

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 100

(By Senator Palumbo)

[Originating in the Committee on the Judiciary;
reported January 19, 2012.]

A BILL to amend and reenact §59-1-11 of the Code of West Virginia, 1931, as amended, relating to collecting fees by circuit clerks; and removing the requirement that the circuit clerk charge three times the amount of actual postage when sending certain documents 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 postage and express and for sending or receiving~~
47 ~~decrees, orders or records, by mail or express, three times the~~
48 ~~actual amount of the postage or express charges;~~

49 ~~(10)~~ (9) For each subpoena, on the part of either plaintiff
50 or defendant, to be paid by the party requesting the same,
51 50¢;

52 ~~(11)~~ (10) For additional service, plaintiff or appellant,
53 where any case remains on the docket longer than three
54 years, for each additional year or part year, \$20; and

55 ~~(12)~~ (11) For administering funds deposited into a
56 federally insured interest-bearing account or interest-
57 bearing instrument pursuant to a court order, \$50, to be
58 collected from the party making the deposit. A fee collected
59 pursuant to this subdivision shall be paid into the general
60 county fund.

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

65 ~~(e)~~ (d) The clerk shall tax the following fees for services
66 in a criminal case against a defendant convicted in such
67 court:

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

69 (2) In the case of a felony, \$105, of which \$10 shall be
70 deposited in the Courthouse Facilities Improvement Fund

71 created by section six, article twenty-six, chapter twenty-
72 nine of this code.

73 ~~(d)~~ (e) The clerk of a circuit court shall charge and collect
74 a fee of \$25 per bond for services rendered by the clerk for
75 processing of criminal bonds and the fee shall be paid at the
76 time of issuance by the person or entity set forth below:

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

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

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

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

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

89 In instances in which the total of the bond is posted by
90 more than one bond instrument, the above fee shall be
91 collected at the time of issuance of each bond instrument
92 processed by the clerk and all fees collected pursuant to this

93 subsection shall be deposited in the Courthouse Facilities
94 Improvement Fund created by section six, article twenty-six,
95 chapter twenty-nine of this code. Nothing in this subsection
96 authorizes the clerk to collect the above fee from any person
97 for the processing of a personal recognizance bond.

98 ~~(e)~~ (f) The clerk of a circuit court shall charge and collect
99 a fee of \$10 for services rendered by the clerk for processing
100 of bailpiece and the fee shall be paid by the surety at the
101 time of issuance. All fees collected pursuant to this subsec-
102 tion shall be deposited in the Courthouse Facilities Improve-
103 ment Fund created by section six, article twenty-six, chapter
104 twenty-nine of this code.

105 ~~(f)~~ (g) No clerk is required to handle or accept for dis-
106 bursement any fees, cost or amounts of any other officer or
107 party not payable into the county treasury except on written
108 order of the court or in compliance with the provisions of law
109 governing 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.)