as  
141 provided in s. 28.37(4) (b), ~~from the Clerks of the Court Trust~~  
142 ~~Fund~~ and may also include revenues provided by law or moneys  
143 appropriated by the Legislature.

144 Section 4. Section 45.031, Florida Statutes, is amended to  
145 read:

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146           45.031 Judicial sales procedure.—In a sale of real property  
147 related to a foreclosure action, the procedures provided in this  
148 section and ss. 45.0315-45.035 shall be followed. In any other  
149 sale of real or personal property under an order or judgment,  
150 the procedures provided in this section and ss. 45.0315-45.035  
151 may be followed as an alternative to any other sale procedure if  
152 so ordered by the court.

153           (1) FINAL JUDGMENT.—

154           (a) In the order or final judgment, the court shall direct  
155 the clerk to sell the property at public sale on a specified day  
156 that shall be not less than 20 days or more than 35 days after  
157 the date thereof, on terms and conditions specified in the order  
158 or judgment. A sale may be held more than 35 days after the date  
159 of final judgment or order if the plaintiff or plaintiff's  
160 attorney consents to such time. The final judgment shall contain  
161 the following statement in conspicuous type:

162  
163 IF THIS PROPERTY IS SOLD AT PUBLIC AUCTION, THERE MAY BE  
164 ADDITIONAL MONEY FROM THE SALE AFTER PAYMENT OF PERSONS WHO ARE  
165 ENTITLED TO BE PAID FROM THE SALE PROCEEDS PURSUANT TO THIS  
166 FINAL JUDGMENT.

167  
168 IF YOU ARE A SUBORDINATE LIENHOLDER CLAIMING A RIGHT TO FUNDS  
169 REMAINING AFTER THE SALE, IF ANY, YOU MUST FILE A CLAIM WITH THE  
170 CLERK NO LATER THAN THE DATE THAT THE CLERK REPORTS THE FUNDS AS  
171 UNCLAIMED. IF YOU FAIL TO FILE A TIMELY CLAIM, YOU WILL NOT BE  
172 ENTITLED TO ANY REMAINING FUNDS.

173           (b) If the property being foreclosed on has qualified for  
174 the homestead tax exemption in the most recent approved tax

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175 roll, the final judgment shall additionally contain the  
176 following statement in conspicuous type:

177  
178 IF YOU ARE THE PROPERTY OWNER, YOU MAY CLAIM THESE FUNDS  
179 YOURSELF. YOU ARE NOT REQUIRED TO HAVE A LAWYER OR ANY OTHER  
180 REPRESENTATION AND YOU DO NOT HAVE TO ASSIGN YOUR RIGHTS TO  
181 ANYONE ELSE IN ORDER FOR YOU TO CLAIM ANY MONEY TO WHICH YOU ARE  
182 ENTITLED. PLEASE CHECK WITH THE CLERK OF THE COURT, ...(INSERT  
183 INFORMATION FOR APPLICABLE COURT)... WITHIN TEN (10) DAYS AFTER  
184 THE SALE TO SEE IF THERE IS ADDITIONAL MONEY FROM THE  
185 FORECLOSURE SALE THAT THE CLERK HAS IN THE REGISTRY OF THE  
186 COURT.

187  
188 IF YOU DECIDE TO SELL YOUR HOME OR HIRE SOMEONE TO HELP YOU  
189 CLAIM THE ADDITIONAL MONEY, YOU SHOULD READ VERY CAREFULLY ALL  
190 PAPERS YOU ARE REQUIRED TO SIGN, ASK SOMEONE ELSE, PREFERABLY AN  
191 ATTORNEY WHO IS NOT RELATED TO THE PERSON OFFERING TO HELP YOU,  
192 TO MAKE SURE THAT YOU UNDERSTAND WHAT YOU ARE SIGNING AND THAT  
193 YOU ARE NOT TRANSFERRING YOUR PROPERTY OR THE EQUITY IN YOUR  
194 PROPERTY WITHOUT THE PROPER INFORMATION. IF YOU CANNOT AFFORD TO  
195 PAY AN ATTORNEY, YOU MAY CONTACT ...(INSERT LOCAL OR NEAREST  
196 LEGAL AID OFFICE AND TELEPHONE NUMBER)... TO SEE IF YOU QUALIFY  
197 FINANCIALLY FOR THEIR SERVICES. IF THEY CANNOT ASSIST YOU, THEY  
198 MAY BE ABLE TO REFER YOU TO A LOCAL BAR REFERRAL AGENCY OR  
199 SUGGEST OTHER OPTIONS. IF YOU CHOOSE TO CONTACT ...(NAME OF  
200 LOCAL OR NEAREST LEGAL AID OFFICE)... FOR ASSISTANCE, YOU SHOULD  
201 DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

