

CHAPTER 28

CLERKS OF THE CIRCUIT COURTS

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**28.001 Definitions.**—As used in this chapter:

(1) "Official records" means each instrument that the clerk of the circuit court is required or authorized to record in the series of books called "Official Records" as provided for in s. 28.222.

(2) "Public records" has the same meaning as in s. 119.011 and includes each official record.

**History.**—s. 1, ch. 94-348.

**28.01 Bond of circuit court clerks, small counties.**

In each county of the state, having a population of 150,000 or less according to the last state census, the clerk of the circuit court shall, before being commissioned, give bond in a penalty which shall not be less than \$1,000 nor more than \$5,000 to be fixed by the

board of county commissioners of the county, payable to the Governor of the state and his or her successors in office, with two or more good and sufficient sureties to be approved by the board of county commissioners, and to be filed with and approved by the Department of State, which said bond shall be conditioned upon the faithful discharge of the duties of office.

**History.**—ss. 1, 3, ch. 3724, 1887; RS 1381; GS 1821; RGS 3066; CGL 4847; s. 1, ch. 20719, 1941; ss. 10, 12, 35, ch. 69-106; s. 152, ch. 95-147; s. 12, ch. 95-312.

**28.02 Bond of circuit court clerks, large counties.**

In each county of the state, having a population in excess of 150,000 according to the last state census, the clerk of the circuit court shall, before being commissioned, give bond in a penalty which shall not be less than \$5,000 nor more than \$100,000 to be fixed by the board of county commissioners of the county, payable to the Governor of the state and his or her successors in office, with two or more good and sufficient sureties to be approved by the board of county commissioners, and to be filed with and approved by the Department of State, which said bond shall be conditioned upon the faithful discharge of the duties of office.

**History.**—ss. 1, 3, ch. 3724, 1887; RS 1381; GS 1821; RGS 3066; CGL 4847; s. 1, ch. 17754, 1937; ss. 10, 12, 35, ch. 69-106; s. 153, ch. 95-147; s. 13, ch. 95-312.

**28.03 Obligation of sureties.**—Each surety upon

such bond may bind himself or herself for a specified sum, but the aggregate amount for which the sureties shall bind themselves shall not be less than the penalty of the bond.

**History.**—s. 9, ch. 3724, 1887; RS 1382; GS 1822; RGS 3067; CGL 4848; s. 2, ch. 17754, 1937; s. 1, ch. 20719, 1941; s. 154, ch. 95-147.

**28.04 Justification of sureties.**—Each surety upon

such bond shall make affidavit that the surety is a resident of the county for which the clerk is to be commissioned, and that he or she has sufficient visible property therein unencumbered and not exempt from sale under legal process to make good his or her bond.

**History.**—s. 10, ch. 3724, 1887; RS 1892; GS 1823; RGS 3068; CGL 4849; s. 3, ch. 17754, 1937; s. 1, ch. 20719, 1941; s. 155, ch. 95-147.

**28.05 Surety companies.**—The provisions of ss.

28.01-28.04 as to number of sureties, affidavits of residence and justification of same, shall not apply to solvent surety companies authorized to do business and execute bonds in this state.

**History.**—GS 1824; RGS 3069; CGL 4850; s. 4, ch. 17754, 1937; s. 1, ch. 20719, 1941.

**28.06 Power of clerk to appoint deputies.**—The

clerk of the circuit court may appoint a deputy or deputies, for whose acts the clerk shall be liable, and the said deputies shall have and exercise each and every power of whatsoever nature and kind as the clerk may exercise, excepting the power to appoint a deputy or deputies.

**History.**—s. 1, Feb. 12, 1834; s. 1, ch. 254, 1849; RS 1384; GS 1825; RGS 3070; CGL 4851; s. 1, ch. 21956, 1943; s. 156, ch. 95-147.

**28.07 Place of office.**—The clerk of the circuit court

shall keep his or her office at the county seat. If the clerk

finds a need for branch offices, they may be located in the county at places other than the county seat. One or more deputy clerks authorized to issue process may be employed for such branch offices. The Official Records books of the county must be kept at the county seat. Other records and books must be kept within the county but need not be kept at the county seat.

**History.**—s. 3, Feb. 12, 1834; RS 1385; GS 1826; RGS 3071; CGL 4852; s. 1, ch. 57-281; s. 1, ch. 87-190; ss. 2, 10, ch. 94-348.

**28.071 Clerk's seal.**—Each clerk shall provide a seal which shall have inscribed thereon substantially the words:

"Circuit Court"

"Clerk," "(Name of county)"

which shall be the official seal of the clerk of the circuit court in that county for authentication of all documents or instruments. It may be an imprint or impression type seal and shall be registered with the Department of State.

