

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 100

(SENATOR PALUMBO, *original sponsor*)

[Passed March 5, 2012; in effect ninety days from passage.]

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

Be it enacted by the Legislature of West Virginia:

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (6) For vacation or modification of a suggestee execution,
38 \$1;

39 (7) For docketing and issuing an execution on a tran-
40 script of judgment from magistrate court, \$3;

41 (8) For arranging the papers in a certified question, writ
42 of error, appeal or removal to any other court, \$10, of which
43 \$5 shall be deposited in the Courthouse Facilities Improve-
44 ment Fund created by section six, article twenty-six, chapter
45 twenty-nine of this code;

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

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

51 (11) For administering funds deposited into a federally
52 insured interest-bearing account or interest-bearing instru-
53 ment pursuant to a court order, \$50, to be collected from the
54 party making the deposit. A fee collected pursuant to this
55 subdivision shall be paid into the general county fund.

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

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

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

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

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

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

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

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

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

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

83 In instances in which the total of the bond is posted by
84 more than one bond instrument, the above fee shall be
85 collected at the time of issuance of each bond instrument
86 processed by the clerk and all fees collected pursuant to this
87 subsection shall be deposited in the Courthouse Facilities
88 Improvement Fund created by section six, article twenty-six,
89 chapter twenty-nine of this code. Nothing in this subsection
90 authorizes the clerk to collect the above fee from any person
91 for the processing of a personal recognizance bond.

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

99 (g) No clerk is required to handle or accept for disburse-
100 ment any fees, cost or amounts of any other officer or party
101 not payable into the county treasury except on written order
102 of the court or in compliance with the provisions of law
103 governing such fees, costs or accounts.