

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 100**

4 (By Senator Palumbo)

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6 [Originating in the Committee on the Judiciary;

7 reported January 19, 2012.]

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11 A BILL 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; and removing the requirement that the circuit clerk
14 charge three times the amount of actual postage when sending
15 certain documents by mail or express.

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

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

19 **ARTICLE 1. FEES AND ALLOWANCES.**

20 **§59-1-11. Fees to be charged by clerk of circuit court.**

21 (a) The clerk of a circuit court shall charge and collect for
22 services rendered by the clerk the following fees which shall be
23 paid in advance by the parties for whom services are to be
24 rendered:

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

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

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

16 (4) For petitioning for the modification of an order involving
17 child custody, child visitation, child support or spousal support,
18 \$85; and

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

21 (b) In addition to the foregoing fees, the following fees
22 shall be charged and collected:

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

24 (2) For a transcript, copy or paper made by the clerk for use

1 in any other court or otherwise to go out of the office, for each
2 page, \$1;

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

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

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

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

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

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

16 ~~(9) For postage and express and for sending or receiving~~
17 ~~decrees, orders or records, by mail or express, three times the~~
18 ~~actual amount of the postage or express charges;~~

19 ~~(10)~~ (9) For each subpoena, on the part of either plaintiff or
20 defendant, to be paid by the party requesting the same, 50¢;

21 ~~(11)~~ (10) For additional service, plaintiff or appellant,
22 where any case remains on the docket longer than three years, for
23 each additional year or part year, \$20; and

24 ~~(12)~~ (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 ~~(c)~~ (d) The clerk shall tax the following fees for services in
10 a 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 ~~(d)~~ (e) The clerk of a circuit court shall charge and collect
16 a 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 ~~(e)~~ (f) The clerk of a circuit court shall charge and collect
15 a 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 ~~(f)~~ (g) No clerk is required to handle or accept for
21 disbursement any fees, cost or amounts of any other officer or
22 party not payable into the county treasury except on written order
23 of the court or in compliance with the provisions of law governing
24 such fees, costs or accounts.

(NOTE: The purpose of this bill is to remove the requirement that the circuit clerk charge three times the amount of actual postage when certain mailing documents.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)