**History.**—s. 1, ch. 70-134; s. 1, ch. 70-439.

**28.08 Place of residence.**—The clerk of the circuit court, or a deputy, shall reside at the county seat or within 2 miles thereof.

**History.**—s. 1, ch. 1851, 1871; RS 1386; GS 1827; RGS 3072; CGL 4853.

**28.09 Clerk ad interim.**—In the case of vacancy occurring in the office of a clerk of the circuit court by death, resignation, or other cause, the judge of that court shall appoint a clerk ad interim, who shall assume all the responsibilities, perform all the duties and receive the same compensation for the time being as if he or she had been duly appointed to fill the office; and the clerk shall give such bond and security for the faithful performance of duties as is prescribed by law.

**History.**—s. 1, ch. 722, 1855; RS 1393; GS 1838; RGS 3083; CGL 4866; s. 157, ch. 95-147.

**128.101 Petitions and records of dissolution of marriage; additional charges.**—

(1) When a party petitions for a dissolution of marriage, in addition to the filing charges in s. 28.241, the clerk shall collect and receive:

(a) A charge of \$5. On a monthly basis, the clerk shall transfer the moneys collected pursuant to this paragraph to the Department of Health and Rehabilitative Services for deposit in the Child Welfare Training Trust Fund created in s. 402.40.

(b) A charge of \$5. On a monthly basis, the clerk shall transfer the moneys collected pursuant to this paragraph to the State Treasury for deposit in the Displaced Homemaker Trust Fund created in <sup>2</sup>s. 410.30. If a petitioner does not have sufficient funds with which to pay this fee and signs an affidavit so stating, all or a portion of the fee shall be waived subject to a subsequent order of the court relative to the payment of the fee.

(c) A charge of \$18. On a monthly basis, the clerk shall transfer the moneys collected pursuant to this paragraph to the State Treasury for deposit in the Marriage License Fees Trust Fund. Such <sup>3</sup>funds which are generated shall be directed to the Department of Health and Rehabilitative Services for the specific purpose of funding domestic violence centers.

(2) Upon receipt of a final judgment of dissolution of marriage for filing, and in addition to the filing charges in s. 28.241, the clerk shall collect and receive a service charge of \$7 pursuant to s. 382.023 for the recording and reporting of such final judgment of dissolution of marriage to the Department of Health and Rehabilitative Services.

**History.**—s. 2, ch. 67-520; s. 2, ch. 70-134; s. 1, ch. 70-439; s. 1, ch. 73-300; s. 9, ch. 83-217; s. 103, ch. 86-220; s. 1, ch. 87-145; s. 25, ch. 87-367; s. 7, ch. 88-98; s. 2, ch. 88-181; s. 12, ch. 94-134; s. 12, ch. 94-135.

**1Note.**—Section 36, ch. 94-134, and s. 36, ch. 94-135, provide for applicability to offenses committed on or after July 1, 1994.

**2Note.**—Transferred to s. 446.50 by s. 89, ch. 95-418.

**3Note.**—Section 12, ch. 94-135, uses the word "moneys" in place of the words "funds which are generated."

**28.12 Clerk of the board of county commissioners.**

The clerk of the circuit court shall be clerk and accountant of the board of county commissioners. He or she shall keep the minutes and accounts and perform such other duties as provided by law. The clerk shall have custody of the seal and affix the same to any paper or instrument as required by law.

**History.**—RS 1392; GS 1836; RGS 3081; CGL 4864; s. 3, ch. 70-134; s. 158, ch. 95-147.

**28.13 To keep papers.**—The clerk of the circuit court shall keep all papers filed in the clerk's office with the utmost care and security, arranged in appropriate files (endorsing upon each the time when the same was filed), and shall not permit any attorney or other person to take papers once filed out of the office of the clerk without leave of the court, except as is hereinafter provided by law.

**History.**—s. 59, Nov. 18, 1828; RS 1389; GS 1830; RGS 3075; CGL 4856; s. 1, ch. 89-297; s. 159, ch. 95-147.

**28.14 Records, judgments, orders, and decrees prior to circuit courts.**—All the records, judgments, orders, and decrees of the several circuit courts, in the respective counties, made and entered before July 28th, 1868, shall be taken and held to be the records, judgments, orders, and decrees of the circuit courts as established in said counties July 28th, 1868, and may be amended and enforced according to law and the practice of said courts.

**History.**—s. 9, ch. 1629, 1869; RS 1402; GS 1853; RGS 3098; CGL 4882.

**28.15 Records from superior courts.**—The files, rolls and books of record of the superior courts of the several districts of the Territory of Florida remaining in the clerk's offices of the respective counties, so far as the same, by the concurrence of the Congress and the Legislature of this state, may relate to matters of appropriate state authority and jurisdiction, are placed in the custody and under the control of the circuit courts of this state in the respective counties thereof, where the said superior courts were held and the records kept, and shall be deemed, held and taken to be files, rolls and records of the said circuit courts; and the said circuit courts may lawfully have and exercise such judicial cognizance and power over them as the said courts may lawfully have and exercise over their own files, rolls and records.

