

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2776**

4 (By Delegate Manypenny, Marshall, Guthrie, Fleischauer, Skinner,
5 Barill, Moore, Perdue, Walker, Shott and Miley)
6

7 (Originating in the Committee on Finance)

8 [March 23, 2013]
9

10 A BILL to amend and reenact §46-9-525 of the Code of West Virginia,
11 1931, as amended; and to amend and reenact §59-1-11 of said
12 code, all relating to increasing certain filing fees;
13 increasing fees for filing financing statements or other
14 records in secured transactions; increasing fees for
15 responding for requests for information related to secured
16 transactions; increasing and establishing new filing fees in
17 certain civil actions; and requiring that those new and
18 increased fees be apportioned for deposit in the existing Fund
19 for Civil Legal Services for Low Income Persons and other
20 funds or for other purposes.

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

22 That §46-9-525 of the Code of West Virginia, 1931, as amended,
23 be amended and reenacted; and that §59-1-11 of said code be amended
24 and reenacted, all to read as follows:

25 **CHAPTER 46. UNIFORM COMMERCIAL CODE**

26 **ARTICLE 9. SECURED TRANSACTIONS; SALES OF ACCOUNTS AND CHATTEL**

1 **PAPER.**

2 **§46-9-525. Fees.**

3 (a) *Initial financing statement or other record: general*
4 *rule.* -- Except as otherwise provided in subsection (e) of this
5 section, the fee for filing and indexing a record under this part,
6 other than an initial financing statement of the kind described in
7 subsection (b) of this section, is the amount specified in
8 subsection (c) of this section, if applicable, plus:

9 (1) ~~Ten~~ \$20 dollars if the record is communicated in writing
10 and consists of one or two pages; and

11 (2) ~~Ten~~ \$20 dollars if the record is communicated in writing
12 and consists of more than two pages; and

13 (3) ~~Ten~~ \$20 dollars if the record is communicated by another
14 medium authorized by filing-office rule.

15 (b) *Initial financing statement: Public-finance and*
16 *manufactured housing transactions.* -- Except as otherwise provided
17 in subsection (e) of this section, the fee for filing and indexing
18 an initial financing statement of the following kind is the amount
19 specified in subsection (c) of this section, if applicable, plus:

20 (1) ~~Ten dollars~~ \$20 if the financing statement indicates that
21 it is filed in connection with a public-finance transaction;

22 (2) ~~Ten dollars~~ \$20 if the financing statement indicates that
23 it is filed in connection with a manufactured-home transaction.

24 (c) *Number of names.* -- The number of names required to be
25 indexed does not affect the amount of the fee in subsections (a)

1 and (b) of this section.

2 (d) *Response to information request.* -- The fee for responding
3 to a request for information from the filing office, including for
4 issuing a certificate showing whether there is on file any
5 financing statement naming a particular debtor, is:

6 (1) ~~Five dollars~~ \$10 if the request is communicated in
7 writing;

8 (2) ~~Five dollars~~ \$10 if the request is communicated by another
9 medium authorized by filing-office rule; and

10 (3) ~~Fifty cents~~ \$1 per page for each active lien.

11 (e) *Record of mortgage.* -- This section does not require a fee
12 with respect to a record of a mortgage which is effective as a
13 financing statement filed as a fixture filing or as a financing
14 statement covering as-extracted collateral or timber to be cut
15 under section 9-502(c) of this article. However, the recording and
16 satisfaction fees that otherwise would be applicable to the record
17 of the mortgage apply.

18 (f) *Deposit of funds.* -- All fees and moneys collected by the
19 Secretary of State pursuant to the provisions of this article shall
20 be deposited by the Secretary of State as follows: One-half shall
21 be deposited in the special revenue account created by paragraph
22 (B), subdivision (4), subsection (c), section ten, article one,
23 chapter fifty-nine of this code to provide civil legal services for
24 low income persons, one-fourth shall be deposited in the state
25 fund, general revenue, and ~~one-half~~ one-fourth shall be deposited
26 in the service fees and collections account established by section

1 two, article one, chapter fifty-nine of this code for the operation
2 of the office of the Secretary of State. Any balance remaining on
3 June 30, 2001, in the existing special revenue account entitled
4 "uniform commercial code" as established by chapter two hundred
5 four, acts of the Legislature, 1989 regular session, shall be
6 transferred to the service fees and collections account established
7 by section two, article one, chapter fifty-nine of this code for
8 the operation of the office of the Secretary of State. The
9 Secretary of State shall dedicate sufficient resources from that
10 fund or other funds to provide the services required in this
11 article, unless otherwise provided by appropriation or other action
12 by the Legislature.

13 **CHAPTER 59. FEES, ALLOWANCES AND COSTS; NEWSPAPERS; LEGAL**
14 **ADVERTISEMENTS**

15 **ARTICLE 1. FEES AND ALLOWANCES.**

16 **§59-1-11. Fees to be charged by clerk of circuit court.**

17 (a) The clerk of a circuit court shall charge and collect for
18 services rendered by the clerk the following fees which shall be
19 paid in advance by the parties for whom services are to be
20 rendered:

21 (1) For instituting any civil action under the Rules of Civil
22 Procedure, any statutory summary proceeding, any extraordinary
23 remedy, the docketing of civil appeals, removals of civil cases
24 from magistrate court or any other action, cause, suit or
25 proceeding, ~~§155~~ \$200, of which \$30 shall be deposited in the

1 Courthouse Facilities Improvement Fund created by section six,
2 article twenty-six, chapter twenty-nine of this code, \$35 shall be
3 deposited in the special revenue account created by paragraph (B),
4 subdivision (4), subsection (c), section ten of this article to
5 provide civil legal services for low income persons, and \$20
6 deposited in the special revenue account created in section six
7 hundred three, article twenty-six, chapter forty-eight of this code
8 to provide legal services for domestic violence victims and \$10
9 shall be deposited in the county general revenue fund and dedicated
10 to the operation of the circuit clerk's office;

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

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

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

20 (5) For petitioning for an expedited modification of a child
21 support order, \$35; and

22 (6) For filing any pleading that includes one or more
23 counterclaim, cross complaint, or third party or intervenor
24 complaint, or for filing a motion or request that a matter be
25 designated as a complex litigation case, \$200, which shall be
26 deposited in the special revenue account created by paragraph (B),

1 subdivision (4), subsection (c), section ten of this article to
2 provide civil legal services for low-income persons. However, this
3 subdivision does not apply to cases involving marital divorce.

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

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

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

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

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

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

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

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

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

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

25 (10) For additional service, plaintiff or appellant, where any
26 case remains on the docket longer than three years, for each

1 additional year or part year, \$20; and

2 (11) For administering funds deposited into a federally
3 insured interest-bearing account or interest-bearing instrument
4 pursuant to a court order, \$50, to be collected from the party
5 making the deposit. A fee collected pursuant to this subdivision
6 shall be paid into the general county fund.

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

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

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

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

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

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

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

25 (3) For recognizance bonds secured by a surety company, the
26 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.