WEST VIRGINIA CODE CHAPTER 59

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§59-1-1. Fee for use of state seal.

Except when the seal is used on the papers of a requisition issued by the Governor for the return of a fugitive from justice, or when the seal of the state is affixed to any certificate, credential or commission of a public officer, and except in cases where it is otherwise provided by law, there shall be a tax of $1 whenever the seal of the state is affixed to any paper, which tax shall be paid to the Secretary of State, and by him paid into the treasury of the state.

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§59-1-2. Fees to be charged by Secretary of State.

(a) Except as may be otherwise provided in this code, the Secretary of State shall charge for services rendered in his or her office the following fees to be paid by the person to whom the service is rendered at the time it is done:

(1) For filing, recording, indexing, preserving a record of, and issuing a certificate relating to, the formation, amendment, change of name, registration of trade name, merger, consolidation, conversion, renewal, dissolution, termination, cancellation, withdrawal, revocation, and reinstatement of business entities organized within the state, as follows:

(A) Articles of incorporation of for-profit corporation, $100;

(B) Articles of incorporation of nonprofit corporation, $25;

(C) Articles of organization of limited liability company, $100;

(D) Agreement of a general partnership, $50;

(E) Certificate of a limited partnership, $100;

(F) Agreement of a voluntary association, $50;

(G) Articles of organization of a business trust, $50;

(H) Amendment or correction of articles of incorporation, including change of name or increase of capital stock, in addition to any applicable license tax, $25;

(I) Amendment or correction, including change of name, of articles of organization of business trust, limited liability partnership, limited liability company, professional limited liability company, series limited liability company, or protected series; or of certificate of limited partnership; or of agreement of voluntary association, $25;

(J) Amendment and restatement of articles of incorporation, certificate of limited partnership, agreement of voluntary association or articles of organization of limited liability partnership, limited liability company, professional limited liability company, series limited liability company, protected series, or business trust, $25;

(K) Registration of trade name, otherwise designated as a true name, fictitious name or D. B. A. (doing business as) name for any domestic business entity as permitted by law, $25;

(L) Articles of merger of two corporations, limited partnerships, limited liability partnerships, limited liability companies, professional limited liability companies, series limited liability companies, protected series, voluntary associations, or business trusts, $25;

(M) Plus for each additional party to the merger in excess of two, $15;

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(N) Statement of conversion, when permitted, from one business entity into another business entity, in addition to the cost of filing the appropriate documents to organize the surviving entity, $25;

(O) Articles of dissolution of a corporation, voluntary association or business trust, or statement of dissolution of a general partnership, $25;

(P) Revocation of voluntary dissolution of a corporation, voluntary association or business trust, $15;

(Q) Articles of termination of a limited liability company, cancellation of a limited partnership or statement of withdrawal of limited liability partnership, $25;

(R) Reinstatement of a limited liability company, professional limited liability company, a series limited liability company, or protected series after administrative dissolution, $25.

(2) For filing, recording, indexing, preserving a record of and issuing a certificate relating to the registration, amendment, change of name, merger, consolidation, conversion, renewal, withdrawal or termination within this state of business entities organized in other states or countries, as follows:

(A) Certificate of authority of for-profit corporation, $100;

(B) Certificate of authority of nonprofit corporation, $50;

(C) Certificate of authority of foreign limited liability companies or foreign protected series limited liability company, $150;

(D) Certificate of exemption from certificate of authority, $25;

(E) Registration of a general partnership, $50;

(F) Registration of a limited partnership, $150;

(G) Registration of a limited liability partnership, $500;

(H) Registration of a voluntary association, $50;

(I) Registration of a trust or business trust, $50;

(J) Registration of a series limited liability company, $25;

(K) Amendment or correction of certificate of authority of a foreign corporation, including change of name or increase of capital stock, in addition to any applicable license tax, $25;

(L) Amendment or correction of certificate of limited partnership, limited liability partnership, limited liability company or professional limited liability company, voluntary

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association or business trust, $25;

(M) Registration of trade name, otherwise designated as a true name, fictitious name or D. B. A. (doing business as) name for any foreign business entity as permitted by law, $25;

(N) Amendment and restatement of certificate of authority or of registration of a corporation, limited partnership, limited liability partnership, limited liability company, professional limited liability company, series limited liability company, protected series, voluntary association, or business trust, $25;

(O) Articles of merger of two corporations, limited partnerships, limited liability partnerships, limited liability companies, professional limited liability companies, series limited liability companies, voluntary associations or business trusts, $25;

(P) Plus, for each additional party to the merger in excess of two, $5;

(Q) Statement of conversion, when permitted, from one business entity into another business entity, in addition to the cost of filing the appropriate articles or certificate to organize the surviving entity, $25;

(R) Certificate of withdrawal or cancellation of a corporation, limited partnership, limited liability partnership, limited liability company, voluntary association or business trust, $25;

Notwithstanding any other provision of this section to the contrary, after June 30, 2008, the fees described in this subdivision that are collected for the issuance of a certificate relating to the initial registration of a corporation, limited partnership, domestic limited liability company or foreign limited liability company shall be deposited in the general administrative fees account established by this section.

(3) For receiving, filing and recording a change of the principal or designated office, change of the agent of process and/or change of officers, directors, partners, members or managers, as the case may be, of a corporation, limited partnership, limited liability partnership, limited liability company or other business entity as provided by law, $15.

(4) For receiving, filing and preserving a reservation of a name for each 120 days or for any other period in excess of seven days prescribed by law for a corporation, limited partnership, limited liability partnership or limited liability company, $15.

(5) For issuing a certificate relating to a corporation or other business entity, as follows:

(A) Certificate of good standing of a domestic or foreign corporation, $10;

(B) Certificate of existence of a domestic limited liability company, certificate of authorization foreign limited liability company, certificate of a good standing of domestic or foreign protected series limited liability company, $10;

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(C) Certificate of existence of any business entity, trademark or service mark registered with the Secretary of State, $10;

(D) Certified copy of corporate charter or comparable organizing documents for other business entities, $15;

(E) Plus, for each additional amendment, restatement or other additional document, $5;

(F) Certificate of registration of the name of a foreign corporation, limited liability company, limited partnership or limited liability partnership, $25;

(G) And for the annual renewal of the name registration, $10;

(H) Any other certificate not specified in this subdivision, $10.

(6) For issuing a certificate other than those relating to business entities, as provided in this subsection, as follows:

(A) Certificate or apostille relating to the authority of certain public officers, including the membership of boards and commissions, $10;

(B) Plus, for each additional certificate pertaining to the same transaction, $5;

(C) Any other certificate not specified in this subdivision, $10;

(D) For acceptance, indexing and recordation of service of process for any corporation, limited partnership, limited liability partnership, limited liability company, voluntary association, business trust, insurance company, person or other entity as permitted by law, $15;

(E) For shipping and handling expenses for execution of service of process by certified mail upon any defendant within the United States, which fee is to be deposited to the special revenue account established in this section for the operation of the office of the Secretary of State, $5;

(F) For shipping and handling expenses for execution of service of process upon any defendant outside the United States by registered mail, which fee is to be deposited to the special revenue account established in this section for the operation of the office of the Secretary of State, $15;

(7) For a search of records of the office conducted by employees of or at the expense of the Secretary of State upon request, as follows:

(A) For any search of archival records maintained at sites other than the office of the Secretary of State no less than, $10;

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(B) For searches of archival records maintained at sites other than the office of the Secretary of State which require more than one hour, for each hour or fraction of an hour consumed in making a search, $10;

(C) For any search of records maintained on site for the purpose of obtaining copies of documents or printouts of data, $5;

(D) For any search of records maintained in electronic format which requires special programming to be performed by the state information services agency or other vendor any actual cost, but not less than, $25;

(E) The cost of the search is in addition to the cost of any copies or printouts prepared or any certificate issued pursuant to or based on the search;

(F) For recording any paper for which no specific fee is prescribed, $5.

(8) For producing and providing photocopies or printouts of electronic data of specific records upon request, as follows:

(A) For a copy of any paper or printout of electronic data, if one sheet, $1;

(B) For each sheet after the first, 50 cents;

(C) For sending the copies or lists by fax transmission, $5;

(D) For producing and providing photocopies of lists, reports, guidelines and other documents produced in multiple copies for general public use, a publication price to be established by the Secretary of State at a rate approximating $2 plus 10 cents per page and rounded to the nearest dollar;

(E) For electronic copies of records obtained in data format on disk, the cost of the record in the least expensive available printed format, plus, for each required disk, which shall be provided by the Secretary of State, $5.

(b) The Secretary of State may propose rules for legislative approval, in accordance with the provisions of §29A-3-1 *et seq.* of this code, for charges for online electronic access to database information or other information maintained by the Secretary of State.

(c) For any other work or service not enumerated in this section, the fee prescribed elsewhere in this code or a rule promulgated under the authority of this code.

(d) The records maintained by the Secretary of State are prepared and indexed at the expense of the state and those records shall not be obtained for commercial resale without the written agreement of the state to a contract including reimbursement to the state for each instance of resale.

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(e) The Secretary of State may provide printed or electronic information free of charge as he or she considers necessary and efficient for the purpose of informing the general public or the news media.

(f) There is hereby continued in the State Treasury a special revenue account to be known as the Service Fees and Collections Account. Expenditures from the account shall be used for the operation of the office of the Secretary of State and are not authorized from collections, but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq.* of this code and upon the fulfillment of the provisions set forth in §5A-2-1 *et seq.* of this code. Notwithstanding any other provision of this code to the contrary, except as provided in subsection (h) of this section and §59-1-2a of this code, one half of all the fees and service charges established in the following sections and for the following purposes shall be deposited by the Secretary of State or other collecting agency to that special revenue account and used for the operation of the office of the Secretary of State:

(1) The annual and biennial attorney-in-fact fee for corporations and limited partnerships established in §11-12C-5 of this code;

(2) The fees received for the sale of the State Register, Code of State Rules, and other copies established by rule and authorized by §29A-2-7 of this code;

(3) The registration fees, late fees, and legal settlements charged for registration and enforcement of the charitable organizations and professional solicitations established in §29-19-5, §29-19-9, and §29-19-15b this code;

(4) The annual and biennial attorney-in-fact fee for limited liability companies as designated in §31B-1-108 of this code and the annual and biennial report fee established in §31B-2-211 of this code: *Provided*, That after July 1, 2026, the annual and biennial report fees designated in §31B-1-108 of this code shall upon collection, be deposited in the General Administrative Fees Account described in subsection (h) of this section;

(5) The filing fees and search and copying fees for uniform commercial code transactions established by §46-9-525 of this code;

(6) The annual attorney-in-fact fee for licensed insurers established in §33-4-12 of this code;

(7) The fees for the application and record maintenance of all notaries public established by §39-4-20 of this code;

(8) The fees for registering credit service organizations as established by §46A-6C-5 of this code;

(9) The fees for registering and renewing a West Virginia limited liability partnership as established by §47B-10-1 of this code;

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(10) The filing fees for the registration and renewal of trademarks and service marks established in §47-2-17 of this code;

(11) All fees for services, the sale of photocopies and data maintained at the expense of the Secretary of State as provided in this section; and

(12) All registration, license and other fees collected by the Secretary of State not specified in this section.

(g) Any balance in the service fees and collections account established by this section which exceeds $500,000 as of June 30, 2003, and each year thereafter, shall be expired to the state fund, General Revenue Fund.

(h)(1) Effective July 1, 2008, there is hereby created in the State Treasury a special revenue account to be known as the General Administrative Fees Account. Expenditures from the account shall be used for the operation of the office of the Secretary of State and are not authorized from collections, but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq.* of this code and upon the fulfillment of the provisions set forth in §11B-2-1 *et seq.* of this code: *Provided*, That for the fiscal year ending June 30, 2009, expenditures are authorized from collections rather than pursuant to an appropriation by the Legislature. Any balance in the account at the end of each fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be expended as provided by this subsection.

(2) After June 30, 2008, all the fees and service charges established in §59-1-2a of this code for the following purposes shall be collected and deposited by the Secretary of State or other collecting agency in the general administrative fees account and used for the operation of the office of the Secretary of State:

(A) The annual and biennial report fees paid to the Secretary of State by corporations, limited partnerships, domestic limited liability companies, and foreign limited liability companies;

(B) The fees for the issuance of a certificate relating to the initial registration of a corporation, limited partnership, domestic limited liability company, or foreign limited liability company described in subdivision (a)(2) of this section; and

(C) The fees for the purchase of data and updates related to the state's Business Organizations Database described in §59-1-2a of this code.