**History.**—s. 2, ch. 520, 1853; RS 1403; GS 1854; RGS 3099; CGL 4883.

**28.16 Certain records from prior county courts.**—All the records, judgments and orders in the several county courts, in the respective counties, made and

entered prior to May 4th, 1875, where the amount sued upon exceeded the sum of \$100, shall be held, deemed and taken to be files, rolls and records of the circuit court and the said circuit court may lawfully have and exercise such cognizance and power over them as said courts may lawfully have and exercise over its own files, rolls and records.

**History.**—s. 1, ch. 3004, 1877; RS 1404-1406; s. 1, ch. 4725, 1899; GS 1855-1858; RGS 3100-3103; CGL 4884-4887.

**28.211 Clerk to keep docket.**—The clerk of the circuit court shall keep a progress docket in which he or she shall note the filing of each pleading, motion, or other paper and any step taken by him or her in connection with each action, appeal, or other proceeding before the court. The clerk may keep separate progress dockets for civil and criminal matters. The clerk shall keep an alphabetical index, direct and inverse, for the docket.

**History.**—s. 1, ch. 71-4; s. 160, ch. 95-147.

**28.212 Minutes of court proceedings.**—The clerk may keep minutes of court proceedings. The action of the court shall be noted in the minutes, but orders and judgments shall not be recorded in the minutes.

**History.**—s. 1, ch. 72-320.

**28.222 Clerk to be county recorder.**—

(1) The clerk of the circuit court shall be the recorder of all instruments that he or she may be required or authorized by law to record in the county where he or she is clerk.

(2) The clerk of the circuit court shall record all instruments in one general series of books called "Official Records." He or she shall keep a register in which he or she shall enter at the time of filing the filing number of each instrument filed for record, the date and hour of filing, the kind of instrument, and the names of the parties to the instrument. The clerk shall maintain a general alphabetical index, direct and inverse, of all instruments filed for record.

(3) The clerk of the circuit court shall record the following kinds of instruments presented to him or her for recording, upon payment of the service charges prescribed by law:

(a) Deeds, leases, bills of sale, agreements, mortgages, notices or claims of lien, notices of levy, tax warrants, tax executions, and other instruments relating to the ownership, transfer, or encumbrance of or claims against real or personal property or any interest in it; extensions, assignments, releases, cancellations, or satisfactions of mortgages and liens; and powers of attorney relating to any of the instruments.

(b) Notices of lis pendens, including notices of an action pending in a United States court having jurisdiction in this state.

(c) Judgments, including certified copies of judgments, entered by any court of this state or by a United States court having jurisdiction in this state and assignments, releases, and satisfactions of the judgments.

(d) That portion of a certificate of discharge, separation, or service which indicates the character of discharge, separation, or service of any citizen of this state with respect to the military, air, or naval forces of the United States. Each certificate shall be recorded without

cost to the veteran, but the clerk shall receive from the board of county commissioners or other governing body of the county the service charge prescribed by law for the recording.

(e) Notices of liens for taxes payable to the United States and other liens in favor of the United States, and certificates discharging, partially discharging, or releasing the liens, in accordance with the laws of the United States.

(f) Certified copies of petitions, with schedules omitted, commencing proceedings under the Bankruptcy Act of the United States, decrees of adjudication in the proceedings, and orders approving the bonds of trustees appointed in the proceedings.

(g) Certified copies of death certificates authorized for issuance by the Department of Health and Rehabilitative Services which exclude the information that is confidential under s. 382.008(6), and certified copies of death certificates issued by another state whether or not they exclude the information described as confidential in s. 382.008(6).

(h) Any other instruments required or authorized by law to be recorded.

(4) Any reference in these statutes to the filing of instruments affecting title to real or personal property with the clerk of the circuit court shall mean recording of the instruments.

(5) The clerk of the circuit court may maintain a separate book for maps, plats, and drawings recorded pursuant to chapters 177, 253, and 337.

(6) All instruments recorded in the Official Records books shall always be open to the public, under the supervision of the clerk, for the purpose of inspection thereof and of making extracts therefrom; but the clerk shall not be required to perform any service in connection with such inspection or making of extracts without payment of service charges as provided in s. 28.24.

**History.**—ss. 2, 4, ch. 71-4; s. 24, ch. 81-259; s. 2, ch. 84-114; s. 2, ch. 92-25; s. 1, ch. 93-42; s. 100, ch. 94-119; s. 11, ch. 94-348; s. 1324, ch. 95-147; s. 2, ch. 95-214.