202 (c) A copy of the final judgment shall be furnished by the  
203 clerk by first-class mail to the last known address of every

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204 party to the action or to the attorney of record for such party.  
205 Any irregularity in such mailing, including the failure to  
206 include this statement in any final judgment or order, shall not  
207 affect the validity or finality of the final judgment or order  
208 or any sale held pursuant to the final judgment or order. Any  
209 sale held more than 35 days after the final judgment or order  
210 shall not affect the validity or finality of the final judgment  
211 or order or any sale held pursuant to such judgment or order.

212 (2) PUBLICATION OF SALE.—Notice of sale shall be published  
213 on a publicly accessible website as provided in s. 50.0311 for  
214 at least 2 consecutive weeks before the sale or once a week for  
215 2 consecutive weeks in a newspaper of general circulation, as  
216 provided in chapter 50, published in the county where the sale  
217 is to be held. The second publication by newspaper shall be at  
218 least 5 days before the sale. The notice shall contain:

219 (a) A description of the property to be sold.

220 (b) The time and place of sale.

221 (c) A statement that the sale will be made pursuant to the  
222 order or final judgment.

223 (d) The caption of the action.

224 (e) The name of the clerk making the sale.

225 (f) A statement that any person claiming an interest in the  
226 surplus from the sale, if any, other than the property owner as  
227 of the date of the lis pendens must file a claim before the  
228 clerk reports the surplus as unclaimed.

229  
230 The court, in its discretion, may enlarge the time of the sale.  
231 Notice of the changed time of sale shall be published as  
232 provided herein.

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233 (3) CONDUCT OF SALE; DEPOSIT REQUIRED.—The sale shall be  
234 conducted by the clerk of court at public auction at the time  
235 and place set forth in the final judgment. The clerk shall  
236 receive the service charge imposed in s. 45.035 for services in  
237 making, recording, and certifying the sale and title that shall  
238 be assessed as costs. At the time of the sale, the successful  
239 high bidder shall post with the clerk a deposit equal to 5  
240 percent of the final bid. The deposit shall be applied to the  
241 sale price at the time of payment. If final payment is not made  
242 within the prescribed period, the clerk shall readvertise the  
243 sale as provided in this section and pay all costs of the sale  
244 from the deposit. Any remaining funds shall be applied toward  
245 the judgment.

246 (4) CERTIFICATION OF SALE.—After a sale of the property the  
247 clerk shall promptly file a certificate of sale and serve a copy  
248 of it on each party in substantially the following form:

249

250 (Caption of Action)

251

252 CERTIFICATE OF SALE

253

254 The undersigned clerk of the court certifies that notice of  
255 public sale of the property described in the order or final  
256 judgment was published in ....., a newspaper circulated in ....  
257 County, Florida, in the manner shown by the proof of publication  
258 attached, and on ....., ... (year) ..., the property was offered  
259 for public sale to the highest and best bidder for cash. The  
260 highest and best bid received for the property in the amount of  
261 \$.... was submitted by ....., to whom the property was sold. The

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262 proceeds of the sale are retained for distribution in accordance  
263 with the order or final judgment or law. WITNESS my hand and the  
264 seal of this court on ....., ...(year)....

265 ... (Clerk)...

266 By ... (Deputy Clerk)...

267

268 (5) CERTIFICATE OF TITLE.—If no objections to the sale are  
269 filed within 10 days after filing the certificate of sale, the  
270 clerk shall file a certificate of title and serve a copy of it  
271 on each party in substantially the following form:

272

273 (Caption of Action)

274

275 CERTIFICATE OF TITLE

276

277 The undersigned clerk of the court certifies that he or she  
278 executed and filed a certificate of sale in this action on .....,  
279 ...(year)...., for the property described herein and that no  
280 objections to the sale have been filed within the time allowed  
281 for filing objections.

282 The following property in .... County, Florida:

283 (description)

284 was sold to .....

285

286 WITNESS my hand and the seal of the court on ....., ...(year)....

287 ... (Clerk)...

