

By: Representatives Byrd, Anthony, Bain,  
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To: Appropriations

## HOUSE BILL NO. 1194

1 AN ACT TO AMEND SECTION 9-1-43, MISSISSIPPI CODE OF 1972, TO  
2 INCREASE THE LIMIT ON THE COMPENSATION FOR CHANCERY CLERKS AND  
3 CIRCUIT CLERKS; TO AMEND SECTION 25-7-9, MISSISSIPPI CODE OF 1972,  
4 TO REVISE THE FILING FEES CHARGED BY CHANCERY CLERKS FOR THE  
5 RECORDING OF DOCUMENTS; TO BRING FORWARD SECTION 25-60-5,  
6 MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT;  
7 AND FOR RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 **SECTION 1.** Section 9-1-43, Mississippi Code of 1972, is  
10 amended as follows:

11 9-1-43. (1) After making deductions for employer  
12 contributions paid by the chancery or circuit clerk to the Public  
13 Employees' Retirement System under Sections 25-11-106.1 and  
14 25-11-123(f)(4), employee salaries and related salary expenses,  
15 and expenses allowed as deductions by Schedule C of the Internal  
16 Revenue Code, no office of the chancery clerk or circuit clerk of  
17 any county in the state shall receive fees as compensation for the  
18 chancery clerk's or circuit clerk's services in excess of \* \* \*  
19 Ninety-nine Thousand Dollars (\$99,000.00). All such fees received  
20 by the office of chancery or circuit clerks that are in excess of



21 the salary limitation shall be deposited by such clerk into the  
22 county general fund on or before April 15 for the preceding  
23 calendar year. If the chancery clerk or circuit clerk serves less  
24 than one (1) year, then he shall not receive as compensation any  
25 fees in excess of that portion of the salary limitation that can  
26 be attributed to his time in office on a pro rata basis. Upon  
27 leaving office, income earned by any clerk in his last full year  
28 of office but not received until after his last full year of  
29 office shall not be included in determining the salary limitation  
30 of the successor clerk. There shall be exempted from the  
31 provisions of this subsection any monies or commissions from  
32 private or governmental sources which: (a) are to be held by the  
33 chancery or circuit clerk in a trust or custodial capacity as  
34 prescribed in subsections (4) and (5); or (b) are received as  
35 compensation for services performed upon order of a court or board  
36 of supervisors which are not required of the chancery clerk or  
37 circuit clerk by statute.

38 (2) It shall be unlawful for any chancery clerk or circuit  
39 clerk to use fees in excess of \* \* \* Ninety-nine Thousand Dollars  
40 (\$99,000.00), to pay the salaries or actual or necessary expenses  
41 of employees who are related to such clerk by blood or marriage  
42 within the first degree of kinship according to the civil law  
43 method of computing kinship as provided in Sections 1-3-71 and  
44 1-3-73. However, the prohibition of this subsection shall not  
45 apply to any individual who was an employee of the clerk's office



prior to the date his or her relative was elected as chancery or circuit clerk. The spouse and/or any children of the chancery clerk or circuit clerk employed in the office of the chancery clerk may be paid a salary; however, the combined annual salaries of the clerk, spouse and any child of the clerk may not exceed an amount equal to the salary limitation.

(3) The chancery clerk and the circuit clerk shall be liable on their official bond for the proper deposit and accounting of all monies received by his office. The State Auditor shall promulgate uniform accounting methods for the accounting of all sources of income by the offices of the chancery and circuit clerk.

(4) There is created in the county depository of each county a clearing account to be designated as the "chancery court clerk clearing account," into which shall be deposited: (a) all such monies as the clerk of the chancery court shall receive from any person complying with any writ of garnishment, attachment, execution or other like process authorized by law for the enforcement of child support, spousal support or any other judgment; (b) any portion of any fees required by law to be collected in civil cases which are to pay for the service of process or writs in another county; and (c) any other money as shall be deposited with the court which by its nature is not, at the time of its deposit, public monies, but which is to be held by the court in a trust or custodial capacity in a case or proceeding



71 before the court. The clerk of the chancery court shall account  
72 for all monies deposited in and disbursed from such account and  
73 shall be authorized and empowered to draw and issue checks on such  
74 account at such times, in such amounts and to such persons as  
75 shall be proper and in accordance with law.