**Note.**—Section 3, ch. 95-214, provides that "[t]he failure to attach a sketch to any instrument presented to any clerk of the circuit court between July 1, 1994 and July 1, 1995 for recording under subsection (4) of section 28.222, Florida Statutes, as amended by section 100, of chapter 94-119, Laws of Florida, shall not affect the validity of such instrument or its recording."

**Note.**—Replaced by the 1978 Bankruptcy Code.

**28.2222 Public records capital improvement plan.**

On or before December 1, 1995, and on or before December 1 of each year immediately preceding each year in which the Public Records Modernization Trust Fund is scheduled for review under s. 19(f)(2), Art. III of the State Constitution, each clerk of the circuit court shall file a 4-year capital improvement plan with the President of the Senate and the Speaker of the House of Representatives. The plan must specify the clerk's goals for modernizing and improving the storage of, and public access to, public records and must state the manner in which moneys from the trust fund will be expended to obtain the stated objectives. The plan must specify the methodology used to determine the projected cost to implement the plan and to determine the projected revenue to meet the cost. The plan due December 1, 1995, must report on the period from November 4, 1996, through September 30, 1999. Each subsequent capital improvement plan must state the

progress made in fulfilling the objectives listed in the previously filed capital improvement plan and must state the manner in which moneys from the trust fund were expended to reach those objectives.

History.—s. 6, ch. 95-214.

**28.223 Probate records; recordation.—**

(1) The clerk of the circuit shall record all wills and codicils admitted to probate, orders revoking the probate of any wills and codicils, letters of administration, orders affecting or describing real property, final orders, orders of final discharge, and orders of guardianship filed in the clerk's office. No other petitions, pleadings, papers, or other orders relating to probate matters shall be recorded except on the written direction of the court. The direction may be by incorporation in the order of the words "To be recorded," or words to that effect. Failure to record an order or a judgment shall not affect its validity.

(2) The clerk shall record all instruments under this section in Official Records and index them in the same manner as prescribed in s. 28.222.

(3) All records of a court of this state heretofore exercising probate jurisdiction shall be placed, and remain, in the custody of the clerk and shall be the records of the circuit court. The circuit court may exercise judicial cognizance and power over them as it may over its own records.

(4) Certified transcripts of the whole or any part of probate or administration proceedings in any court of this state or of any foreign state or country may be recorded. If the certified copy is not a part of a pending probate proceeding in the court, the person causing it to be recorded shall pay the costs of recordation.

(5) The recording of any instrument required or permitted to be recorded under this section in a pending probate or administration proceeding in the county shall be included in the fees prescribed in s. 28.2401.

History.—s. 2, ch. 74-106; s. 1, ch. 77-174; s. 161, ch. 95-147; s. 20, ch. 95-401.

**28.231 Service charges by clerks of courts.—**

The clerk of any state appellate or county or state trial court shall receive as compensation for similar services the same charges as provided in this chapter for the clerk of the circuit court.

History.—s. 39, ch. 70-134.

**28.235 Advance payments by clerk of circuit court.**

The clerk of the circuit court is authorized to make advance payments on behalf of the county for goods and services, including, but not limited to, maintenance agreements and subscriptions, pursuant to rules or procedures adopted by the Comptroller for advance payments of invoices submitted to agencies of the state.

History.—s. 12, ch. 94-348.

**28.24 Service charges by clerk of the circuit court.**

The clerk of the circuit court shall make the following charges for services rendered by the clerk's office in recording documents and instruments and in performing the duties enumerated. However, in those counties where the clerk's office operates as a fiscal unit of the county pursuant to s. 145.022(1), the clerk shall not charge the county for such services.

Charges

(1) For court attendance by each clerk or deputy clerk, per day .....	\$75.00
(2) For court minutes, per page.....	5.00
(3) For examining, comparing, correcting, verifying, and certifying transcripts of record in appellate proceedings, prepared by attorney for appellant or someone else other than clerk, per page ....	3.00
(4) For preparing, numbering, and indexing an original record of appellate proceedings, per instrument .....	2.00
(5) For certifying copies of any instrument in the public records.....	1.00
(6) For verifying any instrument presented for certification prepared by someone other than clerk, per page.....	2.00
(7) For making and reporting payrolls of jurors to State Comptroller, per page, per copy .....	5.00
(8)(a) For making copies by photographic process of any instrument in the public records consisting of pages of not more than 14 inches by 8 1/2 inches, per page .....	1.00
(b) For making copies by photographic process of any instrument in the public records of more than 14 inches by 8 1/2 inches, per page.....	5.00
(9) For making microfilm copies of any public records:	
(a) 16 mm 100' microfilm roll.....	25.00
(b) 35 mm 100' microfilm roll.....	35.00
(c) Microfiche, per fiche.....	2.00
(10) For copying any instrument in the public records by other than photographic process, per page .....	4.00
(11) For writing any paper other than herein specifically mentioned, same as for copying, including signing and sealing .....	4.00
(12) For indexing each entry not recorded.....	1.00
(13) For receiving money into the registry of court:	
(a)1. First \$500, percent.....	2
2. Each subsequent \$100, percent.....	1
(b) Eminent domain actions, per deposit.....	\$100.00
(14) For examining, certifying, and recording plats and for recording condominium exhibits larger than 14 inches by 8 1/2 inches:	
(a) First page .....	30.00
(b) Each additional page .....	15.00
(15) For recording, indexing, and filing any instrument not more than 14 inches by 8 1/2 inches, including required notice to property appraiser where applicable:	
(a) First page or fraction thereof .....	5.00
(b) Each additional page or fraction thereof.....	4.00
(c) For indexing instruments recorded in the official records which contain more than four names, per additional name .....	1.00
(d) An additional service charge shall be paid to the clerk of the circuit court to be deposited in the Public Records Modernization Trust Fund for each instrument listed in s. 28.222, except judgments received from the courts and notices of lis pendens, recorded in the official records:	
1. First page .....	1.00
2. Each additional page .....	0.50