(i) There is continued in the office of the Secretary of State a noninterest-bearing, escrow account to be known as the Prepaid Fees and Services Account. This account shall be for the purpose of allowing customers of the Secretary of State to prepay for services, with payment to be held in escrow until services are rendered. Payments deposited in the account shall remain in the account until services are rendered by the Secretary of State and at that time

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the fees will be reallocated to the appropriate general or special revenue accounts. There shall be no fee charged by the Secretary of State to the customer for the use of this account and the customer may request the return of any moneys maintained in the account at any time without penalty. The assets of the prepaid fees and services account do not constitute public funds of the state and are available solely for carrying out the purposes of this section.

(j) A veteran-owned business, as defined in §59-1-2a(a)(13), commenced on or after July 1, 2015, or an active-duty member business, as defined in §59-1-2a(a)(13), commenced on or after July 1, 2021, is exempt from paying the fees prescribed in paragraphs (a)(1)(A), (a)(1)(B), (a)(1)(C), (a)(1)(D), (a)(1)(E), (a)(1)(F), and(a)(1)(G) of this section.

(k) Notwithstanding any other provisions of this article, after July 1, 2017, the Secretary of State may offer a fee for expedited services which shall not exceed $500.

(l) The fees provided for in this section shall remain in effect until such time as the Legislature has approved rules promulgated by the Secretary of State, in accordance with the provisions of §29A-3-1 *et seq.* of this code, establishing a schedule of fees for services.

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§59-1-2a. Annual and biennial business fees to be paid to the Secretary of State; filing of annual and biennial reports; purchase of data.

(a) Definitions. — As used in this section:

"Annual report fee" means the fee described in subsection (c) of this section that is to be paid to the Secretary of State each year by corporations, limited partnerships, domestic limited liability companies, and foreign limited liability companies. Any reference in this code to a fee paid to the Secretary of State for services as a statutory attorney in fact shall mean the annual report fee described in this section.

"Biennial report fee" means the biennial fee described in subsection (c) of this section that is to be paid to the Secretary of State every two years by corporations, limited partnerships, domestic limited liability companies, and foreign limited liability companies.

"Business activity" means all activities engaged in or caused to be engaged in with the object of gain or economic benefit, direct or indirect, but does not mean any of the activities of foreign corporations enumerated in §31D-15-1501(b) of this code, except for the activity of conducting affairs in interstate commerce when activity occurs in this state, nor does it mean any of the activities of foreign limited liability companies enumerated in §31B-10-1003(a) of this code, except for the activity of conducting affairs in interstate commerce when activity occurs in this state.

"Corporation" means a "domestic corporation", a "foreign corporation", or a "nonprofit corporation".

"Deliver or delivery" means any method of delivery used in conventional commercial practice, including, but not limited to, delivery by hand, mail, commercial delivery, and electronic transmission.

"Domestic corporation" means a corporation for profit, which is not a foreign corporation, incorporated under or subject to Chapter 31D of this code.

"Domestic limited liability company" means a limited liability company, which is not a foreign limited liability company, under or subject to Chapter 31B of this code.

"Foreign corporation" means a for-profit corporation incorporated under a law other than the laws of this state.

"Foreign limited liability company" means a limited liability company organized under a law other than the laws of this state.

“Foreign protected series” has the same meaning assigned in §31B-14-102 of this code.

“Foreign series limited liability” has the same meaning assigned in §31B-14-102 of this code.

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"Limited partnership" means a partnership as defined by §47-9-1 of this code.

"Nonprofit corporation" means a nonprofit corporation as defined by §31E-1-150 of this code.

“Protected series” has the same meaning assigned in §31B-14-102 of this code.

"Registration fee" means the fee for the issuance of a certificate relating to the initial registration of a corporation, limited partnership, domestic limited liability company, or foreign limited liability company, domestic protected series, or foreign protected series described in §59-1-2(a)(2) of this code. The term "initial registration" also means the date upon which the registration fee is paid.

“Series limited liability company” has the same meaning assigned in §31B-14-102 of this code.

"Veteran" means any person who has served as an active member of the armed forces of the United States, the National Guard, or a reserve component as described in 38 U.S.C. § 101. Notwithstanding any provision in this code to the contrary, a veteran must be honorably discharged or under honorable conditions as described in 38 U.S.C. § 101.

"Veteran-owned business" or "active-duty member-owned business" means a business that:

(A) Is at least 51 percent unconditionally owned by one or more veterans, active-duty members of any branch of the United States military, or their respective spouses; or

(B) In the case of a publicly owned business, at least 51 percent of the stock is unconditionally owned by one or more veterans, active-duty members of any branch of the United States military, or their respective spouses.

(b) Required payment of annual or biennial report fee and filing of annual or biennial report. — After, July 1, 2026, a corporation, limited partnership, domestic limited liability company, or foreign limited liability company may not engage in any business activity in this state without paying the annual or biennial report fee and filing the annual or biennial report as required by this section.

(c) Annual or biennial report fee. — After July 1, 2026, each corporation, limited partnership, domestic limited liability company, and foreign limited liability company engaged in or authorized to do business in this state shall pay an annual report fee of $25 for the services of the Secretary of State as attorney-in-fact for the corporation, limited partnership, domestic limited liability company, or foreign limited liability company and for any other administrative services imposed by law upon the Secretary of State. If a corporation, limited partnership, domestic limited liability company, or foreign limited liability company elects for biennial reporting under subdivision (d)(3) of this section, then the corporation, limited partnership, domestic limited liability company, or foreign limited liability company shall pay a biennial report fee of $50 for the services of the Secretary of State as attorney-in-fact for the corporation, limited partnership, domestic limited liability company, or foreign limited

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liability company and for any other administrative services imposed by law upon the Secretary of State. The fee is due and payable with the annual or biennial report described in subsection (d) of this section on or before the dates specified in subsection (e) of this section. The annual and biennial report fees received by the Secretary of State pursuant to this subsection shall be deposited by the Secretary of State in the general administrative fees account established by §59-1-2 of this code.

(d) Annual or biennial report. —

(1) After July 1, 2026, each corporation, limited partnership, domestic limited liability company, and foreign limited liability company engaged in or authorized to do business in this state shall file an annual or biennial report. The report is due annually or biennially, subject to the other provisions of this code, after the initial registration of the corporation, limited partnership, domestic limited liability company, or foreign limited liability company with the annual or biennial report fee described in subsection (c) of this section on or before the dates specified in subsection (e) of this section.

(2) The annual or biennial report shall be filed with the Secretary of State on forms provided by the Secretary of State for that purpose.

(A) The annual or biennial report shall, in the case of corporations, contain:

(i) The address of the corporation’s principal office;

(ii) the names and mailing addresses of its officers and directors;

(iii) the name and mailing address of the person on whom notice of process may be served;

(iv) the name and address of the corporation's parent corporation and of each subsidiary of the corporation licensed to do business in this state;

(v) the county or county code in which the principal office address or mailing address of the company is located;

(vi) business class code;

(vii) an e-mail address where informational notices and reminders of annual or biennial filings may be sent, unless there is a technical inability to comply; and

(viii) any other information the Secretary of State considers appropriate.

Limited partnerships, domestic limited liability companies, and foreign limited liability companies shall provide similar information with respect to their principal or controlling interests as determined by the Secretary of State or otherwise required by law to be reported to the Secretary of State.

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(B) Notwithstanding any other provision of law to the contrary, the Secretary of State shall, upon request of any person, disclose, with respect to corporations:

(i) The address of the corporation's principal office;

(ii) the names and addresses of its officers and directors;

(iii) the name and mailing address of the person on whom notice of process may be served;

(iv) the name and address of each subsidiary of the corporation and the corporation's parent corporation;

(v) the county or county code in which the principal office address or mailing address of the company is located; and

(vi) the business class code.

The Secretary of State shall provide similar information with respect to information in its possession relating to limited partnerships, domestic limited liability companies, and foreign limited liability companies, similar information with respect to their principal or controlling interests.

(3) Notwithstanding any provision of this section to the contrary, any corporation, limited partnership, domestic limited liability company, or foreign limited liability company authorized to do business in this state may elect to file a biennial report in lieu of an annual report if the corporation, limited partnership, domestic limited liability company, or foreign limited liability company has timely filed all required annual reports under this section for five consecutive calendar years and is in good standing with the Secretary of State at the time of election. The election shall meet the following requirements:

(A) The election shall be made at the time of filing the fifth consecutive timely annual report, or, for any corporation, limited partnership, domestic limited liability company, or foreign limited liability company that has already satisfied the five-year timely filing requirement as of the effective date of this subsection, at any time between January 1 and July 1 of the next calendar year following the effective date of this subsection in a form and manner prescribed by the Secretary of State;

(B) Upon making the biennial reporting election, the corporation, limited partnership, domestic limited liability company, or foreign limited liability company is not required to file an annual report for the next calendar year. The first biennial report shall be delivered to the Secretary of State between January 1 and July 1 of the second calendar year following the calendar year in which the election is made, and every two years thereafter;

(C) Biennial reports shall include the same information as the annual reports outlined in subdivision (2) of this subsection and shall be delivered in a form and manner prescribed by the Secretary of State. If a biennial report does not contain the information required in

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subdivision (2) of this subsection, the Secretary of State shall promptly notify the reporting corporation, limited partnership, domestic limited liability company, or foreign limited liability company and return the report to it for correction. If the report is corrected to contain the information required in subdivision (2) of this subsection and delivered to the Secretary of State within 60 days after the effective date of the notice, it is timely filed;

(D) After election of biennial reporting, if a corporation, limited partnership, domestic limited liability company, or foreign limited liability company fails to timely file a biennial report or loses good standing with the Secretary of State's office, the option to file biennially may be revoked by the Secretary of State, and the corporation, limited partnership, domestic limited liability company, or foreign limited liability company must timely file annual reports for another five consecutive calendar years before making the election again; and

(E) Amendments to this section concerning the election of biennial reporting enacted into law during the Regular Legislative Session of the year 2026, shall take effect on July 1, 2026, and shall not forgive prior failures to file annual reports or pay annual fees previously due.

(e) Annual or biennial reports and fees due by June 30. — Each domestic and foreign corporation, limited partnership, limited liability company, and foreign limited liability company shall file with the Secretary of State the annual or biennial report and pay the annual or biennial report fee on or before 11:59 PM on June 30 of each year or every two years if an election for biennial reporting under subdivision (d)(3) of this section is properly made.

(f) Deposit of fees. — The annual and biennial report fees received by the Secretary of State pursuant to this section shall be deposited by the Secretary of State in the general administrative fees account established by §59-1-2 of this code.

(g)(1) Duty to pay. —Each corporation, limited partnership, limited liability company, and foreign limited liability company shall pay the annual or biennial report fees imposed under this article to remit them with a properly completed annual or biennial report to the Secretary of State, and if it fails to do so it is subject to the late fees prescribed in subsection (h) of this section and dissolution or revocation, pursuant to this code: *Provided*, That before dissolution or revocation for failure to pay fees may occur, the Secretary of State shall notify the entity by certified mail, return receipt requested, of its failure to pay, all late fees or bad check fees associated with the failure to pay, and the date upon which dissolution or revocation will occur if all fees are not paid in full. The certified mail required by this subdivision shall be postmarked at least 30 days before the dissolution or revocation date listed in the notice.

(2) Bad check fee. — If any corporation, limited partnership, limited liability company, or foreign limited liability company submits payment by check or money order for the annual or biennial report fee imposed under this article and the check, money order, or automatic bank transfer is rejected or declined because there are insufficient funds in the account, an invalid account number is provided, the account is closed, or for any other reason, the

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Secretary of State shall assess a bad check fee to the corporation, limited partnership, limited liability company, or foreign limited liability company not exceeding an amount equal to $5 plus any amount passed on from a financial institution on a drawer or endorser. The bad check fee assessed under this subdivision shall be deposited into the account or accounts from which the Secretary of State paid the service charge.

(h) Late fees. —

(1) The following late fees are in addition to any other penalties and remedies available elsewhere in this code:

(A) Administrative late fee. — The Secretary of State shall assess upon each corporation, limited partnership, limited liability company, and foreign limited liability company delinquent in the payment of an annual or biennial report fee or the filing of an annual or biennial report an administrative late fee in the amount of $50 for an annual delinquency and $100 for a biennial delinquency.

