

**WEST VIRGINIA LEGISLATURE**  
**EIGHTIETH LEGISLATURE**  
**REGULAR SESSION, 2012**



**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 100**

(SENATOR PALUMBO, ORIGINAL SPONSOR)

[PASSED MARCH 5, 2012; IN EFFECT NINETY DAYS FROM PASSAGE.]

SB100

2012 MAR 14 PM 5:30  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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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.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*[Signature]*  
.....  
Chairman Senate Committee

*[Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*[Signature]*  
.....  
Clerk of the Senate

*[Signature]*  
.....  
Clerk of the House of Delegates

*[Signature]*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker of the House of Delegates

FILED  
2012 MAR 14 PM 5:31  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

The within *is approved* this the *14th*  
*March*  
Day of ....., 2012.

*[Signature]*  
.....  
Governor

PRESENTED TO THE GOVERNOR

MAR - 9 2012

Time 4:12 pm