Said fund shall be held in trust by the clerk and used exclusively for equipment and maintenance of equipment, personnel training, and technical assistance in modernizing the public records system of the office. In a county where the duty of maintaining official records exists in an office other than the office of the clerk of the circuit court, the clerk of the circuit court is entitled to 25 percent of the moneys deposited into the trust fund for equipment, maintenance of equipment, training, and technical assistance in modernizing the system for storing records in the office of the clerk of the circuit court. The fund may not be used for the payment of travel expenses, membership dues, bank charges, staff-recruitment costs, salaries or benefits of employees, construction costs, general operating expenses, or other costs not directly related to obtaining and maintaining equipment for public records systems or for the purchase of furniture or office supplies and equipment not related to the storage of records. On or before December 1, 1995, and on or before December 1 of each year immediately preceding each year during which the trust fund is scheduled for legislative review under s. 19(f)(2), Art. III of the State Constitution, each clerk of the circuit court shall file a report on the Public Records Modernization Trust Fund with the President of the Senate and the Speaker of the House of Representatives. The report must itemize each expenditure made from the trust fund since the last report was filed; each obligation payable from the trust fund on that date; and the percentage of funds expended for each of the following: equipment, maintenance of equipment, personnel training, and technical assistance. The report must indicate the nature of the system each clerk uses to store, maintain, and retrieve public records and the degree to which the system has been upgraded since the creation of the trust fund. This paragraph expires November 4, 2000, and the Legislature shall review this paragraph to determine the necessity for the Public Records Modernization Trust Fund prior to that date.

(16) Oath, administering, attesting, and sealing, not otherwise provided for herein .....2.00

(17) For validating certificates, any authorized bonds, each .....2.00

(18) For preparing affidavit of domicile .....5.00

(19) For exemplified certificates, including signing and sealing .....4.00

(20) For authenticated certificates, including signing and sealing .....4.00

(21)(a) For issuing and filing a subpoena for a witness, not otherwise provided for herein (includes writing, preparing, signing, and sealing) .....4.00

(b) For signing and sealing only .....1.00

(22) For issuing venire facias (includes writing, preparing, signing, and sealing) .....5.00

(23) For paying of witnesses and making and reporting payroll to State Comptroller, per copy, per page .....5.00

(24) For approving bond .....5.00

(25) For searching of records, for each year's search .....1.00

(26) For processing an application for a tax deed sale (Includes application, sale, issuance, and preparation of tax deed, and disbursement of proceeds of sale), other than excess proceeds .....60.00

(27) For disbursement of excess proceeds of tax deed sale, first \$100 or fraction thereof .....10.00

(28) Upon receipt of an application for a marriage license, for preparing and administering of oath; issuing, sealing, and recording of the marriage license; and providing a certified copy .....20.00

(29) For solemnizing matrimony .....20.00

(30) For sealing any court file or expungement of any record .....25.00

(31) For receiving and disbursing all restitution payments, per payment .....2.00

(32) Postal charges incurred by the clerk of the circuit court in any mailing by certified or registered mail shall be paid by the party at whose instance the mailing is made.

(33) For furnishing an electronic copy of information contained in a computer database: a fee as provided for in chapter 119.

**History.**—s. 1, ch. 3106; 1879; RS 1394; GS 1839; RGS 3084; ss. 1, 2, ch. 11893, 1927; CGL 4867; s. 2, ch. 29749, 1955; s. 1, ch. 63-45; s. 5, ch. 70-134; s. 1, ch. 77-284; s. 1, ch. 78-367; s. 1, ch. 79-266; s. 12, ch. 79-400; s. 1, ch. 82-205; s. 35, ch. 85-180; s. 2, ch. 85-249; s. 22, ch. 87-95; s. 2, ch. 87-145; s. 1, ch. 88-176; s. 1, ch. 92-200; ss. 5, 13, ch. 94-348; s. 5, ch. 95-214.