(B) Administrative late fees for nonprofit corporations. — The Secretary of State shall assess each nonprofit corporation delinquent in the payment of an annual or biennial report fee or the filing of an annual or biennial report an administrative late fee in the amount of $25 for an annual delinquency and $50 for a biennial delinquency.

(2) The Secretary of State shall deposit the first $25,000 of fees collected under this subsection into the General Administrative Fees Account established in §59-1-2(h) of this code and shall deposit any additional fees collected under this section into the General Revenue Fund of the state.

(3) With respect to any fees collected under this section, the Secretary of State may waive or reduce an administrative late fee if the delinquency in the payment of an annual or biennial report fee or the filing of an annual or biennial report is determined by the Secretary of State to have been caused by circumstances beyond the control of the filer or the filer's agent. In determining whether to waive or reduce the late fee, the Secretary of State may consider:

(A) The history of compliance and timely payment and filing including, but not limited to, previous waiver requests, late filings, and late payments;

(B) The weight and sufficiency of the evidence supporting the request to waive or reduce the late fee for the late filing or payment;

(C) Any evidence which shows that the late payment or late filing was caused by circumstances that were not directly related to the actions of the filer or the filer's agent; and

(D) Any other factor considered by the Secretary of State.

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(i) Reports to Tax Commissioner; suspension, cancellation, or withholding of business registration certificate. —

(1) The Secretary of State shall, within 20 days after the close of each month, make a report to the Tax Commissioner for the preceding month, in which he or she shall set out the name of every business entity to which he or she issued a certificate to conduct business in the State of West Virginia during that month. The report shall set out the names and addresses of all corporations, limited partnerships, limited liability companies, and foreign limited liability companies to which he or she issued certificates of change of name or of change of location of principal office, dissolution, withdrawal, or merger. If the Secretary of State fails to make the report, the Tax Commissioner shall report the failure to the Governor. A writ of mandamus lies for correction of the failure.

(2) Notwithstanding any other provision of this code to the contrary, upon receipt of notice from the Secretary of State that a corporation, limited partnership, limited liability company, and foreign limited liability company is more than 30 days delinquent in the payment of annual or biennial report fees or in the filing of an annual or biennial report required by this section, or if a corporation, limited partnership, limited liability company, or foreign limited liability company which elected for biennial reporting under subdivision (d)(3) of this section is more than 60 days delinquent in the payment of biennial report fees or in the filing of a biennial report required by this section, the Tax Commissioner may suspend, cancel, or withhold a business registration certificate issued to or applied for by the delinquent corporation, limited partnership, limited liability company, or foreign limited liability company until the same is paid and filed in the manner provided for the suspension, cancellation, or withholding of business registration certificates for other reasons under §11-12-1 *et seq*. of this code.

(j) Purchase of data. — The Secretary of State shall provide electronically, for purchase, any data maintained in the Secretary of State's Business Organizations Database. For the electronic purchase of the entire Business Organizations Database, the cost is $12,000. For the purchase of the monthly updates of the Business Organizations Database, the cost is $1,000 per month. The fees received by the Secretary of State pursuant to this subsection shall be deposited by the Secretary of State in the General Administrative Fees Account established by §59-1-2 of this code.

(k) The Secretary of State may collect the service fee per transaction, if any, charged for an online service from any customer who purchases data or conducts transactions through an online service.

(l) Rules. — The Secretary of State may propose rules for legislative approval, in accordance with the provisions of §29A-3-1 *et seq*. of this code, to implement this article.

(m) A veteran-owned business, as defined in this section, commenced on or after July 1, 2015, or an active-duty member-owned business, as defined in this section, commenced on or after July 1, 2021, is exempt from paying the annual report fee, required by this section,

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for the first four years after its initial registration: *Provided*, That a veteran-owned business or an active-duty member-owned business is not exempt from any filing deadlines or other fees required by this section. No later than July 1, 2026, the Secretary of State shall develop and design an official veteran-owned business logotype to be used by a veteran-owned business.

(1) The logotype shall not include any language that may be construed as an endorsement by the State and shall only indicate that the business is a veteran-owned business.

(2) No later than 90 days after the effective date of this subsection, the Secretary of State shall develop an application for which a veteran-owned business may apply to use the logotype.

(3) The Secretary of State shall develop guidelines with the criteria to establish veteran-owned status of businesses applying for the logotype.

(4) The Secretary of State may provide a space on the application where an applicant may voluntarily make a contribution of any amount to be deposited into the West Virginia Veterans' Home Loan Mortgage Fund.

(5) No later than 60 days after the creation of a logotype under this subsection, the Secretary of State shall post a notice that:

(A) The logotype under this subsection is available for use by an approved veteran-owned business; and

(B) Includes instructions on how to complete and submit an application.

(n) The Secretary of State may waive new business registration fees at up to three entrepreneurship events or conferences within the state of West Virginia.

(o) Any person, firm, corporation, or association that is a nongovernmental entity who solicits the purchase of or payment for a product or service from businesses with which they do not have a pre-existing commercial relationship for annual report filing under subsection (d) of this section by means of a mailing, electronic mail, or facsimile, shall include all of the following requirements on each solicitation:

(1) Conspicuously display in the heading of the solicitation a disclosure on the front and back of each page, the following statement in 16-point bold Helvetica font and in all capital letters: "THIS PRODUCT OR SERVICE HAS NOT BEEN APPROVED OR ENDORSED BY ANY GOVERNMENTAL AGENCY, AND THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE GOVERNMENT";

(2) In the case of a mailed solicitation, the envelope or outside cover or wrapper in which the solicitation is mailed, conspicuously display in 16-point bold Helvetica font and in all capital letters on the front of the envelope, outside cover, or wrapper, the following disclosure:

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"THIS IS NOT A GOVERNMENT DOCUMENT"; and

(3) On each fee schedule page, the following disclosure in 12-point bold font: "Annual Report filings may be filed directly with the Secretary of State for the statutory $25 fee". If a biennial report election has been made under subdivision (d)(3) of this section, then the following disclosure in 12-point bold font: "Biennial Report filings may be filed directly with the Secretary of State for the statutory $50 fee".

(p) Any person who violates subsection (o) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined up to $1,000 for each noncompliant solicitation, or confined in jail for a period of up to one year, or both fined and confined.

(q) Any person harmed as a result of a violation of subsection (o) of this section may recover damages in an amount equal to three times the amount solicited, any associated court costs and attorneys' fees, and any other damages, at the discretion of the court.

(r) Amendments to this section enacted into law during the Regular Legislative Session of the year 2026, shall take effect on July 1, 2026, and shall not forgive prior failures to file annual reports or pay annual fees previously due.

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§59-1-2b. Purchase of voter registration lists and election data; fees.

(a) Except as may be otherwise provided in this code, the Secretary of State shall charge the following fees for data originating in the statewide voter registration system to be paid by the person for whom the service is rendered at the time it is performed:

(1) Election Cycle Subscription Service $1,000

(2) Statewide Voter Registration List $500

(3) Master Voter History List Export $500

(4) Statewide Early Voters List $200

(5) Statewide Absentee Requests List $200

(6) Statewide Absentee Received List $200

(7) Partial Voter Registration List Current hourly rate

(8) Voter History List Current hourly rate

(9) Complex Research Query Current hourly rate

(10) Update to a request made under subdivision

(2), (4), (5), or (6) of this subsection during the election

year in which the list was requested..... Current hourly rate

(11) Update to a request made under subdivision (3)

between the day following the request date and the completion

of voter history as required by section eighteen, article two,

chapter three of this code for the next succeeding primary,

general or odd-year election ..... Current hourly rate

(b) For the purposes of this section, "Election Cycle Subscription Service" includes:

(1) Statewide Registered Voter List updated monthly throughout the year and updated daily starting thirty days prior to election day through election day;

(2) Master Voter History List Export following certification of the primary, general and odd-year elections;

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(3) Statewide All Mail-in Absentee Request List and Statewide Public Received Mail-in Absentee List for the primary, general and odd-year elections, updated daily starting thirty days prior to election day through ten days following election day; and

(4) Statewide Early Voters List for the primary, general and odd-year elections, updated daily starting on the first day of early voting through election day.

(c) At the time that a request is made under subdivision (7), (8) or (9), subsection (a) of this section, the current hourly rate, as determined by the Secretary of State, shall be communicated to the prospective purchaser along with an estimate of the number of hours needed to fulfill the request before any list is compiled.

(d) Net proceeds from the sale of data originating in the statewide voter registration system, along with any interest on such funds, shall be deposited into the State Election Fund as set forth in subsection (b), section forty-eight, article one, chapter three of this code.

(e) The fees provided for in this section shall remain in effect until such time as the Legislature has approved rules promulgated by the Secretary of State, in accordance with the provisions of article three, chapter twenty-nine-a of this code, establishing a schedule of fees for services.

WV Legislature

§59-1-2c. Young Entrepreneur Reinvestment Act; certain fees waived.

Beginning on July 1, 2016, a person who is under the age of 30 who resides within West Virginia is exempt from paying the fees provided in section two of this article for filing:

(1) Articles of incorporation of a domestic, for profit corporation, for which he or she is an incorporator;

(2) Articles of incorporation of a domestic, nonprofit corporation for which he or she is an incorporator;

(3) Articles of organization of a domestic limited liability company, for which he or she is a member;

(4) Agreement of a domestic general partnership, for which he or she is a partner; or

(5) Certificate of a domestic limited partnership, for which he or she is a partner.

WV Legislature

§59-1-3. Fees to be charged by Auditor.

The Auditor shall charge for services rendered in his office the following fees to be paid by the person to whom the service is rendered at the time it is done:

Land grants not exceeding five hundred words $1.50

For each additional five hundred words or fractional part thereof 1.00

For certificate of redemption, where taxes and interest are $5 and under 1.00

For certificate of redemption, where taxes and interest are over $5 and under $20 1.50

For certificate of redemption, where taxes and interest are over $20 2.00

For making search as to title, etc., when not over one hour 2.50

For each additional hour 2.00

For transcript of records and certifying to same when not over one hundred words 1.50

For each additional one hundred words .25

For a certificate of reinstatement of corporation charter 5.00

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§59-1-4. Fees collected by Secretary of State, Auditor and Clerk of Supreme Court of Appeals to be paid into State Treasury; accounts; reports.

Except as otherwise provided by law, the fees to be charged by the Auditor, Secretary of State and Clerk of the Supreme Court of Appeals, by virtue of this article or any other law, are the property of the State of West Virginia. The Auditor, Secretary of State and Clerk of the Supreme Court of Appeals shall account for and pay into the State Treasury at least once every thirty days all fees collected or appearing to be due to the state, to the credit of the general state fund or other fund as provided by law. The Auditor, Secretary of State and Clerk of the Supreme Court of Appeals shall each keep a complete and accurate itemized account of all fees collected by them and the nature of the services rendered for which all fees were charged and collected, in accordance with generally accepted accounting principles, as provided in article two, chapter five-a of this code. All accounts shall be open to inspection and audit as provided in article two, chapter four of this code.

WV Legislature

§59-1-5. Violations of preceding section.

Any wilful violation of the preceding section by the Auditor, Secretary of State or clerk of the Supreme Court of Appeals, or any wilful failure by either of them to make the reports or pay over the money or keep the accounts as provided for in the preceding section, shall be deemed a felony, and, upon conviction thereof the party offending shall be fined not more than $5,000, and confined in the penitentiary for a period of not more than ten years.

WV Legislature

§59-1-6. Fees to be charged by surveyors.

Surveyors may charge the following fees:

For all surveying actually done (unless by specia lcontract), for the first one hundred poles, or any less distance, long measure, per pole $.01

After the first one hundred poles, long measure, per pole .005

For tracing and examining old surveys to ascertain the true lines, their distance and courses, or for doing surveying in and about any mines, cities, towns or villages, the surveyor may charge $5.00 for every day necessarily so employed, in lieu of charging by the pole: Provided, That nothing in this section shall prevent any party having surveying done from making a contract for a different compensation. For calculating the quantity for less than six courses or lines .50

When land is divided, for calculating each division, if less than six courses .50

For every course or line of more than six courses .03

For making a plat of six courses, or less .50

For every course more than six .03

For recording a plat and certificate, if not more than

six courses .50

For every course above six .03

For a copy of a plat and certificate, where there are not more than six courses .50

For every course above six .03

For a copy of an entry .50

For every search where no copy is required .25

For giving receipt for any paper .15

For traveling to the place of surveying and returning, per mile .05

If surveying be done at different places, on the same tour, the mileage shall be apportioned among the different surveys according to their distance from the residence of the surveyor or deputy and each other, so that the surveyor shall not receive more than 5¢ a mile for going and returning for any one trip.

