

COMMITTEE SUBSTITUTE

FOR

H. B. 2776

(BY DELEGAT(E) MANYPENNY, MARSHALL, GUTHRIE,
FLEISCHAUER, SKINNER, BARILL, MOORE, PERDUE,
WALKER, SHOTT AND MILEY)

(Originating in the Committee on Finance)

[March 23, 2013]

A BILL to amend and reenact §46-9-525 of the Code of West Virginia, 1931, as amended; and to amend and reenact §59-1-11 of said code, all relating to increasing certain filing fees; increasing fees for filing financing statements or other records in secured transactions; increasing fees for responding for requests for information related to secured transactions; increasing and establishing new filing fees in certain civil actions; and requiring that those new and

increased fees be apportioned for deposit in the existing Fund for Civil Legal Services for Low Income Persons and other funds or for other purposes.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 46. UNIFORM COMMERCIAL CODE

ARTICLE 9. SECURED TRANSACTIONS; SALES OF ACCOUNTS AND CHATTEL PAPER.

§46-9-525. Fees.

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

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

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

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

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

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

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

22 (c) *Number of names.* — The number of names required to
23 be indexed does not affect the amount of the fee in subsections
24 (a) and (b) of this section.

25 (d) *Response to information request.* — The fee for respond-
26 ing to a request for information from the filing office, including
27 for issuing a certificate showing whether there is on file any
28 financing statement naming a particular debtor, is:

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

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

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

34 (e) *Record of mortgage.* — This section does not require a
35 fee with respect to a record of a mortgage which is effective as
36 a financing statement filed as a fixture filing or as a financing
37 statement covering as-extracted collateral or timber to be cut
38 under section 9-502(c) of this article. However, the recording
39 and satisfaction fees that otherwise would be applicable to the
40 record of the mortgage apply.

41 (f) *Deposit of funds.* — All fees and moneys collected by the
42 Secretary of State pursuant to the provisions of this article shall
43 be deposited by the Secretary of State as follows: One-half shall
44 be deposited in the special revenue account created by paragraph
45 (B), subdivision (4), subsection (c), section ten, article one,
46 chapter fifty-nine of this code to provide civil legal services for
47 low income persons, one-fourth shall be deposited in the state
48 fund, general revenue, and ~~one-half~~ one-fourth shall be deposited
49 in the service fees and collections account established by section
50 two, article one, chapter fifty-nine of this code for the operation
51 of the office of the Secretary of State. Any balance remaining on

52 June 30, 2001, in the existing special revenue account entitled
 53 “uniform commercial code” as established by chapter two
 54 hundred four, acts of the Legislature, 1989 regular session, shall
 55 be transferred to the service fees and collections account
 56 established by section two, article one, chapter fifty-nine of this
 57 code for the operation of the office of the Secretary of State. The
 58 Secretary of State shall dedicate sufficient resources from that
 59 fund or other funds to provide the services required in this
 60 article, unless otherwise provided by appropriation or other
 61 action by the Legislature.

CHAPTER 59. FEES, ALLOWANCES AND COSTS; NEWS- PAPERS; LEGAL ADVERTISEMENTS

ARTICLE 1. FEES AND ALLOWANCES.

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

1 (a) The clerk of a circuit court shall charge and collect for
 2 services rendered by the clerk the following fees which shall be
 3 paid in advance by the parties for whom services are to be
 4 rendered:

5 (1) For instituting any civil action under the Rules of Civil
 6 Procedure, any statutory summary proceeding, any extraordinary
 7 remedy, the docketing of civil appeals, removals of civil cases

8 from magistrate court or any other action, cause, suit or proceed-
9 ing, ~~\$155~~ \$200, of which \$30 shall be deposited in the Court-
10 house Facilities Improvement Fund created by section six, article
11 twenty-six, chapter twenty-nine of this code, \$35 shall be
12 deposited in the special revenue account created by paragraph
13 (B), subdivision (4), subsection (c), section ten of this article to
14 provide civil legal services for low income persons, and \$20
15 deposited in the special revenue account created in section six
16 hundred three, article twenty-six, chapter forty-eight of this code
17 to provide legal services for domestic violence victims and \$10
18 shall be deposited in the county general revenue fund and
19 dedicated to the operation of the circuit clerk's office;

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

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

26 (4) For petitioning for the modification of an order involving
27 child custody, child visitation, child support or spousal support,
28 \$85; and

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

31 (6) For filing any pleading that includes one or more
32 counterclaim, cross complaint, or third party or intervenor
33 complaint, or for filing a motion or request that a matter be
34 designated as a complex litigation case, \$200, which shall be
35 deposited in the special revenue account created by paragraph
36 (B), subdivision (4), subsection (c), section ten of this article to
37 provide civil legal services for low-income persons. However,
38 this subdivision does not apply to cases involving marital
39 divorce.

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

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

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

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

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

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

51 (6) For vacation or modification of a suggestee execution,
52 \$1;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

96 In instances in which the total of the bond is posted by more
97 than one bond instrument, the above fee shall be collected at the
98 time of issuance of each bond instrument processed by the clerk
99 and all fees collected pursuant to this subsection shall be
100 deposited in the Courthouse Facilities Improvement Fund
101 created by section six, article twenty-six, chapter twenty-nine of
102 this code. Nothing in this subsection authorizes the clerk to
103 collect the above fee from any person for the processing of a
104 personal recognizance bond.

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

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