**Note.**—Section 1, ch. 95-241, provides that [t]he Public Records Modernization Trust Fund within section 28.24(15)(d), Florida Statutes, which was created pursuant to chapter 87-95, Laws of Florida, and which is to be terminated pursuant to Section 19(f), Article III of the State Constitution on November 4, 1996, is re-created.

**28.2401 Service charges in probate matters.—**

(1) Except when otherwise provided, the service charges for the following services shall be:

(a) For the opening of any estate of one document or more, including, but not limited to, petitions and orders to approve settlement of minor's claims; to open a safe-deposit box; to enter rooms and places; for the determination of heirs, if not formal administration; and for a foreign guardian to manage property of a nonresident; but not to include issuance of letters or order of summary and family administration .....\$20.00

(b) Caveat .....15.00

(c) Petition and order to admit foreign wills, authenticated copies, exemplified copies, or transcript to record .....30.00

(d) For disposition of personal property without administration .....20.00

(e) Summary administration .....35.00

(f) Family administration .....45.00

(g) Formal administration, guardianship, ancillary, curatorship, or conservatorship proceedings 75.00

(h) Guardianship proceedings of person only .....25.00

(i) Veterans' guardianship pursuant to chapter 744 .....25.00

(j) Exemplified certificates .....4.00

(k) Petition for determination of incompetency .....25.00

(2) Upon application by the clerk and a showing of extraordinary circumstances, the service charges set forth in this section may be increased in an individual matter by order of the circuit court before which the matter is pending, to more adequately compensate for the services performed.

(3) Service charges in excess of those fixed in this section may be imposed by the governing authority of the county by ordinance, or by special or local law, to

provide and maintain facilities, including a law library, or to provide or maintain a legal aid program. Service charges other than those fixed in this section shall be governed by s. 28.24. An additional service charge of \$2.50 on petitions seeking summary administration, family administration, formal administration, ancillary administration, guardianship, curatorship, and conservatorship shall be paid to the clerk for deposit into the Court Education Trust Fund.

(4) Recording shall be required for all petitions opening and closing an estate; petitions regarding real estate; and orders, letters, bonds, oaths, wills, proofs of wills, returns, and such other papers as the judge shall deem advisable to record or that shall be required to be recorded under the Florida Probate Law.

**History.**—s. 5, ch. 1981, 1874; s. 2, ch. 3888, 1889; RS 1592, 1596; GS 2056, 2060; RGS 3347, 3351; CGL 5200, 5204; s. 1, ch. 19174, 1939; CGL 1940 Supp. 2877(115); s. 1, ch. 21960, 1943; s. 1, ch. 28152, 1953; s. 1, ch. 65-430; s. 1, ch. 72-397; s. 16, ch. 73-333; s. 2, ch. 77-284; s. 2, ch. 78-367; s. 13, ch. 79-400; s. 25, ch. 81-259; s. 3, ch. 87-145; s. 5, ch. 91-152; s. 1, ch. 93-268.

**Note.**—The provisions encompassing the Florida Probate Law were repealed by s. 3, ch. 74-106.

**Note.**—Former s. 36.17.

### **28.241 Filing charges for trial and appellate proceedings.—**

(1) The party instituting any civil action, suit, or proceeding in the circuit court shall pay to the clerk of that court a service charge of \$40 in all cases in which there are not more than five defendants and an additional service charge of \$2 for each defendant in excess of five. An additional service charge of \$10 shall be paid by the party seeking each severance that is granted. An additional service charge of \$35 shall be paid to the clerk for all proceedings of garnishment, attachment, replevin, and distress. An additional service charge of \$8 shall be paid to the clerk for each civil action filed, \$7 of such charge to be remitted by the clerk to the State Treasurer for deposit into the General Revenue Fund unallocated. An additional charge of \$2.50 shall be paid to the clerk for each civil action brought in circuit or county court, to be deposited into the Court Education Trust Fund; the moneys collected shall be forwarded by the clerk to the Supreme Court monthly for deposit in the fund. Service charges in excess of those herein fixed may be imposed by the governing authority of the county by ordinance or by special or local law; and such excess shall be expended as provided by such ordinance or any special or local law, now or hereafter in force, in providing and maintaining facilities, including a law library, for the use of the courts of the county wherein the service charges are collected or for a legal aid program in such county. In addition, the county is authorized to impose, by ordinance or by special or local law, a fee of up to \$10 for each civil action filed, contingent upon the county matching these funds from county general revenue, for payment of the costs associated with public guardianships. Postal charges incurred by the clerk of the circuit court in making service by certified or registered mail on defendants or other parties shall be paid by the party at whose instance service is made. That part of the within fixed or allowable service charges which is not by local or special law applied to the special purposes shall constitute the total service charges of the clerk of such court for all services performed by him or her in civil

actions, suits, or proceedings. The sum of all service charges and fees permitted under this subsection may not exceed \$200.