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§59-1-7. Fees to be charged by notaries public.

A notary public may charge the following fees:

When there is a protest by him for the record thereof, making out instrument of protest under his official seal and notice of dishonor to one person besides the maker of a note or acceptor of a bill $1.00

For every additional notice .10

For taking and certifying the acknowledgment of any deed or writing .50

For administering and certifying an oath, unless it be the affidavit of a witness .25

For taking and certifying affidavits or depositions of witnesses, at the rate, for each hour actually employed in taking the same, of .75

For other services, where no specific fee is prescribed the same fees as are allowed by law to the clerk of the circuit court for similar services.

WV Legislature

§59-1-8. Compensation of commissioners of courts.

A commissioner, except where it is otherwise specially provided, shall be allowed for any service such compensation as the court of which he is commissioner may from time to time prescribe. The commissioner shall indicate to the court, in writing, the compensation he believes he is entitled to receive for services performed.

A commissioner shall not be compelled to make out or return a report until his compensation therefor be paid or security given him to pay so much as may be adjudged right by the court to whom the report is to be returned, or, if it be a circuit court or court of limited jurisdiction, by the judge thereof in vacation, unless the court or judge see cause to order it to be made out and returned without such payment or security, and shall so order.

WV Legislature

§59-1-9. Compensation of fiduciary commissioners; procedure for approving.

The county commission shall promulgate by order a schedule of fees or a rate of compensation for the guidance of fiduciary commissioners, based upon the actual time spent and actual services rendered, or both a schedule and a rate of compensation as the commissioners may deem appropriate: Provided, That no fee may be based solely upon the amount of the estate. A copy of these fees or rates shall be posted in a conspicuous place in the county courthouse.

The fiduciary commissioner shall submit to the commission an itemized statement of services rendered and time expended in the settling of every estate, along with a statement of fees charged therefor. The county commission shall review all fees charged by a fiduciary commissioner, and shall approve, disapprove or modify the fee as it may deem appropriate. In reviewing any fee the county commission shall consider the following: (1) The time and labor expended; (2) the difficulty of the questions raised; (3) the skill required to perform properly the services rendered; (4) the customary fee for like work; and (5) any time limitations imposed by the personal representative, any beneficiary, or by the attendant circumstances.

WV Legislature

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

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

(a) When a writing is admitted to the record, for receiving proof of acknowledgment of the writing, entering an order in connection with the writing, endorsing clerk's certificate of recordation on the writing and indexing in a proper index, the clerk of the county commission shall charge and collect the following fees:

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

(2) Forty dollars for a trustee's report of sale for any property for which additional information and filing requirements are required by §38-1-8a of this code. Twenty dollars of each recording fee received pursuant to this subdivision shall be deposited into the county's general revenue fund and $20 paid quarterly by the clerk of the county commission to the West Virginia Housing Development Fund established in §31-18-1 *et seq*. of this code.

(3) Ten dollars for a financing, continuation, termination, or other statement or writing permitted to be filed under chapter 46 of this code.

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

(5) No charge for a service discharge record.

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

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

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

(8) Of the fees collected pursuant to subdivision (1), subsection (a) of this section, $10 shall be deposited in the county general revenue fund in accordance with §59-1-28 of this code, $5 shall be deposited in the county reappraisal fund and dedicated to the operation of the assessor's office mapping division, $8 shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this code, $1 to the county 9-1-1 center and $2 shall be deposited in the county general fund and dedicated to the operation of the county clerk's office. Four dollars of the fees collected pursuant to subdivision (1), subsection (a) of this section and $5 of the fees collected pursuant to subdivision (6), subsection (a) of this section shall be paid by the county clerk into the State Treasury and deposited in equal

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amounts into the Farmland Protection Fund created in §8A-12-1 *et seq*. of this code for the benefit of the West Virginia Agricultural Land Protection Authority and into the Outdoor Heritage Conservation Fund created §5B-2G-7(f) of this code. The funds deposited in the State Treasury pursuant to this subdivision may only be used for costs, excluding personnel costs, associated with purpose of land conservation, as defined in §5B-2G-7(f) of this code.

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

(c) Fifty-five dollars for issuance of marriage license and other duties pertaining to the marriage license (including preparation of the application, administrating the oath, registering and recording the license, mailing acknowledgment of minister's return to one of the licensees, and notification to a licensee after 60 days of the nonreceipt of the minister's return). This fee is reduced to $35 if the applicants present a premarital education course completion certificate issued pursuant to §48-2-701 of this code and dated within one year of the application for a marriage license.

(1) One dollar of the marriage license fee received pursuant to this subsection shall be paid by the county clerk into the State Treasury as a state registration fee in the same manner that license taxes are paid into the Treasury under §11-12-1 *et seq*. of this code;

(2) Fifteen dollars of the marriage license fee received pursuant to this subsection shall be paid by the county clerk into the State Treasury for the Family Protection Shelter Support Act in the same manner that license taxes are paid into the Treasury under §11-12-1 *et seq*. of this code;

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

(4) If a premarital education course completion certificate is not presented, the county clerk shall, on or before the 10th day of each month, transmit $20 of the marriage license fee received pursuant to this subsection to the State Treasurer for deposit in the State Treasury as follows:

(A) Five dollars to the credit of the Family Protection Shelter Support Act in the same manner that license taxes are paid into the Treasury under §11-12-1 *et seq*. of this code.

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

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

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

(d) (1) One dollar and 50 cents for a copy of any writing or document, if it is not otherwise provided for.

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

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

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

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

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

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

(1) Except as provided in §59-1-11(a)(2) and §59-1-11(a)(3) of this code, for instituting any civil action under the Rules of Civil Procedure, any statutory summary proceeding, any extraordinary remedy, the docketing of civil appeals or removals of civil cases from magistrate court, or any other action, cause, suit or proceeding, $200, of which $30 shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this code and $45 shall be deposited in the special revenue account designated the Fund for Civil Legal Services for Low Income Persons, established by §59-1-10(c)(4)(B) of this code, and $20 deposited in the special revenue account created in §48-26-603 of this code to provide legal services for domestic violence victims;

(2) For instituting an action for medical professional liability, $400, of which $10 shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this code: Provided, That after December 31, 2021, the filing fee for instituting an action for medical professional liability shall be $280, of which $10 shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this code;

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

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

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

(6) For filing any pleading that includes a counterclaim, cross claim, third-party complaint, or motion to intervene, $200, which shall be deposited in the special revenue account designated the Fund for Civil Legal Services for Low Income Persons, established by §59-1-10(c)(4)(B) of this code: Provided, That this subdivision and the fee it imposes does not apply in family court cases nor may more than one such fee be imposed on any one party in any one civil action; and

(7) Except for civil actions within the jurisdiction of family courts, for each defendant or respondent named in the initial pleading upon the institution of a civil action in which there are two or more named defendants, and for each additional defendant, respondent, or third-party defendant subsequently named in a pleading filed in the civil action, $15, payable upon the institution of the civil action or upon the filing of the initial pleading that names the additional defendant, respondent, or third-party defendant, of which $10 shall be deposited in the general fund of the county in which the office of the circuit clerk is located, and $5

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shall be deposited in the State Police Forensic Laboratory Fund, established under §15-2-24d of this code: Provided, That for purposes of this subdivision, "defendant or respondent named" does not include those defendants or respondents identified as "John/Jane Doe".

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

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

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

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

(4) For issuing an execution, $25;

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

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

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

(8) For arranging the papers in a certified question, writ of error, appeal, or removal to any other court, $10, of which $5 shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this code;

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

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

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

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

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

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

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(2) In the case of a felony, $105, of which $10 shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this code.

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

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

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

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

(4) For 10 percent recognizance bonds with surety, the fee shall be paid by the person serving as surety; and

(5) For 10 percent recognizance bonds without surety, the fee shall be paid by the person tendering 10 percent of the bail amount.

In instances in which the total of the bond is posted by more than one bond instrument, the above fee shall be collected at the time of issuance of each bond instrument processed by the clerk and all fees collected pursuant to this subsection shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this code. Nothing in this subsection authorizes the clerk to collect the above fee from any person for the processing of a personal recognizance bond.

(f) The clerk of a circuit court shall charge and collect a fee of $10 for services rendered by the clerk for processing of bail piece and the fee shall be paid by the surety at the time of issuance. All fees collected pursuant to this subsection shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this code.

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

(h) Fees for removal of civil cases from magistrate court shall be collected by the magistrate court when the case is still properly before the magistrate court. The magistrate court clerk shall forward the fees collected to the circuit court clerk.

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§59-1-11a. Additional costs in certain criminal proceedings.

(a) Except as provided in subsections (b) and (c) of this section, in each criminal case before a circuit court in which the defendant is convicted, whether by plea or at trial, under the provisions of section two, article five, chapter seventeen-c of this code or section eighteen-b, article seven, chapter twenty of this code, there shall be imposed, in addition to other costs, fines, forfeitures or penalties as may be allowed by law, costs in the amount of $55. For purposes of further defraying the cost to the county of enforcing the provisions of section two, article five, chapter seventeen-c of this code or section eighteen-b, article seven, chapter twenty of this code and related provisions, the clerk of the circuit court shall, on or before the tenth day of the month following the month in which the costs imposed in this section were collected, remit an amount equal to the amount from each of the criminal proceedings in which the costs specified in this subsection were collected to the sheriff of the county who shall deposit the same in the General Revenue Fund of the county.

(b) In each criminal case before a circuit court upon appeal from a magistrate court in which the defendant is convicted, whether by plea or at trial in the circuit court, under the provisions of section two, article five, chapter seventeen-c of this code or section eighteen-b, article seven, chapter twenty of this code, there shall be imposed, in addition to other costs, fines, forfeitures or penalties as may be allowed by law, costs in the amount of $55. For purposes of further defraying the cost to the county of enforcing the provisions of section two, article five, chapter seventeen-c of this code or section eighteen-b, article seven, chapter twenty of this code and related provisions, the clerk of the circuit court shall, on or before the tenth day of the month following the month in which the costs imposed in this section were collected, remit an amount equal to the amount from each of the criminal proceedings in which the costs specified in this subsection were collected to the sheriff of the county who shall deposit the same in the General Revenue Fund of the county. The provisions of this subsection shall not require payment of the costs imposed by this subsection to the circuit court where the costs have been paid in the magistrate court.

(c) In each criminal case before a circuit court upon appeal from a municipal proceeding in which the defendant is convicted, whether by plea or at trial in the circuit court, under the provisions of a municipal ordinance which has the same elements as an offense described in section two, article five, chapter seventeen-c of this code or section eighteen-b, article seven, chapter twenty of this code, there shall be imposed, in addition to other costs, fines, forfeitures or penalties as may be allowed by law, costs in the amount of $55. For purposes of further defraying the cost to the municipality of enforcing the provisions of the ordinance or ordinances described in this subsection and related provisions, the clerk of the circuit court shall, on or before the tenth day of the month following the month in which the costs imposed in this section were collected, remit an amount equal to the amount from each of the criminal proceedings in which the costs specified in this subsection were collected to the clerk of the municipal court or other person designated to receive fines and costs for the municipality from which the conviction was appealed who shall deposit these moneys in the General Revenue Fund of the municipality. The provisions of this subsection shall not require payment of the costs imposed by this subsection to the circuit court where the costs

have been paid to the clerk of the municipal court or other person designated to receive fines and costs for the municipality.

(d) The provisions of this section shall be effective after June 30, 2004.

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§59-1-12. Payment of fines by credit card or payment plan.

A circuit court may accept credit cards in payment of all fines, cost, forfeiture, restitution or penalties. The Supreme Court of Appeals shall adopt rules regarding the use of credit or check cards to pay fines, and any charges made by the credit card company may be paid from the gross credit card collections.

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§59-1-13. Fees to be charged by Clerk of Supreme Court of Appeals.