288 By ... (Deputy Clerk)...

289

290 (6) CONFIRMATION; RECORDING.—When the certificate of title

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291 is filed the sale shall stand confirmed, and title to the  
 292 property shall pass to the purchaser named in the certificate  
 293 without the necessity of any further proceedings or instruments.  
 294 The certificate of title shall be recorded by the clerk.

295 (7) DISBURSEMENTS OF PROCEEDS.—

296 (a) On filing a certificate of title, the clerk shall  
 297 disburse the proceeds of the sale in accordance with the order  
 298 or final judgment and shall file a report of such disbursements  
 299 and serve a copy of it on each party, and on the Department of  
 300 Revenue if the department was named as a defendant in the action  
 301 or if the Department of Commerce or the former Agency for  
 302 Workforce Innovation was named as a defendant while the  
 303 Department of Revenue was providing reemployment assistance tax  
 304 collection services under contract with the Department of  
 305 Commerce or the former Agency for Workforce Innovation through  
 306 an interagency agreement pursuant to s. 443.1316.

307 (b) The certificate of disbursements shall be in  
 308 substantially the following form:

309  
 310 (Caption of Action)

311  
 312 CERTIFICATE OF DISBURSEMENTS

313  
 314 The undersigned clerk of the court certifies that he or she  
 315 disbursed the proceeds received from the sale of the property as  
 316 provided in the order or final judgment to the persons and in  
 317 the amounts as follows:

318 Name		Amount
319		

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320 Total disbursements: \$....  
321 Surplus retained by clerk, if any: \$....  
322

323 IF YOU ARE A PERSON CLAIMING A RIGHT TO FUNDS REMAINING AFTER  
324 THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN THE  
325 DATE THAT THE CLERK REPORTS THE FUNDS AS UNCLAIMED. IF YOU FAIL  
326 TO FILE A CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING  
327 FUNDS. AFTER THE FUNDS ARE REPORTED AS UNCLAIMED, ONLY THE OWNER  
328 OF RECORD AS OF THE DATE OF THE LIS PENDENS MAY CLAIM THE  
329 SURPLUS.

330  
331 WITNESS my hand and the seal of the court on ....., ...(year)....  
332 .....(Clerk)....  
333 By ...(Deputy Clerk)....  
334

335 (c) If no objections to the report are served within 10  
336 days after it is filed, the disbursements by the clerk shall  
337 stand approved as reported. If timely objections to the report  
338 are served, they shall be heard by the court. Service of  
339 objections to the report does not affect or cloud the title of  
340 the purchaser of the property in any manner.

341 (d) If there are funds remaining after payment of all  
342 disbursements required by the final judgment of foreclosure and  
343 shown on the certificate of disbursements, the surplus shall be  
344 distributed as provided in this section and ss. 45.0315-45.035.

345 (8) VALUE OF PROPERTY.—The amount of the bid for the  
346 property at the sale shall be conclusively presumed to be  
347 sufficient consideration for the sale. Any party may serve an  
348 objection to the amount of the bid within 10 days after the

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349 clerk files the certificate of sale. If timely objections to the  
350 bid are served, the objections shall be heard by the court.  
351 Service of objections to the amount of the bid does not affect  
352 or cloud the title of the purchaser in any manner. If the case  
353 is one in which a deficiency judgment may be sought and  
354 application is made for a deficiency, the amount bid at the sale  
355 may be considered by the court as one of the factors in  
356 determining a deficiency under the usual equitable principles.

357 (9) EXECUTION SALES.—This section shall not apply to  
358 property sold under executions.

359 (10) ELECTRONIC SALES.—The clerk may conduct the sale of  
360 real or personal property under an order or judgment pursuant to  
361 this section by electronic means. Such electronic sales shall  
362 comply with the procedures provided in this chapter, except that  
363 electronic proxy bidding shall be allowed and the clerk may  
364 require bidders to advance sufficient funds to pay the deposit  
365 required by subsection (3). The clerk shall provide access to  
366 the electronic sale by computer terminals open to the public at  
367 a designated location and shall accept an advance credit proxy  
368 bid from the plaintiff of any amount up to the maximum allowable  
369 credit bid of the plaintiff. A clerk who conducts such  
370 electronic sales may receive electronic deposits and payments  
371 related to the sale.

372 Section 5. This act shall take effect July 1, 2026.