76 The following monies paid to the chancery clerk shall be  
77 subject to the salary limitation prescribed under subsection (1):

78 (a) all fees required by law to be collected for the filing,  
79 recording or abstracting of any bill, petition, pleading or decree  
80 in any civil case in chancery; (b) all fees collected for land  
81 recordings, charters, notary bonds, certification of decrees and  
82 copies of any documents; (c) all land redemption and mineral  
83 documentary stamp commissions; and (d) any other monies or  
84 commissions from private or governmental sources for statutory  
85 functions which are not to be held by the court in a trust  
86 capacity. Such fees as shall exceed the salary limitations shall  
87 be maintained in a bank account in the county depository and  
88 accounted for separately from those monies paid into the chancery  
89 court clerk clearing account.

90 (5) There is created in the county depository in each county  
91 a clearing account to be designated as the "circuit court clerk  
92 civil clearing account," into which shall be deposited: (a) all  
93 such monies and fees as the clerk of the circuit court shall  
94 receive from any person complying with any writ of garnishment,  
95 attachment, execution or any other like process authorized by law



for the enforcement of a judgment; (b) any portion of any fees required by law or court order to be collected in civil cases; (c) all fees collected for the issuance of marriage licenses; and (d) any other money as shall be deposited with the court which by its nature is not, at the time of its deposit, public monies but which is to be held by the court in a trust or custodial capacity in a case or proceeding before the court.

There is created in the county depository in each county a clearing account to be designated as the "circuit court clerk criminal clearing account," into which shall be deposited: (a) all such monies as are received in criminal cases in the circuit court pursuant to any order requiring payment as restitution to the victims of criminal offenses; (b) any portion of any fees and fines required by law or court order to be collected in criminal cases; and (c) all cash bonds as shall be deposited with the court. The clerk of the circuit court shall account for all monies deposited in and disbursed from such account and shall be authorized and empowered to draw and issue checks on such account, at such times, in such amounts and to such persons as shall be proper and in accordance with law; however, such monies as are forfeited in criminal cases shall be paid by the clerk of the circuit court to the clerk of the board of supervisors for deposit in the general fund of the county.

The following monies paid to the circuit clerk shall be subject to the salary limitation prescribed under subsection (1):



(a) all fees required by law to be collected for the filing, recording or abstracting of any bill, petition, pleading or decree in any civil action in circuit court; (b) copies of any documents; and (c) any other monies or commissions from private or governmental sources for statutory functions which are not to be held by the court in a trust capacity.

(6) The chancery clerk and the circuit clerk shall establish and maintain a cash journal for recording cash receipts from private or government sources for furnishing copies of any papers of record or on file, or for rendering services as a notary public, or other fees wherein the total fee for the transaction is Ten Dollars (\$10.00) or less. The cash journal entry shall include the date, amount and type of transaction, and the clerk shall not be required to issue a receipt to the person receiving such services. The State Auditor shall not take exception to the furnishing of copies or the rendering of services as a notary by any clerk free of charge.

In any county having two (2) judicial districts, whenever the chancery clerk serves as deputy to the circuit clerk in one (1) judicial district and the circuit clerk serves as deputy to the chancery clerk in the other judicial district, the chancery clerk may maintain a cash journal, separate from the cash journal maintained for chancery clerk receipts, for recording the cash receipts paid to him as deputy circuit clerk, and the circuit clerk may maintain a cash journal, separate from the cash journal



maintained for circuit clerk receipts, for recording the cash receipts paid to him as deputy chancery clerk. The cash receipts collected by the chancery clerk in his capacity as deputy circuit clerk and the cash receipts collected by the circuit clerk in his capacity as deputy chancery clerk shall be subject to the salary limitation prescribed under subsection (1).

(7) Any clerk who knowingly shall fail to deposit funds or otherwise violate the provisions of this section shall be guilty of a misdemeanor in office and, upon conviction thereof, shall be fined in an amount not to exceed double the amount that he failed to deposit, or imprisoned for not to exceed six (6) months in the county jail, or be punished by both such fine and imprisonment.