The Clerk of the Supreme Court of Appeals shall charge the following fees to be paid by the parties for whom the services are rendered:

For all copies of petitions, records, orders, opinions or other papers, per page. 25¢

For each certificate under seal of the court $5

For license to practice law, suitable for framing. $25

For docketing any civil appeals, including appeals from Family Courts, but not including, appeals in workers' compensations cases, any action in the Supreme Court's original jurisdiction or any other action, cause or proceeding $200

For any other work or services not herein enumerated, the clerk shall charge the fees prescribed for similar services by clerks of circuit courts.

Fees collected for docketing civil appeals shall be expended, in the discretion of the West Virginia Supreme Court of Appeals, solely to provide grants to the federally designated provider of civil legal services for low income citizens in the state.

WV Legislature

§59-1-14. Fees to be charged by sheriffs.

(a) The county commission shall determine the amount which the sheriff may charge, which charges shall not exceed the following:

For serving on any person an order, notice, summons, or other process where the body is not taken, except a subpoena served on a witness, and making return thereof $30.00

For summoning a witness $30.00

For serving on any person an attachment or

other process under which the body is taken $30.00

For levying an attachment on real estate and

making the return $30.00

For making any other levy $30.00

For serving a writ of possession $30.00

(b) Notwithstanding any provision of this code to the contrary, a county sheriff shall owe the fees set forth in subsection (a) of this section to another sheriff's department or law-enforcement agency for service of an order, notice, summons, or other process, or for service of an attachment once the requested service has been completed.

(c) The county commission shall determine the amount which the sheriff may charge, which charges shall not exceed the following:

For conveying a prisoner to or from jail, for each mile of necessary travel either in going or returning .25

For taking any bond $1.00

When a jury is sworn in court, for summoning and impaneling such jury $1.00

For issuing receipt to purchaser at delinquent tax sale $1.00

(d) The county commission, giving due regard to the cost thereof, may, from time to time, prescribe the amount which the sheriff may charge for keeping any property or in removing any property. When, after distraining or levying, he or she neither sells nor receives payment, and either takes no bond or takes one which is not forfeited, he or she shall, if guilty of no default, have (in addition to the $1 for a bond, if one was taken) a fee of $3, unless this be more than half of what his or her commission would have amounted to if he or she had received payment; in which case he or she shall (whether a bond was taken or not) have a fee of $1 at the least, and so much more as is necessary to make the said half of his or

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her commission. The commission to be included in a forthcoming bond (when one is taken) shall be five percent on the first $300 of the money for which the distress or levy is made, and two percent on the residue of the money; but the commission shall not be received, in whole or in part, except as hereinbefore provided, unless the bond be forfeited, or the amount (including the commission) be paid to the plaintiff. An officer receiving payment in money, or selling property, shall have the like commission of five percent on the first $300 of the money paid or proceeds from the sale, and two percent on the residue, except that when the payment or sale is on an execution on a forthcoming bond, his or her commission shall be only half what it would be if the execution were not on the bond.

(e) Any amounts collected by the sheriff pursuant to this section shall be deposited in a separate account of the county general fund and used by the sheriff for the expenses of providing the services herein described: *Provided*, That $5 of each fee collected pursuant to the provisions of subsection (a) of this section shall be deposited by the county commission in the West Virginia Deputy Sheriff Retirement Fund created in §7-14D-6 of this code and $3 of each fee collected pursuant to the provisions of subsection (a) of this section shall be deposited by the county commission in the general revenue account of the county commission. Any surplus funds that remain in the separate account of the county general fund required by the provisions of this subsection on the last day of the fiscal year, and have not been expended for the purposes herein described, shall revert to the county general fund.

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§59-1-15. Payments to sheriffs and clerks out of state or county treasury.

There shall be paid out of the State Treasury to clerks and sheriffs for services rendered the state in a civil case such fees as would be chargeable for the like service of an individual, after such fees are duly certified to the Auditor. There shall be paid by the county court according to the provisions of article five, chapter sixty-two of this code, the following fees, after the same are duly certified to such court: To the sheriff or other officer, for an arrest for felony, $1, and for conveying any person charged with or convicted of felony, to jail, or from one jail to another, for each mile in going and returning, 5¢. The officer shall also be allowed for the support of the prisoner during the removal, and for assistance to make the arrest or effect the removal, such charge as may have been necessarily incurred by him to be shown by his own affidavit, if living, or, if he be dead, by the affidavit, of some credible person; and where he has assistance, by the affidavit also of each person employed by him or by such of them as may be alive and within the jurisdiction of the court, and if none of them be alive or within the jurisdiction of the court, the court may allow such claim upon his own affidavit. Such charge for assistance shall not exceed, in making an arrest, $1 per day for each person employed to assist him and in conveying a prisoner, not to exceed 5¢ per mile going and returning for each guard. The officer shall also be allowed for impaneling a jury in case of a felony, $1.

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§59-1-16. Amount of allowance to witnesses for attendance; how and when made.

A person attending any court or other tribunal, under a summons or recognizance as a witness, shall receive not less than ten nor more than $20, to be fixed by the court or other tribunal, for each day's attendance and 15¢ per mile for each mile necessarily traveled to the place of attendance, and the same for returning, plus all necessary bridge, ferry and road tolls. On his oath, an entry of the sum he is entitled to, and for what, and by what party it is to be paid, shall be made. When the attendance is before either house or a committee of the Legislature, such entry shall be made by the clerk of such house or the chairman of such committee, and in other cases by the clerk of the court or other tribunal before which, or by the person before whom, the witness attended. A witness summoned or recognized to attend in several cases may have the entry made against any one of the parties by whom he is summoned, or for whom he is sworn as a witness, but no witness shall be allowed for his attendance in more than one case at the same time. But no compensation shall be allowed to a witness before a grand jury. This section shall not apply to witnesses before justices of the peace.

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§59-1-17. By whom witnesses paid; on what certificate; clerk's certificate as to claims; dispute as to claims.

The sum to which a witness is entitled shall be paid out of the treasury in any case of attendance before either house or a committee of the Legislature, and in any other case in which the attendance is for the state except where it is otherwise specially provided. In all other cases it shall be paid by the party for whom the summons issued. The payment shall be on the certificate of the person required by the preceding section to make the entry. The certificate shall express by letters, and not by figures, the separate amounts to which the witness is entitled for his attendance, traveling tolls and ferriages which he may have to pay, and the aggregate thereof. No clerk or other person authorized to make such entry or give such certificate shall become interested by purchase in any claim payable out of the public treasury, which by law he is authorized to certify. And it shall be the duty of such clerk, as soon as possible after the adjournment of any court, to make out a list of all entries made on behalf of witnesses attending for the state, whose fees are payable out of the treasury, and certify such list to the Auditor. Any dispute (before or after issuing the certificate) between the witness and the party against whom his claim is made, as to its justice or amount, may, when the case is in a court or before a justice, be determined by such court or justice.

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§59-1-18. To whom fees charged; services by clerks and sheriffs without fees.

The fees mentioned in this article shall be chargeable to the person at whose instance the service is performed; except that the fees for entering and certifying the attendance of witnesses, and proceedings to compel payment for such attendance, shall be charged to the party for whom the witness attended, and except also as follows: No clerk shall charge for taking bond from, administering oaths to, or copying orders as to the appointment or qualification of any county, school or district officer, or for filing the bonds or oaths of any such officer, nor for making or copying orders as to county levies or grand juries and administering the necessary oaths. No sheriff shall charge for serving such or any other public orders nor for summoning and impaneling grand juries. No clerk or sheriff shall receive payment out of the treasury for any service rendered in case of the state, except where it is allowed by law.

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§59-1-19. Fee books of clerks.

Every clerk of a court shall keep a fee book, wherein shall be entered the fees for every service performed by him and the fact of such fees having been paid, or of a bill having been made out therefor, whichever shall happen first. The fee books of a clerk shall be submitted to the inspection of commissioners appointed to examine the clerk's office.

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§59-1-20. Making out fee bills; motion to quash improper fee bill; prepayment of fees.

No person shall be compelled to pay any fees before mentioned due to an officer, until there be produced to him a fee bill signed by the officer to whom the fees are due, expressing particulars for which such fees are charged. And no such fee bill shall be made out for any service not previously performed, except as hereinafter provided, unless a person desire to pay before such performance, in which case there shall be mentioned in such fee bill the nature of the service and the fact that it is to be performed. Nor shall an officer, for any service, make out a fee bill for more than is allowed therefor. Nor shall he for the same service, attempt to obtain payment a second time; nor ever make out a fee bill a second time, unless he indorse the fact that the fee bill made out is a second fee bill and swear that the former bill remains unpaid. For each item in which an officer shall violate this section, he shall forfeit $5 to any person prosecuting therefor, and the circuit court of the county in which an officer resides may on motion, after reasonable notice to him quash any fee bill made out by him contrary to law. But any officer may demand his fees in advance for any particular service required to be performed by him for any person not residing in his county, and if such fees be not paid or secured to him the officer may refuse to perform the service until they are paid or secured. In such cases, the fee bill shall state the nature of the service, and that it is to be performed.

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§59-1-21. Fee bills of county clerk.

The clerk of the county court may make out tickets for his fees and place them in the hands of the sheriff, or other officer, to be collected and accounted for in the same manner that the fees of the clerk of the circuit court are collected and accounted for. The clerk of the county court shall be subject to the same penalties as the clerk of the circuit court for issuing fee bills wrongfully.

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§59-1-22. Duties of successor of deceased clerk with reference to fee books and fee bills.

When a clerk dies, his successor shall charge in the fee books of the clerk's office such lawful fees as do not appear to have been charged therein for services performed by the decedent, and make out fee bills for such fees, and also for any fees charged on such books by the decedent for which he does not appear to have made out fee bills in his lifetime; except that such of those as appear to such successor to be for more than is allowed by law shall be reduced by him so far as, in his judgment, is necessary to make them legal.

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§59-1-23. Requisites and effect of fee bills for services of deceased clerk.

The fee bills made out under the preceding section shall show on their face that they are for fees due the decedent, shall be signed by his successor, and shall have the same force and effect and shall be dealt with by all officers as if they were for fees accruing for services performed by such successor. All fee bills made out by such deceased clerk in his lifetime shall go to the custody of his successor and shall be dealt with by him and all officers as if they were fee bills made out by him for his own services.

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§59-1-24. Collection of fees; receipt.

Every officer mentioned in this article shall, on or before July 1, in any year, deliver fee bills for all fees then due and unpaid, duly signed, to any sheriff or collector of the public taxes, who shall receive and endeavor to collect the same. A sheriff or collector may distrain therefor, or for any fee bills due himself such property of the person to whom the fees are charged as might be levied on under a writ of fieri facias against him except as hereinafter mentioned, and the fourteenth, fifteenth and sixteenth sections of article nine, chapter eleven of this code shall apply to such fee bills in like manner as to taxes. Every such officer shall deliver to each person who pays him or from whose property he makes such fees, a receipt for all that is so paid or made.

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§59-1-25. Accounting for fees.

Every sheriff or collector to whom such fee bills are so delivered shall, on or before July 1, next after such delivery, account therefor with the officer entitled thereto by returning such as he may not have collected, with the indorsement thereon of the words "No property found," and by paying to such officer or his legal successor the amount of all not so returned. If he fail so to do, judgment may be obtained, on motion, against such sheriff or collector, and his sureties, and his and their personal representatives, for the amount with which such sheriff or collector is chargeable, and damages thereon, not exceeding fifteen percent per annum, from said first day of July until payment. Such judgment may be on motion in the circuit court of the county in which such sheriff or collector resides, and if the fees be due to the clerk of the Supreme Court of Appeals, it may be in the circuit court of the county in which the seat of government may be. On such motion, any receipt for fees mentioned in the notice as signed by any person shall be deemed to be his signature unless an affidavit be filed denying it, and shall be prima facie evidence of the collection of all the fees mentioned therein, not returned as aforesaid.

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§59-1-26. Limitation on distress or suit for collection of fees.

No fee, when a fee bill has not been issued, shall be collected by distress or suit after ten years from the time when the service was done that is charged for therein; or, if a fee bill has been issued, after ten years from the time when the last fee bill was issued.

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§59-1-27. Lodging fee bills and certificates in clerk's office; application of costs to payment thereof; prepayment or security to officer.

