

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 3143

BY DELEGATE PRITT

[Introduced March 15, 2021; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §59-1-10 of the Code of West Virginia, 1931, as amended, to
 2 prohibit the clerk of the county commission from changing fees to the public to photograph
 3 public records; providing injunctive relief for violations of the prohibition; and providing an
 4 award of attorney’s fees to a prevailing plaintiff.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. FEES AND ALLOWANCES.

§59-1-10. Fees to be charged by clerk of county commission.

1 For the purpose of this section, the word “page” is defined as being a paper or electronic
 2 writing of not more than legal size, 8 1/2” x 14”.

3 (a) When a writing is admitted to record, for receiving proof of acknowledgment thereof,
 4 entering an order in connection therewith, endorsing clerk’s certificate of recordation thereon and
 5 indexing in a proper index, the clerk of the county commission shall charge and collect the
 6 following fees:

7 (1) Twenty-five dollars for a deed of conveyance (with or without a plat), trust deed, fixture
 8 filing or security agreement concerning real estate lease.

9 (2) Forty dollars for a trustee’s report of sale for any property for which additional
 10 information and filing requirements are required by §38-1-8a of this code. Twenty dollars of each
 11 recording fee received pursuant to this subdivision shall be deposited into the county’s General
 12 Revenue Fund and \$20 paid quarterly by the clerk of the county commission to the West Virginia
 13 Housing Development Fund established in article eighteen, chapter thirty-one of this code.

14 (3) Ten dollars for a financing, continuation, termination or other statement or writing
 15 permitted to be filed under chapter forty-six of this code.

16 (4) Ten dollars for a plat or map (with no deed of conveyance).

17 (5) No charge for a service discharge record.

18 (6) Ten dollars for any document or writing other than those referenced in subdivisions
 19 (1), (2), (3), (4) and (5) of this subsection.

20 (7) One dollar for each additional page for documents or writings containing more than
21 five pages.

22 For any of the documents admitted to record pursuant to this subsection, if the clerk of the
23 county commission has the technology available to receive these documents in electronic form
24 or other media, the clerk shall set a reasonable fee to record these writings not to exceed the cost
25 for filing paper documents.

26 (8) Of the fees collected pursuant to subdivision (1), subsection (a) of this section, \$10
27 shall be deposited in the county general fund in accordance with section twenty-eight of this
28 article, \$5 shall be deposited in the county reappraisal fund and dedicated to the operation of the
29 assessor's office mapping division, \$3 shall be deposited in the Courthouse Facilities
30 Improvement Fund created by §29-26-6 of this code, \$1 to the county 9-1-1 center and \$2 shall
31 be deposited in the county general fund and dedicated to the operation of the county clerk's office.
32 Four dollars of the fees collected pursuant to subdivision (1), subsection (a) of this section and \$5
33 of the fees collected pursuant to subdivision (6), subsection (a) of this section shall be paid by the
34 county clerk into the State Treasury and deposited in equal amounts for deposit into the Farmland
35 Protection Fund created in article twelve, chapter eight-a of this code for the benefit of the West
36 Virginia Agricultural Land Protection Authority and into the Outdoor Heritage Conservation Fund
37 created in article two-g, chapter five-b of this code. The funds deposited in the State Treasury
38 pursuant to this subdivision may only be used for costs, excluding personnel costs, associated
39 with purpose of land conservation, as defined in §5B-2G-7(f) of this code.

40 (b) Five dollars for administering any oath other than oaths by officers and employees of
41 the state, political subdivisions of the state or a public or quasi-public entity of the state or a
42 political subdivision of the state, taken in his or her official capacity.

43 (c) Fifty-five dollars for issuance of marriage license and other duties pertaining to the
44 marriage license (including preparation of the application, administering the oath, registering and
45 recording the license, mailing acknowledgment of minister's return to one of the licensees and

46 notification to a licensee after 60 days of the nonreceipt of the minister's return). This fee is
47 reduced to \$35 if the applicants present a premarital education course completion certificate
48 issued pursuant to §48-2-701 of this code and dated within one year of the application for a
49 marriage license.

50 (1) One dollar of the marriage license fee received pursuant to this subsection shall be
51 paid by the county clerk into the State Treasury as a state registration fee in the same manner
52 that license taxes are paid into the Treasury under article twelve, chapter eleven of this code;

53 (2) Fifteen dollars of the marriage license fee received pursuant to this subsection shall
54 be paid by the county clerk into the State Treasury for the Family Protection Shelter Support Act
55 in the same manner that license taxes are paid into the Treasury under article twelve, chapter
56 eleven of this code;

57 (3) Ten dollars of the marriage license fee received pursuant to this subsection shall be
58 deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this code; and

59 (4) If a premarital education course completion certificate is not presented, the county
60 clerk shall, on or before the tenth day of each month, transmit \$20 of the marriage license fee
61 received pursuant to this subsection to the State Treasurer for deposit in the State Treasury as
62 follows:

63 (A) Five dollars to the credit of the Family Protection Shelter Support Act in the same
64 manner that license taxes are paid into the Treasury under article twelve, chapter eleven of this
65 code;

66 (B) Five dollars to the credit of the special revenue account, hereby created, designated
67 the Fund for Civil Legal Services for Low Income Persons, which shall consist of all gifts, grants,
68 bequests, transfers, appropriations or other donations or payments which may be received and
69 administered by the Division of Justice and Community Services from any governmental entity or
70 unit or any person, firm, foundation or corporation for the purposes of this section, and all interest
71 or other return earned from investment of the fund. Expenditures from the fund shall be made by

72 the Director of the Division of Justice and Community Services and shall be limited to grants to
73 nonprofit agencies which provide civil legal services to low income persons made at his or her
74 discretion. Any balance in the fund at the end of each fiscal year shall not revert to the General
75 Revenue Fund but shall remain in the fund and be expended as provided by this section.

76 (C) Ten dollars to the credit of the Marriage Education Fund created pursuant to §48-2-
77 702 of this code.

78 (d) (1) One dollar and fifty cents for a copy of any writing or document, if it is not otherwise
79 provided for.

80 (2) One dollar for each additional page if the writing or documents contains more than two
81 pages.

82 (3) One dollar for annexing the seal of the commission or clerk to any paper.

83 (4) Five dollars for a certified copy of a birth certificate, death certificate or marriage
84 license.

85 (e) For copies of any record in electronic form or a medium other than paper, a reasonable
86 fee set by the clerk of the county commission not to exceed the costs associated with document
87 search and duplication.

88 (f) The clerk of the county commission shall not charge a fee to a member of the public in
89 order to inspect and take photographs of publicly available documents, whether in paper or
90 electronic form.

91 (1) A member of the public may bring an action for injunctive relief against the clerk of the
92 county commission for violating subsection (f) of this section.

93 (2) The action shall be brought in the circuit court of the county in which the denial of
94 access to documents occurs.

95 (2) The circuit court may grant any appropriate injunctive relief to prevent or abate the
96 conduct, including a temporary restraining order, preliminary injunction, or permanent injunction.

97 (3) The circuit court may awards attorney's fees to the prevailing plaintiff.

NOTE: The purpose of this bill is to prohibit county clerks from changing members of public from taking photographs or public documents, and to provide injunctive relief and an award of attorneys fees for violations of this prohibition.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.