(2) The clerk of the circuit court of any county in the state who operates his or her office from fees and service charges collected, as opposed to budgeted allocations from county general revenue, shall be paid by the county as service charges for all services to be performed by him or her in any criminal or juvenile action or proceeding in such court, in lieu of all other service charges heretofore charged, except as hereinafter provided, the sum of \$40 for each defendant or juvenile. However, in cases involving capital punishment the charge shall be \$50. In any county where a law creates a law library fund or other special fund, this charge may be increased for that purpose by a special or local law or an ordinance. The sum of all service charges and fees permitted under this subsection may not exceed \$200.

(3) Upon the institution of any appellate proceeding from any inferior court to the circuit court of any such county or from the circuit court to an appellate court of the state, the clerk shall charge and collect from the party or parties instituting such appellate proceedings a service charge of \$75 for filing a notice of appeal from an inferior court and \$50 for filing a notice of appeal to a higher court.

(4) A service charge or a fee may not be imposed upon a party for responding by pleading, motion, or other paper to a civil or criminal action, suit, proceeding, or appeal in a circuit court.

(5) The fees prescribed in this section do not include the service charges required by law for the clerk as provided in s. 28.24 or by other sections of the Florida Statutes.

**History.**—ss. 3, 4, 5, 6, 7, 8, ch. 26931, 1951; ss. 3, 4, 5, ch. 29749, 1955; ss. 1, 2, ch. 57-322; s. 1, ch. 63-47; s. 1, ch. 63-43; s. 6, ch. 70-134; s. 1, ch. 74-154; s. 4, ch. 75-124; s. 1, ch. 77-174; s. 3, ch. 77-284; s. 2, ch. 82-168; s. 2, ch. 82-205; s. 10, ch. 83-217; s. 122, ch. 86-220; s. 4, ch. 87-145; s. 1, ch. 87-231; s. 2, ch. 88-176; s. 6, ch. 89-290; s. 1, ch. 90-181; s. 69, ch. 90-271; s. 3, ch. 91-152; s. 162, ch. 95-147.

**28.242 Service charges retained when case laid in wrong venue.—**The service charge paid by law to the clerk or judge of the court wherein a case is laid in the wrong venue shall be retained by him or her on the transfer thereof. The charge received by the clerk or judge upon the filing of the case is earned as of the time of filing, and another service charge shall be required of the person filing the action in another venue in accordance with the statutes applicable in the county or district to which transferred. If the service charge is not paid within 30 days from transfer, the action may be dismissed without prejudice.

**History.**—s. 1, ch. 59-300; s. 43, ch. 67-254; s. 7, ch. 70-134; s. 163, ch. 95-147.

**Note.**—Former s. 53.17(3).

### **28.243 Personal liability for accepting checks.—**

(1) A check received by the office of a clerk of a court or comptroller which is tendered to him or her in payment for any services, collection of fines and forfeitures, sale of documentary stamps, recording of documents and instruments, collection of legal fees, or any other duties relating to his or her office and which is returned by the bank upon which the check is drawn shall be the personal liability of the clerk or comptroller

unless the clerk or comptroller, after due diligence to collect the returned check, forwards the returned check to the state attorney of the circuit where the check was drawn for prosecution.

(2) Notwithstanding the provisions of subsection (1), the office of a clerk of a court or comptroller may accept personal checks drawn on any bank or similar financial institution in the United States for the payment of traffic fines and related court costs, and the clerk or comptroller shall not incur any personal liability for the acceptance of such checks. Any such check received by the office of a clerk of a court or comptroller which is returned by the bank upon which the check is drawn may be forwarded to the state attorney of the circuit where the check was presented for prosecution. The clerk or comptroller shall not be subject to the provisions of s. 832.07(2).

**History.**—s. 1, ch. 75-176; s. 1, ch. 83-277; s. 164, ch. 95-147.

### **28.29 Recording of orders and judgments.**—

Orders of dismissal and final judgments of the courts in civil actions shall be recorded in official records. Other orders shall be recorded only on written direction of the court. The direction may be by incorporation in the order of the words "To be recorded" or words to that effect. Failure to record an order or judgment shall not affect its validity. The certified copy of a judgment, required under s. 55.10 to become a lien on real property, shall be recorded only when presented for recording with the statutory service charge.

**History.**—ss. 1-3, ch. 23825, 1947; s. 3, ch. 71-4; s. 2, ch. 72-320.

### **28.30 Records; destruction; reproduction; electronic recordkeeping.**—

(1) The purpose of this section and s. 28.31 is to make available for the use of the clerks of the circuit court of the several counties of the state sufficient space to enable them to efficiently administer the affairs of office.