An officer or witness to whom, for fees or attendance, anything is due that is taxed in the costs for which there is judgment or decree, may, within ten days after such judgment or decree, lodge in the clerk's office of the court wherein the same is rendered, his fee bills for such fees, or certificate for such attendance. The amount due each officer or witness, for what is so lodged, shall, within said ten days, be noted in the margin of the order or execution book, opposite the entry of the case. An officer or witness whose fees or certificate shall have been so noted shall be paid the same out of the costs, by the person against whom the judgment or decree is; and the right to such payment shall be valid against any assignee of the judgment or decree. When the clerk issues execution in such case, he shall indorse thereon how much of such costs is for each officer or witness whose fees or certificate may be so noted; and the officer collecting such costs shall pay the same accordingly to those entitled thereto. No officer mentioned in this chapter shall be obliged to perform services for any person out of his county, unless payment of his fees for such services be made or secured; nor to perform services for any person against whom he has had fee bills returned, which remain unsatisfied, unless he be secured payment of his fees for the services desired, or performance of such services be directed by a court.

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§59-1-28. Use and disposition of fees of sheriffs, clerks and prosecuting attorneys.

Except for the funds designated in section twenty-eight-a of this article, all fees, costs, percentages, penalties, commissions, allowances, compensation, income and all other perquisites of whatever kind which by law may now or hereafter be collected or received as compensation for services by any clerk of the county commission, sheriff, clerk of the circuit court or of any court of limited jurisdiction, and prosecuting attorney shall be collected and received by such officer for the sole use of the treasury of the county in which he is an officer, and shall be held as public moneys belonging to the county fund, and shall be accounted for and paid over as such in the manner hereinafter provided. Nothing in this article shall be construed to require any county officer to pay into the county treasury any fees earned prior to May 21, 1915. Fees are held to be earned at the time the service is rendered and not at the time the matter is finally adjudicated.

Notwithstanding any provision of law to the contrary, all fees collected by a sheriff for service of all manner of process from magistrate court, in addition to such other funds as may be provided by the county commissions, shall be dedicated by the county commission to the office of sheriff for providing bailiff and service of process services for magistrate court.

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§59-1-28a. Disposition of filing fees in civil actions and fees for services in criminal cases.

(a) Except for those payments to be made from amounts equaling filing fees received for the institution of divorce actions as prescribed in §59-1-28a(b) of this code, and except for those payments to be made from amounts equaling filing fees received for the institution of actions for divorce, separate maintenance, and annulment as prescribed in §59-1-28a(b) of this code, for each civil action instituted under the rules of civil procedure, any statutory summary proceeding, any extraordinary remedy, the docketing of civil appeals, or any other action, cause, suit, or proceeding in the circuit court the clerk of the court shall, at the end of each month, pay into the funds or accounts described in this subsection an amount equal to the amount set forth in this subsection of every filing fee received for instituting the action as follows:

(1) Into the Regional Jail and Correctional Facility Authority Fund in the State Treasury established pursuant to the provisions of §31-20-10 of this code the amount of $60;

(2) Into the Court Security Fund in the State Treasury established pursuant to the provisions of §51-3-14 of this code the amount of $5; and

(3) Into the Regional Jail Operations Partial Reimbursement Fund established pursuant to the provisions of §31-20-10b of this code the amount of $20.

(b) For each action for divorce, separate maintenance, or annulment instituted in the circuit court, the clerk of the court shall, at the end of each month, report to the Supreme Court of Appeals the number of actions filed by persons unable to pay and pay into the funds or accounts in this subsection an amount equal to the amount set forth in this subsection of every filing fee received for instituting the divorce action as follows:

(1) Into the Regional Jail and Correctional Facility Authority Fund in the State Treasury established pursuant to the provisions of §31-20-10 of this code the amount of $10;

(2) Into the special revenue account of the State Treasury established pursuant to §48-2-604 of this code an amount of $30;

(3) Into the Family Court Fund established under §51-2A-22 of this code an amount of $70; and

(4) Into the Court Security Fund in the State Treasury established pursuant to the provisions of §51-3-14 of this code the amount of $5.

(c) Notwithstanding any provision of §59-1-28a(a) or §59-1-28a(b) of this code to the contrary, the clerk of the court shall, at the end of each month, pay into the Family Court Fund established under §51-2A-22 of this code an amount equal to the amount of every fee received for petitioning for the modification of an order involving child custody, child

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visitation, child support, or spousal support as determined by §59-1-11(a)(4) of this code and for petitioning for an expedited modification of a child support order as provided in §59-1-11(a)(5) of this code.

(d) The clerk of the court from which a protective order is issued shall, at the end of each month, pay into the Family Court Fund established under §51-2A-22 of this code an amount equal to every fee received pursuant to the provisions of §48-27-508 of this code.

(e) Of every fee for service received in any criminal case against any respondent convicted in circuit court, the clerk of each circuit court shall, at the end of each month, pay into the Regional Jail and Correctional Facility Authority Fund in the State Treasury an amount equal to $40, into the Court Security Fund in the State Treasury established pursuant to the provisions of §51-3-14 of this code an amount equal to $5, and into the Regional Jail Operations Partial Reimbursement Fund established pursuant to the provisions of §31-20-10b of this code an amount equal to $30.

(f) The clerk of the circuit court shall, at the end of each month, pay into the Patient Injury Compensation Fund established under §29-12D-1 et seq. of this code, an amount equal to $285 of every filing fee received for instituting a medical professional liability action: Provided, That the payments into the Patient Injury Compensation Fund required by this subsection shall cease following payment by the clerk based on filing fees received through December 31, 2021.

(g) The clerk of the circuit court shall, at the end of each month, pay into the Courthouse Facilities Improvement Fund created by §29-26-6 of this code those amounts received by the clerk which are dedicated for deposit in the fund.

(h) The clerk of each circuit court shall, at the end of each month, pay into the Regional Jail Operations Partial Reimbursement Fund established in the State Treasury pursuant to the provisions of §31-20-10b of this code those amounts received by the clerk which are dedicated for deposit in the fund.

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§59-1-29. Collection of such fees.

Each clerk of the county commission, sheriff, clerk of the circuit court and prosecuting attorney shall have charge of and collect the fees, costs, percentages, penalties, commissions, allowances, compensation, income and all other perquisites of whatever kind which are now or may hereafter be allowed by law. Whenever there remain due the county and unpaid, for a period of more than six months, any fees, costs, percentages, penalties, commissions, allowances, compensation, income or any other perquisites of any kind, it shall be the duty of the county commission, or other tribunal in lieu thereof, by the prosecuting attorney, to proceed to the collection thereof in the circuit court or magistrate court, upon motion whereof the defendant and the sureties on his bond shall have at least twenty days' notice, or in any other manner provided for by law, and the amount so collected shall be paid into the county treasury to the credit of the general county fund.

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§59-1-30. Books of account to be kept by officers.

Each of the officers named in the preceding section shall keep full and regular accounts, subject at all times to the examination of the county court, or tribunal in lieu thereof, the State Tax Commissioner or any individual, of all sums charged or collected by such officers on account of official fees, costs, percentages, penalties, commissions, allowances, compensation, income and all other perquisites of whatever kind, and such book of accounts shall be a part of the records of the respective offices herein named belonging to the county, and shall be transmitted by each county officer to his successor in office. The system of books and accounts to be kept by the officers herein named shall be prescribed by the State Tax Commissioner, ex officio inspector and supervisor of public offices.

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§59-1-31. Monthly payments; how credited; report required.

Except for the funds designated in section twenty-eight-a of this article, each of the officers named in section twenty-nine of this article shall at the end of each month pay into the county treasury all fees, costs, percentages, penalties, commissions, compensation, income and all other perquisites of whatever kind collected by his office during such month, which money shall be credited to the general county fund.

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§59-1-32. Reduction or remission of fees prohibited; penalty for default in payment.

None of the officers named in section twenty-nine of this article shall be authorized to make any reduction, abatement or remission of any of the fees, costs, percentages, penalties, commissions, allowances, compensation, income or any other perquisites of whatever kind that it may be their duty to charge and collect. If any such officer shall wilfully make default in the payment of fees, costs, percentages, penalties, commissions, allowances, compensation, income or any other perquisites of whatever kind received and collected by him for a period longer than ten days after the end of the month during which the same were collected, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $500, and in the discretion of the court may be imprisoned not more than thirty days, and may be removed from his office, and he and the sureties on his bond shall be liable for any and all such moneys collected. If any such officer shall fail to pay such fees, costs, percentages, penalties, commissions, allowances, compensation, income or any other perquisites of whatever kind, to the treasurer of his county, and shall appropriate the same for his own use, or shall fail to pay over such fees, costs, percentages, penalties, commissions, allowances, compensation, income or any other perquisites of whatever kind, within thirty days after demand has been made upon him by the county court of his county, or tribunal in lieu thereof, or prosecuting attorney, he shall be guilty of embezzlement, and, upon conviction thereof, shall be confined in the penitentiary not less than one nor more than five years, and shall forfeit his office; and if any deputy or assistant of any such officer shall appropriate to his own use any fees, costs, percentages, penalties, commissions, allowances, compensation, income or any other perquisites of whatever kind, or fail to pay the same within thirty days after demand has been made upon him by the county court, or tribunal created in lieu thereof, or prosecuting attorney of his county, he shall be guilty of embezzlement, and, upon conviction, be confined in the penitentiary not less than one nor more than five years.

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§59-1-33. Deposit for costs.

When any action at law, suit in equity or other proceeding is instituted, the clerk of the court wherein the same is instituted shall require from the plaintiff a reasonable deposit of money for the services to be performed by himself or any other officer named in this article: Provided, however, That such clerk shall not be required to pay any part of such deposit to any officer (other than himself) for any services to be performed, unless he is directed so to do by the plaintiff at the time such deposit is made. The action, cause or proceeding wherein any deposit is made shall be credited therewith, and there shall be charged against such deposit all payments made by the clerk to any other such officer for services performed by the latter; and at the end of the month such clerk shall be required to pay into the county treasury such part of the deposit as has been earned by services performed by him or by any other officer whose services he has been directed by the plaintiff to pay. Upon the appearance of any defendant to any action at law (other than criminal cases), suit in equity or other proceeding, such defendant shall likewise be required to deposit with the clerk a reasonable amount, and the same shall be applied and accounted for in like manner as a deposit made by the plaintiff or petitioner. After demand by the clerk for deposit provided for in this section he shall not be required to perform any service until the demand is complied with, unless affidavit is filed as provided for by section one, article two of this chapter.

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§59-1-34.

Repealed.

Acts, 1967 Reg. Sess., Ch. 105.

WV Legislature

§59-1-35. Supervision by chief inspector of public offices.

If, upon any examination made under authority of article nine, chapter six of this code, it is disclosed that the provisions of this article are not being complied with, the chief inspector and supervisor of public offices shall have authority to institute or cause to be instituted the necessary proceedings to enforce the provisions of this article. All books, records, blanks, forms, and forms for verifications, required to carry out the provisions of this article, shall be prescribed by the chief inspector. If any person shall swear falsely in any verification required under this article, he shall be guilty of false swearing, and, upon conviction thereof, shall be punished as provided by law for such offense, and by forfeiture of his office.

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§59-1-36. Fees and allowances for poor persons.

If a person shall present to the proper collecting officer such person's written statement, certified by the chief executive officer of a duly chartered legal aid society, that he is pecuniarily unable to pay any of the fees and allowances mentioned in this article, he shall be forgiven and not required to pay such costs.

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§59-1-37. Deposits by county officers in noninterest bearing or interest bearing accounts; payment to county general fund; annual report.

Except as to any tax receipts, which shall be deposited in accordance with section four, article six, chapter seven of this code, when any fee, cost, percentage, penalty, commission, allowance, bond, deposit, surety or other cash payment or sum is to be held by the sheriff, the prosecuting attorney, the county commission, an official of an agency or entity created by the county commission, the clerk of the county commission, the clerk of the circuit court or the assessor of any county under any provision of law or proper order of the circuit court, said officer shall deposit the same in an account or accounts which may, at his or her sole discretion, be an interest bearing account or accounts in secure and properly insured banks. All money collected, including cash and checks, shall be deposited intact on the first available business day: Provided, That the requirement for deposits on the first available business day shall not apply to the county assessor, nor shall it apply to any county officer if the amount to be deposited is less than $500. Any interest earned on such accounts, and not otherwise included in any refund, return or reimbursement of said fees, costs, penalties, commissions, allowances, bonds, deposits, sureties or other cash payments or sums, as directed by law or proper order of the circuit court, shall be paid into the county's general fund on a regular basis, but in no event less often than quarterly.

