

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 100**

5 (SENATOR PALUMBO, *original sponsor*)

6 _____
7 [Passed March 5, 2012; in effect ninety days from passage.]
8 _____

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10
11 AN ACT to amend and reenact §59-1-11 of the Code of West Virginia,
12 1931, as amended, relating to collecting fees by circuit
13 clerks; removing the requirement that the circuit clerk charge
14 three times the amount of actual postage when sending certain
15 documents by mail or express; and allowing for the collection
16 of a fee equal to the actual amount of the postage and express
17 costs for sending decrees, orders or records that have not
18 been ordered to be sent by mail or express.

19 *Be it enacted by the Legislature of West Virginia:*

20 That §59-1-11 of the Code of West Virginia, 1931, as amended,
21 be amended and reenacted to read as follows:

22 **ARTICLE 1. FEES AND ALLOWANCES.**

23 **§59-1-11. Fees to be charged by clerk of circuit court.**

24 (a) The clerk of a circuit court shall charge and collect for

1 services rendered by the clerk the following fees which shall be
2 paid in advance by the parties for whom services are to be
3 rendered:

4 (1) For instituting any civil action under the Rules of Civil
5 Procedure, any statutory summary proceeding, any extraordinary
6 remedy, the docketing of civil appeals or any other action, cause,
7 suit or proceeding, \$155, of which \$30 shall be deposited in the
8 Courthouse Facilities Improvement Fund created by section six,
9 article twenty-six, chapter twenty-nine of this code and \$20
10 deposited in the special revenue account created in section six
11 hundred three, article twenty-six, chapter forty-eight of this code
12 to provide legal services for domestic violence victims;

13 (2) For instituting an action for medical professional
14 liability, \$280, of which \$10 shall be deposited in the Courthouse
15 Facilities Improvement Fund created by section six, article twenty-
16 six, chapter twenty-nine of this code;

17 (3) Beginning on and after July 1, 1999, for instituting an
18 action for divorce, separate maintenance or annulment, \$135;

19 (4) For petitioning for the modification of an order involving
20 child custody, child visitation, child support or spousal support,
21 \$85; and

22 (5) For petitioning for an expedited modification of a child
23 support order, \$35.

24 (b) In addition to the foregoing fees, the following fees

1 shall be charged and collected:

2 (1) For preparing an abstract of judgment, \$5;

3 (2) For a transcript, copy or paper made by the clerk for use
4 in any other court or otherwise to go out of the office, for each
5 page, \$1;

6 (3) For issuing a suggestion and serving notice to the debtor
7 by certified mail, \$25;

8 (4) For issuing an execution, \$25;

9 (5) For issuing or renewing a suggestee execution and serving
10 notice to the debtor by certified mail, \$25;

11 (6) For vacation or modification of a suggestee execution, \$1;

12 (7) For docketing and issuing an execution on a transcript of
13 judgment from magistrate court, \$3;

14 (8) For arranging the papers in a certified question, writ of
15 error, appeal or removal to any other court, \$10, of which \$5 shall
16 be deposited in the Courthouse Facilities Improvement Fund created
17 by section six, article twenty-six, chapter twenty-nine of this
18 code;

19 (9) For each subpoena, on the part of either plaintiff or
20 defendant, to be paid by the party requesting the same, 50¢;

21 (10) For additional service, plaintiff or appellant, where any
22 case remains on the docket longer than three years, for each
23 additional year or part year, \$20; and

24 (11) For administering funds deposited into a federally

1 insured interest-bearing account or interest-bearing instrument
2 pursuant to a court order, \$50, to be collected from the party
3 making the deposit. A fee collected pursuant to this subdivision
4 shall be paid into the general county fund.

5 (c) In addition to the foregoing fees, a fee for the actual
6 amount of the postage and express may be charged and collected for
7 sending decrees, orders or records that have not been ordered by
8 the court to be sent by mail or express.

9 (d) The clerk shall tax the following fees for services in a
10 criminal case against a defendant convicted in such court:

11 (1) In the case of a misdemeanor, \$85; and

12 (2) In the case of a felony, \$105, of which \$10 shall be
13 deposited in the Courthouse Facilities Improvement Fund created by
14 section six, article twenty-six, chapter twenty-nine of this code.

15 (e) The clerk of a circuit court shall charge and collect a
16 fee of \$25 per bond for services rendered by the clerk for
17 processing of criminal bonds and the fee shall be paid at the time
18 of issuance by the person or entity set forth below:

19 (1) For cash bonds, the fee shall be paid by the person
20 tendering cash as bond;

21 (2) For recognizance bonds secured by real estate, the fee
22 shall be paid by the owner of the real estate serving as surety;

23 (3) For recognizance bonds secured by a surety company, the
24 fee shall be paid by the surety company;

1 (4) For ten-percent recognizance bonds with surety, the fee
2 shall be paid by the person serving as surety; and

3 (5) For ten-percent recognizance bonds without surety, the fee
4 shall be paid by the person tendering ten percent of the bail
5 amount.

6 In instances in which the total of the bond is posted by more
7 than one bond instrument, the above fee shall be collected at the
8 time of issuance of each bond instrument processed by the clerk and
9 all fees collected pursuant to this subsection shall be deposited
10 in the Courthouse Facilities Improvement Fund created by section
11 six, article twenty-six, chapter twenty-nine of this code. Nothing
12 in this subsection authorizes the clerk to collect the above fee
13 from any person for the processing of a personal recognizance bond.

14 (f) The clerk of a circuit court shall charge and collect a
15 fee of \$10 for services rendered by the clerk for processing of
16 bailpiece and the fee shall be paid by the surety at the time of
17 issuance. All fees collected pursuant to this subsection shall be
18 deposited in the Courthouse Facilities Improvement Fund created by
19 section six, article twenty-six, chapter twenty-nine of this code.

20 (g) No clerk is required to handle or accept for disbursement
21 any fees, cost or amounts of any other officer or party not payable
22 into the county treasury except on written order of the court or in
23 compliance with the provisions of law governing such fees, costs or
24 accounts.