(2) The clerk of the circuit court of each county of the state is authorized to destroy and dispose of public records pursuant to the rules adopted by the Division of Library and Information Services of the Department of State pursuant to s. 257.36.

(3) Each clerk of the circuit court is authorized to photograph, microphotograph, or reproduce on film, or to maintain in an electronic recordkeeping system, any public record that the clerk may select. Such photographs, microphotographs, or other reproductions on film or reproductions from an electronic recordkeeping system shall be admissible in evidence with the same force and effect as the originals. Duly certified or authenticated reproductions of such photographs, microphotographs, reproductions on film, or reproductions from an electronic recordkeeping system shall be admitted in evidence equally with the original photographs, microphotographs, reproductions on film, or reproductions from an electronic recordkeeping system.

(4) The clerk of the circuit court shall follow procedures for electronic recordkeeping in accordance with rules adopted by the Division of Library and Information Services of the Department of State.

(5) Except when otherwise provided by law or applicable rule, a document that is submitted to the clerk of

the circuit court by electronic transmission is deemed filed when the document is received and the date and time are acknowledged by the clerk, as opposed to the date and time of transmission. The clerk is not liable for malfunctions or errors occurring in the transmission of documents for filing by electronic means.

**History.**—ss. 1, 2, 3, 4, ch. 25433, 1949; s. 8, ch. 69-82; s. 6, ch. 94-348.

**28.31 Notice to county commissioners of intent to destroy; approval of board.**—The clerk of the circuit court shall notify the board of county commissioners of the clerk's county in writing a reasonable time in advance of his or her intention to destroy such records and if for any reason the board of county commissioners of such county shall request the clerk to withhold destruction of such records the clerk shall refrain until such time as he or she obtains approval of such board.

**History.**—s. 5, ch. 25433, 1949; s. 165, ch. 95-147.

**28.32 Destruction of certain instruments.**—After the expiration of 20 years from the date of the execution of any bond or other instrument held by the clerk of the circuit court or a sheriff of any of the several counties of the state, which said instrument was executed to secure the performance or nonperformance of any act or matter and no proceeding of any type is pending involving said instrument any of the several clerks of the circuit courts or sheriffs of the state are hereby authorized, empowered and directed to cancel said instruments and to destroy the same upon making appropriate notation of the destruction and disposition thereof upon any remaining records pertaining thereto.

**History.**—s. 1, ch. 25502, 1949.

**28.33 Investment of county funds.**—The clerk of the circuit court in each county shall make an estimate of his or her projected financial needs for the county and shall invest any funds in designated depository banks in interest-bearing certificates or in any direct obligations of the United States in compliance with federal laws relating to receipt of and withdrawal of deposits. All investments shall be open for bid to all qualified depositories in the county. The clerk shall select the highest and best bid for deposit. All bids received by the clerk shall include, but not be limited to, the interest rate to be earned and the total amount of dollar return to be paid to the clerk. In the event of a like bid between two or more banks, the moneys shall be divided and deposited in each bank, so long as the total interest income from the divided deposits will not be less than the total interest income had the deposits not been divided. If at the time of bid the dollar return on direct obligations of the Federal Government is greater than the highest bank return, then the clerk shall invest in the higher return security. Moneys deposited in the registry of the court shall be deposited in interest-bearing certificates at the discretion of the clerk, subject to the above guidelines. No clerk investing such funds shall be liable for the loss of any interest when circumstances require the withdrawal of funds placed in a time deposit and needed for immediate payment of county obligations. In any county where local banks refuse to bid on securing such money on interest-bearing certificates, the clerk may request and receive bids from banks in other counties

within the state and make such deposits to the successful bidder. Except for interest earned on moneys deposited in the registry of the court, all interest accruing from moneys deposited shall be deemed income of the office of the clerk of the circuit court investing such moneys and shall be deposited in the same account as are other fees and commissions of the clerk's office. The clerk may invest moneys deposited in the registry of the court and shall retain as income of the office of the clerk and as a reasonable investment management fee 10 percent of the interest accruing on those funds with the balance of such interest being allocated in accordance with the interest of the depositors. Each clerk shall, as soon as

practicable after the end of the fiscal year, report to the county governing authority the total interest earned on all investments during the preceding year.

**History.**—s. 1, ch. 73-282; s. 1, ch. 82-117; s. 166, ch. 95-147.

**28.34 Salary discrimination based on gender or race; review within the county and circuit courts.—**

Each clerk of the court shall undertake an annual review of compensation, race, and gender employment policies for all persons employed or appointed by the clerk. Within the context of comparable positions, skills, experience, and responsibility, any inequities found to exist on the basis of gender or race shall be eliminated.

**History.**—s. 6, ch. 91-74; s. 14, ch. 94-348.