All county officers shall report to the county commission by July 1, each year concerning his or her election to use interest bearing accounts, amounts currently on deposit and interest actually earned on such accounts.

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§59-1-38. County officers to issue receipts of collections.

Any county officer, as described in section thirty-seven of this article, who receives a fee, cost, percentage, penalty, commission, allowance, bond, deposit, surety or other cash payment or sum shall issue a receipt to the payor thereof, in duplicate, on a form approved by the chief inspector, in accordance with the provisions of article nine, chapter six of this code. The county officer shall issue the original of such receipt to the payor and shall retain the copy. The chief inspector shall prescribe the minimum information to be included on such receipt forms.

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§59-1-39. Removal of county officer.

If any county officer shall fail to comply with the provisions of this article, the chief inspector may, in addition to any other remedies provided by law, seek the removal from office of such county officer, in accordance with provisions of section seven, article six, chapter six of this code.

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§59-2-1. Suits by persons financially unable to pay.

(a) A natural person who is financially unable to pay the fees or costs attendant to the commencement, prosecution or defense of any civil action or proceeding, or an appeal therein, is permitted to proceed without prepayment in any court of this state, after filing with the court an affidavit that he or she is financially unable to pay the fees or costs or give security therefor.

(1) The clerk of the court and all other officers of the court shall issue and serve all process and perform all duties in such cases.

(2) Judgment may be rendered for costs at the conclusion of the action, where otherwise authorized by law, and be taxable against a losing party who has not been determined to be financially unable to pay.

(3) Upon the filing of an affidavit in accordance with this subsection, seeking an appeal in a civil case from a circuit court to the Supreme Court of Appeals, the Supreme Court of Appeals may direct payment by the administrative office of the Supreme Court of Appeals of the expenses of duplicating the record on appeal after it is transmitted by the clerk of the circuit court. The transcript of proceedings before the circuit court, if the petition for appeal is to be filed with the transcript, shall be provided by the court reporter without cost: Provided, That actual expenses of the court reporter for supplies used in preparing the transcript may be paid when authorized by the director of the administrative office of the Supreme Court of Appeals.

(b) The Supreme Court of Appeals or the chief justice thereof shall establish and periodically review and update financial guidelines for determining the eligibility of civil litigants to proceed in forma pauperis.

(c) The Supreme Court of Appeals shall adopt a financial affidavit form for use by persons seeking a waiver of fees, costs or security pursuant to the provisions of this section. Copies of the form shall be available to the public in the offices of the clerk of any court of this state. The affidavit shall state the nature of the action, defense or appeal and the affiant's belief that he or she is entitled to redress. The form shall elicit information from the affiant which will enable the court in which it is filed to consider the following factors in determining whether the affiant is financially unable to pay fees, costs or security:

(1) Current income prospects, taking into account seasonal variations in income;

(2) Liquid assets, assets which may provide collateral to obtain funds and other assets which may be liquidated to provide funds to pay fees, costs or security;

(3) Fixed debts and obligations, including federal, state and local taxes and medical expenses;

(4) Child care, transportation and other expenses necessary for employment;

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(5) Age or physical infirmity of resident family members;

(6) Whether the person has paid or will pay counsel fees, or whether counsel will be provided by a private attorney on a contingent fee basis, an attorney pro bono, a legal services attorney, or some other attorney at no cost or a reduced cost to the affiant; and

(7) The consequences for the individual if a waiver of fees, costs or security is denied.

(d) When the information set forth in the affidavit or the evidence submitted in the action reveals that the person filing the affidavit is financially able to pay the fees and costs, the court or the family law master shall order the person to pay the fees and costs in the action.

(e) No other party in any proceeding may initiate an inquiry by motion or other pleading or participate in any proceeding relevant to the issues raised pursuant to this section.

(f) The making of an affidavit subject to inquiry under this section does not in any event give rise to criminal remedies against the affiant nor occasion any civil action against the affiant except for the recovery of costs as in any other case where costs may be recovered and the recovery of the value of services, if any, provided pursuant to this section. A person who has made an affidavit knowing the contents thereof to be false may be prosecuted for false swearing as provided by law.

WV Legislature

§59-2-2.

Repealed.

Acts, 2006 Reg. Sess., Ch. 36.

WV Legislature

§59-2-3. New bond.

On motion of an obligor in such bond, after reasonable notice to the plaintiff, his attorney or agent, the court may order a new bond to be given, with sufficient security, conforming to all the requirements of the preceding section, in a penalty equal to the penalty of the former bond. If the bond required under this section be not given within such time as the court may prescribe, it may order the suit to be dismissed. If such new bond be given, the surety in the former one shall be relieved from any liability he might have incurred because of having executed or acknowledged the same. After the notice has been given to the plaintiff, his attorney or agent, no further proceedings shall be had in such cause, until such new bond is given with sufficient security, or a sufficient excuse is given for not executing the same.

WV Legislature

§59-2-4. Costs on motions and interlocutory proceedings.

Upon any motion (other than for a judgment for money), or upon any interlocutory order or proceeding, the court may give or refuse costs, at its discretion, unless it be otherwise provided. It may, when a demurrer is sustained to a plea in abatement, give judgment for the plaintiff for his full costs to the time of sustaining it; and when any other part of the proceedings is adjudged insufficient, it may order all costs occasioned by such insufficiency to be paid by him who committed the fault.

WV Legislature

§59-2-5. Payment of costs on granting of new trial or continuance.

New trials may be granted upon the payment of costs, or with the costs to abide the event of the suit, as to the court may seem right. If the party who is to pay the costs of the former trial fail to pay the same at or before the next term after the new trial is granted, the court may, on the motion of the opposite party, set aside the order granting it and proceed to judgment on the verdict, or award execution for such costs, as may seem to it best. Where a case is continued at the costs of a party against the consent of the opposite party, the court may, in its discretion, award an execution for the costs of such continuance.

WV Legislature

§59-2-6. Where recovery of damages less than fifty dollars in action ex delicto.

In any personal action not on contract, which might be brought and prosecuted to judgment in a justice's court, if a verdict be found for the plaintiff, on an issue or otherwise, for less damages than $50, he shall not recover, in respect to such verdict, any costs, unless the court enter of record that the object of the action was to try a right besides the mere right to recover damages for the trespass or grievance in respect of which the action was brought, or that the said trespass or grievance was wilful or malicious.

WV Legislature

§59-2-7. Judgment where recovery is fifty dollars or less in action ex contractu.

In any personal action on contract instituted in a court of record, wherein it is ascertained that not more is due the plaintiff than $50, exclusive of interest, judgment shall be given for the defendant, unless the court enter of record that the matter in controversy was of greater value than fifty dollars, exclusive of interest; in which case it may give judgment for the plaintiff for what is ascertained to be due him with or without costs, as to it may seem right.

WV Legislature

§59-2-8. Costs on final judgment; judgment for, or discontinuance as to, some of defendants.

Except where it is otherwise provided, the party for whom final judgment is given in any action, or in a motion for judgment for money, whether he be plaintiff or defendant, shall recover his costs against the opposite party; and when the action is against two or more, and there is judgment for or discontinuance as to some but not all of the defendants, those for whom there is judgment, or as to whom there is such discontinuance, shall recover their costs.

WV Legislature

§59-2-9. Costs when original papers or record replaced.

For replacing the original papers in any cause, or the record in an appellate court, or supplying papers lost in cases decided, the costs and expenses shall be ascertained under the direction of the court, and adjudged against any party or parties in the cause, or divided among them as the court may, in its discretion, determine to be equitable; and so, also, when new pleadings are ordered.

WV Legislature

§59-2-10. Suit by one person for benefit of another.

When a suit is in the name of one person for the benefit of any other, if there be a judgment for the defendant's costs, it shall be against such other.

WV Legislature

§59-2-11. Laws as to costs not deemed penal; discretion of court of equity as to costs; costs in appellate courts.

The laws of costs shall not be interpreted as penal laws; nor shall anything in this article take away or abridge the discretion of a court of equity over the subject of costs, except that in every case in an appellate court costs shall be recovered in such court by the party substantially prevailing.

WV Legislature

§59-2-12. Costs when case dismissed for want of jurisdiction.

In any instance where a case, an appeal, writ of error or supersedeas shall be dismissed for want of jurisdiction, the court shall render judgment against the party who improperly invoked the jurisdiction of the court for all costs, whether accruing in the trial court or in any appellate court, which result from such wrongful invoking of the jurisdiction, provided they be otherwise properly chargeable against him

WV Legislature

§59-2-13. Who is to tax costs.

The clerk of a court wherein a party recovers costs shall tax the same.

WV Legislature

§59-2-14. Taxation of statute fees.

He shall include in the costs to the prevailing party:

(a) In any civil action, $10;

(b) In civil actions in any court of limited jurisdiction, the same fees as are allowed in a circuit court for like actions.

WV Legislature

§59-2-15. General taxation of costs.

The clerk shall tax in the costs all fees of officers, or other persons properly acting in lieu of officers, which the said party appears to be chargeable with, in the case wherein the recovery is, except that where, in any court on the same side, more than one copy of anything is obtained or taken out, in which may be included a copy of any pleading in a pending case, there shall be taxed only the fee for one copy of the same thing. He shall also tax 50¢ for each legal notice from such party therein, served in this state, and not otherwise taxed; the costs of executing any order of publication made in the case for such party and of any advertisement from him in the case, made in pursuance of law; and the allowances to his witnesses, and every further sum which the court may deem reasonable and direct to be taxed for depositions, taken in or out of the state, or for any other matter.

WV Legislature

§59-2-16. Taxation of costs for witnesses; entry after execution or adjournment; assignment or transfer of costs.

The court may restrict the taxation in the costs for witnesses to so many as may be deemed just. No entry for a witness shall be made against a party recovering costs after execution has issued for such party; and in no case shall there be an entry of a witness for attendance at a term of court after the adjournment of such term. No assignment or transfer of any costs, expenses or fees payable out of the State Treasury shall be valid unless the same be in writing, indorsed on or annexed to the voucher issued therefor, signed by the person entitled thereto and duly acknowledged before an officer authorized by law to take acknowledgments of deeds or other writings, or attested by two witnesses who shall state their respective names and post- office addresses.

WV Legislature

§59-2-17. Fees of prosecuting attorney.

The clerk shall include in the costs, for fees of the prosecuting attorney, the following:

(a) In cases of misdemeanor, or an action upon a bond for a violation of the license laws, $15, of which $5 of that amount shall be deposited in the courthouse facilities improvement fund created by section six, article twenty-six, chapter twenty-nine of this code;

(b) In a case of bastardy, $10;

(c) In a suit or proceeding upon a forfeited recognizance upon behalf of the state, five percent upon the amount recovered and paid into the treasury;

(d) In cases of felony, $35, of which $5 of that amount shall be deposited in the courthouse facilities improvement fund created by section six, article twenty-six, chapter twenty-nine of this code;

(e) In any other case of the state, if a different fee is not prescribed, $10.

Such fees shall be collected and accounted for as provided in article one of this chapter, but shall not in any case be paid out of the county or State Treasury.

WV Legislature

§59-2-18. Judgment or decree on behalf of state for costs.

In a case wherein there is judgment or decree on behalf of the state for costs, there shall be taxed in the costs the charge actually incurred to give any notice, although it be more than 50¢ and mileage, and the fees of attorneys and other officers for services, and allowances for attendance, as if such fees and allowances were payable out of the treasury. What is so taxed for fees of, or allowance to, any person shall be collected, paid over and accounted for according to law.

WV Legislature

§59-2-19. Premiums on surety company bonds.

The clerk or justice shall include in the costs of all actions, suits or proceedings, and the party entitled to recover costs may recover as part thereof, such sum as may have been paid by such party to a company, authorized under the laws of this state so to do, for executing or guaranteeing any bond, undertaking, or obligation therein, not exceeding, however, one third of one percent per annum on the amount of such bond or obligation.

WV Legislature

§59-3-1. Definitions and general provisions.

(a) As used in this article, elsewhere in this code or in any other provision of law:

(1) "Legal advertisement" means any notice, advertisement, statement, information or other matter required by law or court to be published.

(2) "Publication area" means the area or areas for which a legal advertisement is required by law or court to be made.

(3) "Once a week for two successive weeks" means two publications of a legal advertisement in a qualified newspaper occurring within a period of fourteen consecutive days with at least an interval of six full days within the period between the date of the first publication and the date of the second publication.

