

SB 414 S
(Veto)

WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007

ENROLLED
Committee Substitute for
Senate Bill No. 414

(SENATORS OLIVERIO, FOSTER, GREEN, STOLLINGS,
WELLS, BARNES, CARUTH, DEEM, HALL,
MCKENZIE AND YODER, *original sponsors*)

[Passed March 6, 2007; in effect ninety days from passage.]

FILED

2007 MAR 18 PM 12: 41

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

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[Passed March 6, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §38-5B-4 of the Code of West Virginia, 1931, as amended; and to amend and reenact §59-1-11 of said code, all relating to establishing a flat fee for certain services rendered by circuit clerks; eliminating other miscellaneous fees charged by circuit clerks; and authorizing the circuit clerk to assess a fee for creating and administering certain special funds.

Be it enacted by the Legislature of West Virginia:

That §38-5B-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §59-1-11 of said

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code be amended and reenacted, all to read as follows:

CHAPTER 38. LIENS.

**ARTICLE 5B. SUGGESTION OF THE STATE AND POLITICAL
SUBDIVISIONS; GARNISHMENT AND
SUGGESTION OF PUBLIC OFFICERS.**

**§38-5B-4. Notice to judgment debtor of execution against
salary or wages; time for service on officer of
suggestee.**

1 A certified copy of an execution issued under this
2 article against salary or wages shall be served by the
3 clerk of the court who issued the execution upon the
4 judgment debtor or his or her agent authorized to
5 accept service of process, by certified mail, return
6 receipt requested, and delivery restricted to the
7 addressee. The day and hour of mailing shall be clearly
8 noted on the face of the original execution and the
9 officer to whom it is delivered for collection shall not
10 make service upon the proper officer until the
11 expiration of five days from that time.

**CHAPTER 59. FEES, ALLOWANCES AND COSTS;
NEWSPAPERS; LEGAL ADVERTISEMENTS.**

ARTICLE 1. FEES AND ALLOWANCES.

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

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

5 (1) For instituting any civil action under the rules of
6 civil procedure, any statutory summary proceeding, any
7 extraordinary remedy, the docketing of civil appeals or
8 any other action, cause, suit or proceeding, one hundred
9 forty-five dollars, of which thirty dollars of that amount
10 shall be deposited in the Courthouse Facilities
11 Improvement Fund created by section six, article
12 twenty-six, chapter twenty-nine of this code and ten

13 dollars shall be deposited in the special revenue account
14 created in section six hundred three, article twenty-six,
15 chapter forty-eight of this code to provide legal services
16 for domestic violence victims;

17 (2) For instituting an action for medical professional
18 liability, two hundred sixty dollars, of which ten dollars
19 of that amount shall be deposited in the Courthouse
20 Facilities Improvement Fund created by section six,
21 article twenty-six, chapter twenty-nine of this code;

22 (3) Beginning on and after the first day of July, one
23 thousand nine hundred ninety-nine, for instituting an
24 action for divorce, separate maintenance or annulment,
25 one hundred thirty-five dollars;

26 (4) For petitioning for the modification of an order
27 involving child custody, child visitation, child support
28 or spousal support, eighty-five dollars; and

29 (5) For petitioning for an expedited modification of a
30 child support order, thirty-five dollars.

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

33 (1) For preparing an abstract of judgment, five dollars;

34 (2) For any transcript, copy or paper made by the clerk
35 for use in any other court or otherwise to go out of the
36 office, for each page, fifty cents;

37 (3) For action on suggestion, twenty-five dollars;

38 (4) For issuing an execution, twenty-five dollars;

39 (5) For issuing or renewing a suggestee execution,
40 twenty-five dollars;

41 (6) For vacation or modification of a suggestee
42 execution, one dollar;

43 (7) For docketing and issuing an execution on a

44 transcript of judgment from magistrate's court, three
45 dollars;

46 (8) For arranging the papers in a certified question,
47 writ of error, appeal or removal to any other court, ten
48 dollars, of which five dollars of that amount shall be
49 deposited in the Courthouse Facilities Improvement
50 Fund created by section six, article twenty-six, chapter
51 twenty-nine of this code;

52 (9) For postage and express and for sending or
53 receiving decrees, orders or records, by mail or express,
54 three times the amount of the postage or express
55 charges;

56 (10) For each subpoena, on the part of either plaintiff
57 or defendant, to be paid by the party requesting the
58 same, fifty cents;

59 (11) For additional service (plaintiff or appellant)
60 where any case remains on the docket longer than three
61 years, for each additional year or part year, twenty
62 dollars; and

63 (12) For administering funds deposited into a federally
64 insured interest-bearing account or interest-bearing
65 instrument pursuant to a court order, fifty dollars, to be
66 collected from the party making the deposit. A fee
67 collected pursuant to this subdivision shall be paid into
68 the general county fund.

69 (c) The clerk shall tax the following fees for services in
70 any criminal case against any defendant convicted in
71 such court:

72 (1) In the case of any misdemeanor, eighty-five dollars;
73 and

74 (2) In the case of any felony, one hundred five dollars,
75 of which ten dollars of that amount shall be deposited in
76 the Courthouse Facilities Improvement Fund created by
77 section six, article twenty-six, chapter twenty-nine of
78 this code.

79 (d) The clerk of a circuit court shall charge and collect
80 a fee of twenty-five dollars per bond for services
81 rendered by the clerk for processing of criminal bonds
82 and the fee shall be paid at the time of issuance by the
83 person or entity set forth below:

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

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

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

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

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

96 In instances in which the total of the bond is posted by
97 more than one bond instrument, the above fee shall be
98 collected at the time of issuance of each bond
99 instrument processed by the clerk and all fees collected
100 pursuant to this subsection shall be deposited in the
101 Courthouse Facilities Improvement Fund created by
102 section six, article twenty-six, chapter twenty-nine of
103 this code. Nothing in this subsection may be construed
104 as authorizing the clerk to collect the above fee from
105 any person for the processing of a personal recognizance
106 bond.

107 (e) The clerk of a circuit court shall charge and collect
108 a fee of ten dollars for services rendered by the clerk for
109 processing of bailpiece and the fee shall be paid by the
110 surety at the time of issuance. All fees collected
111 pursuant to this subsection shall be deposited in the
112 Courthouse Facilities Improvement Fund created by
113 section six, article twenty-six, chapter twenty-nine of
114 this code.

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115 (f) No clerk shall be required to handle or accept for
116 disbursement any fees, cost or amounts of any other
117 officer or party not payable into the county treasury,
118 except on order of the court or in compliance with the
119 provisions of law governing such fees, costs or accounts.

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

Ch. White
.....
Chairman Senate Committee

John Doyle / S.B. 414
Richard J. Aquilino
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Darrell E. Adams
.....
Clerk of the Senate

Gregg D. Bell
.....
Clerk of the House of Delegates

Carl Roy Tomblin
.....
President of the Senate

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

The within is disapproved this
the *18th* Day of *March* 2007.

[Signature]
.....
Governor

FILED

2007 MAR 18 PM 12: 37

OFFICE WEST VIRGINIA
SECRETARY OF STATE

PRESENTED TO THE
GOVERNOR

MAR 15 2007

Time 5:15 pm