(4) "Once a week for three successive weeks" means three publications of a legal advertisement in a qualified newspaper occurring within a period of twenty-one consecutive days with at least an interval of six full days within the period between the date of the first publication and the date of the second publication and with at least an interval of six full days within the period between the date of the second publication and the date of the third publication.

(5) "Publication date" means the date on which a qualified newspaper is first placed in circulation.

(6) "General circulation" means not only a newspaper meeting the other qualifications specified in subsection (b) of this section and circulated among and of interest to the general public in the area in which it circulates, but also a newspaper meeting said other qualifications, the actual circulation of which throughout the publication area is large enough to give basis for a reasonable belief that publication of a legal advertisement in the newspaper will give effective notice to the residents of the publication area.

(b) Wherever the term "qualified newspaper" or "qualified newspapers" is used in this article, or the term "newspaper" or "newspapers" is used elsewhere in this code or in any other provision of law in connection with a legal advertisement as herein defined in this section, the terms shall be taken to mean only a newspaper or newspapers, as the case may be, published (unless otherwise expressly provided) in the State of West Virginia and which meet the following qualifications:

(1) Any newspaper shall be of regular issue and must have a bona fide, general circulation in the publication area. A newspaper is considered to be of regular issue if it is published regularly, as frequently as once a week, for at least fifty weeks during the calendar year as prescribed by its mailing permit; and has been published for at least one year immediately preceding the date on which the legal advertisement is delivered to the newspaper for publication. A newspaper is considered to be of bona fide, general circulation in the

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publication area if it meets the definition of "general circulation" as defined in this section and is circulated to the general public at a definite price or consideration.

(2) Any newspaper shall bear a title or name, consist of not less than four pages without a cover, and be a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices.

(c) Notwithstanding any other provision of this code or law to the contrary, a qualified newspaper shall for all purposes be considered to be published where it is first placed in circulation.

WV Legislature

§59-3-2. Classification of legal advertisements; designation of newspapers; frequency of publication; posting; manner of publishing; publication of notices for the state and its agencies.

(a) A Class I legal advertisement shall be published one time, a Class II legal advertisement shall be published once a week for two successive weeks, and a Class III legal advertisement shall be published once a week for three successive weeks in a qualified newspaper published in the publication area; or if there is no qualified newspaper published in the publication area or if no qualified newspaper published in the publication area will publish the legal advertisement at the rates specified in §59-3-3 of this code, the legal advertisement shall be published in a qualified newspaper published outside the publication area; or if no qualified newspaper is published outside the publication area or if no qualified newspaper published outside the publication area will publish the legal advertisement at the rates specified in §59-3-3 of this code, the legal advertisement shall be posted in at least three public places in the publication area, one of which postings shall be in the county courthouse, at or near the front door of the county courthouse, if a county courthouse is located in the publication area and one of which postings shall be in the municipal office building or municipal office or offices, at or near the front door thereof, if the publication area is a municipality.

(b) A Class I-0 legal advertisement shall be published one time, a Class II-0 legal advertisement shall be published once a week for two successive weeks, and a Class III-0 legal advertisement shall be published once a week for three successive weeks, in two qualified newspapers of opposite politics published in the publication area; or if two qualified newspapers of opposite politics are not published in the publication area or if two qualified newspapers of opposite politics published in the publication area will not publish the legal advertisement at the rates specified in §59-3-3 of this code, the legal advertisement shall be published in one qualified newspaper published in the publication area; or if there is no qualified newspaper published in the publication area or if no qualified newspaper published in the publication area will publish the legal advertisement at the rates specified in §59-3-3 of this code, the legal advertisement shall be published in one qualified newspaper published outside the publication area; or if no qualified newspaper is published outside the publication area or if no qualified newspaper published outside the publication area will publish the legal advertisement at the rates specified in §59-3-3 of this code, the legal advertisement shall be posted in at least three public places in the publication area, one of which postings shall be in the county courthouse, at or near the front door thereof, if a county courthouse is located in the publication area and one of which postings shall be in the municipal office building or municipal office or offices, at or near the front door thereof, if the publication area is a municipality.

(c) A legal advertisement may be published in a qualified newspaper published on any day of the week except Sunday.

(d) All legal advertisements shall be published together in continuous columns on one page of the newspaper publishing them under a general heading styled “Legal Advertisements”,

unless the number or size of the legal advertisements requires the use of more than one page, in which event the legal advertisements shall be published as near as practicable in continuous columns on as many pages as necessary under the same heading as above required.

(e) Beginning July 1, 2022, any and all legal notices, advertisements, publications, statements, or whatever kind or character required to be published by the State of West Virginia, or its agencies, shall be made at the frequency and in the manner prescribed by subsection (a) or (b) of this section, and shall also be published on a public notice database to be created and maintained by the State Auditor.

(f) Pursuant to subsection (e) of this section, the State Auditor shall propose rules and emergency rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq*. of this code relating to the creation and maintenance of a public notice database available on the State Auditor's website, the establishment of forms and procedures for submission of information to the State Auditor by the State of West Virginia and its agencies, providing a method of verifying publication of the notice, and for other procedures and policies consistent with this section.

(g) The State Auditor shall report annually to the Joint Committee on Government and Finance regarding the public notice database established by this section, which report shall include information on the extent of the use of the public notice database on the State Auditor's website, the financial impact resulting from the use of the public notice database, and any recommendations for additional enabling legislation relating to the public notice database.

WV Legislature

§59-3-3. Rates for legal advertisements; computation; filing affidavits with Secretary of State.

(a) The rates which a publisher or proprietor of a qualified newspaper in West Virginia may charge and receive for a single or first publication of any legal advertisement set solid depends on the bona fide circulation of the newspaper, as follows:

(1) Four cents per word if the qualified newspaper has a bona fide circulation of less than one thousand, except as provided in subdivision (1), subsection (a) of this section;

(2) Eight and one-half cents per word if the qualified newspaper has a bona fide circulation of one thousand to five thousand;

(3) Nine cents per word if the qualified newspaper has a bona fide circulation of more than five thousand but less than ten thousand;

(4) Ten cents per word if the qualified newspaper has a bona fide circulation of more than ten thousand and less than thirty thousand; or

(5) Eleven cents per word if the qualified newspaper has a bona fide circulation of thirty thousand or more: Provided, That on July 1, 2003 and on July 1, 2004 and on July 1, 2005 the allowable rate per word in each of the classifications of qualified newspapers with reference to circulation as set forth in this subsection shall, for each classification, increase 1¢ per word over the prior year's rate.

(b) In computing the number of words in a legal advertisement, not set solid, the basis is the size of type in which legal advertising is set by the qualified newspaper making the publication and shall be computed at the legal rate as though the matter were solid type, that is to say, on the basis of eighty-four words to the single column inch in six point type and fifty-four words to the single column inch in eight point type and any other size type in proportion.

(c) In determining the cost of a legal advertisement which is to appear more than once in the same qualified newspaper, the cost for the first publication shall be computed as specified in subsections (a) and (b) of this section and the cost of the second and each subsequent publication shall be seventy-five percent of the cost of the first publication computed as specified in subsections (a) and (b) of this section.

(d) The average bona fide circulation stated by each qualified newspaper in the statement filed by the newspaper with the United States post office department in October of each year shall control the rate of circulation classification of the qualified newspaper for the period commencing July 1, of each year until the last day of June of the following year. On or before November 1, of each year, the publisher or proprietor of each newspaper desiring to publish any legal advertisement during the ensuing one year time period commencing July 1, shall file with the Secretary of State an affidavit stating the average bona fide circulation of the

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newspaper during the preceding twelve month time period ending September 30, of each year and shall set forth sufficient facts in the affidavit to show whether the newspaper is a qualified newspaper. The average bona fide circulation stated in the affidavit by each qualified newspaper shall control the rate circulation classification for the ensuing twelve-month period commencing July 1, . Any qualified newspaper for which the required affidavit is not filed on or before March 1 of any calendar year shall be conclusively presumed to have for the ensuing twelve-month period commencing July 1, of such year a bona fide circulation of less than one thousand. At the time a publisher or proprietor of a qualified newspaper files an affidavit with the Secretary of State, as required by this subsection, the publisher or proprietor shall notify the clerk of the county commission and the board of Education of the county in which the qualified newspaper is published of the circulation classification of the qualified newspaper and of the applicable rate for publishing legal advertisements in the qualified newspaper during the ensuing twelve-month period commencing July 1, . If the qualified newspaper is published in a municipality, the publisher or proprietor shall at the same time also furnish the same notification to the clerk or recorder of the municipality.

(e) The rate charged for political advertising appearing in a newspaper at any time or times during the time period commencing thirty days prior to any primary or general election and ending the day following the election may not exceed one hundred five percent of the lowest commercial rate charged by the newspaper in which the political advertising appears.

(f) Nothing contained in this section prohibits qualified newspapers from charging less than the specified rates for any legal advertisement or from charging usual and customary rates for notarizing and producing additional copies of the affidavits and statements required in section four of this article.

WV Legislature

§59-3-4. Proof of publication and posting.

(a) Any qualified newspaper publishing a legal advertisement incident to any type of judicial proceeding or any provision in a deed of trust or contract, or incident to any other case if required by the responsible party placing the legal advertisement for publication, shall make and furnish under oath an affidavit of publication of each legal advertisement published, showing the number of times it was published in the qualified newspaper, the dates of the publications and the cost of the publications. When posting of any legal advertisement is required in addition to publication of the legal advertisement in a qualified newspaper, the posting shall be done by the party responsible for causing the legal advertisement to be published. In any case where any legal advertisement is not required to be published in a qualified newspaper but is required to be posted, an affidavit of the type provided for in this section with respect to posting shall be made by the party who would have been responsible for causing the legal advertisement to be published in a qualified newspaper had it been required.

(b) The affidavit of the publisher or proprietor of a qualified newspaper required by this section, together with a copy of the legal advertisement as published, constitutes prima facie evidence that the legal advertisement was published or published and posted as stated in the affidavit.

WV Legislature

§59-3-5. Mandamus to compel publication.

Any citizen, taxpayer, or the publisher or proprietor of any qualified newspaper entitled by law to have any legal advertisement published in his qualified newspaper, which any county court or tribunal created in lieu thereof, Board of Education, governing body of any municipal corporation, or public officer, shall fail or refuse to make, may have a writ of mandamus to compel such publication, if a qualified newspaper is willing to accept the legal advertisement for publication at the rates prescribed in section three of this article.

WV Legislature

§59-3-6. Political advertisements.

In no case involving the publication of paid advertisements for candidates for political office shall the rate charged by any publisher or proprietor of any newspaper be more than the average rate received by him from private patrons for similar advertising composed of reading matter or photographs and requiring the same amount of space.

WV Legislature

§59-3-7. Criminal and civil penalties.

(a) Any person who publishes a legal advertisement and who knowingly refused to file with the Secretary of State the affidavit for the fiscal year in which the legal advertisement was published, as required by the provisions of section three of this article, or to make and furnish the affidavit required by the provisions of section four of this article, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than $100 nor more than $1,000.

(b) Any person who shall knowingly file a false affidavit required by the provisions of this article shall be guilty of false swearing, and, upon conviction thereof, shall be punished as provided for that offense.

(c) Any qualified newspaper which shall knowingly charge any rates in excess of those specified in section three of this article, and any newspaper which shall knowingly charge any rates in excess of those specified in section six of this article, as the case may be, shall be liable to the person damaged thereby for treble damages.

WV Legislature

§59-3-8. Construction of article; repeal; subsequent legislation.

This article is intended to standardize and make uniform certain areas of the law relating to newspapers, qualified newspapers, legal advertisements and publication of a newspaper or qualified newspaper, and to this end all other provisions in this code or elsewhere in law pertaining to such subjects shall be construed so as to conform to and be consistent with the pertinent provisions of this article. As to those provisions in this code or elsewhere in law which are so inconsistent with the provisions of this article as to preclude such construction, such other provisions, whether general or specific in character, are hereby repealed to the extent of such inconsistency. No subsequent legislation shall be held to supersede or modify the provisions of this article except to the extent that such legislation shall do so specifically and expressly. The provisions of this act shall not affect the publication and/or posting of any legal advertisements commenced, in process or completed prior to the effective date of this act.

WV Legislature

§59-3-9. Severability.

If any provision of this act or the application thereof to any person or circumstances is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other provisions or applications of the act, and to this end, the provisions of this act are declared to be severable.

WV Legislature