**SECTION 2.** Section 25-7-9, Mississippi Code of 1972, is amended as follows:

25-7-9. (1) The clerks of the chancery courts shall charge the following fees:

(a) \* \* \* Certifying copies of filed documents, for each complete document.....\$ 1.00

(b) \* \* \* Recording each deed, will, lease, amendment, subordination, lien, release, cancellation, order, decree, oath, etc., per book and page listed where applicable \* \* \*, each deed of trust, or any other document, for the first \* \* \* five (5) pages.....\$ \* \* \* 25.00

Each additional page.....\$ 1.00

\* \* \*



171 ( \* \* \*c) (i) Recording oil and gas leases,  
 172 cancellations, etc., including indexing in general indices; for  
 173 the first fifteen (15) pages.....\$ 18.00  
 174 Each additional page.....\$ 1.00  
 175 (ii) Sectional index entries per section or  
 176 subdivision lot.....\$ 1.00  
 177 (iii) Recording each oil and gas assignment  
 178 per assignee.....\$ 18.00  
 179 (e) (i) Furnishing copies of any papers of record or  
 180 on file:  
 181 If performed by the clerk or his employee,  
 182 per page.....\$ .50  
 183 If performed by any other person,  
 184 per page.....\$ .25  
 185 (ii) Entering marginal notations on  
 186 documents of record.....\$ 1.00  
 187 (f) For each day's attendance on the board of  
 188 supervisors, for himself and one (1) deputy, each.....\$ 20.00  
 189 (g) For other services as clerk of the board of  
 190 supervisors an allowance shall be made to him (payable  
 191 semiannually at the July and January meetings) out of the county  
 192 treasury, an annual sum not exceeding.....\$3,000.00  
 193 (h) For each day's attendance on the chancery court, to  
 194 be approved by the chancellor:





195                   For the first chancellor sitting only, clerk and  
196 two (2) deputies, each.....\$   \* \* \*   85.00

197                   For the second chancellor sitting,  
198 clerk only.....\$   \* \* \*   85.00

199           Provided that the fees herein prescribed shall be the total  
200 remuneration for the clerk and his deputies for attending chancery  
201 court.

202                   (i) On order of the court, clerks and not more than two  
203 (2) deputies may be allowed five (5) extra days for each term of  
204 court for attendance upon the court to get up records.

205                   (j) For public service not otherwise specifically  
206 provided for, the chancery court may by order allow the clerk to  
207 be paid by the county on the order of the board of supervisors, an  
208 annual sum not exceeding.....\$5,000.00

209                   (k) For each civil filing, to be deposited into the  
210 Civil Legal Assistance Fund.....\$   5.00

211           The chancery clerk shall itemize on the original document a  
212 detailed fee bill of all charges due or paid for filing, recording  
213 and abstracting same. No person shall be required to pay such  
214 fees until same have been so itemized, but those fees may be  
215 demanded before the document is recorded.

216                   (2) The following \* \* \* fee shall be a total fee for all  
217 services performed by the clerk with respect to \* \* \* any civil  
218 case filed that includes, but is not limited to, divorce,  
219 alteration of birth or marriage certificate, removal of minority,



220 guardianship or conservatorship, estate of deceased, adoption,  
221 land dispute injunction, settlement of small claim, contempt,  
222 modification, partition suit, or commitment, which shall be  
223 payable upon filing and shall accrue to the chancery clerk at the  
224 time of filing. The clerk or his successor in office shall  
225 perform all duties set forth without additional compensation or  
226 fee to wit:.....\$85.00

227 \* \* \*

228 **SECTION 3.** Section 25-60-5, Mississippi Code of 1972, is  
229 brought forward as follows:

230 25-60-5. (1) Except as provided in subsection (2) of this  
231 section, any county or municipal official or employee who accepts  
232 documents for filing as public records shall, in addition to any  
233 other fee provided elsewhere by law, collect a fee of One Dollar  
234 (\$1.00) for each document so filed. In municipalities and  
235 counties that collect Three Hundred Dollars (\$300.00) or more per  
236 month from the filing fee, the official or employee collecting the  
237 fee shall, on or before the last day of each month, deposit the  
238 avails of Fifty Cents (50¢) of the fee into the general fund of  
239 the county or municipality, as appropriate, and remit the  
240 remainder to the State Treasurer who shall deposit it to the  
241 credit of a statewide local government records management fund  
242 which is hereby created in the State Treasury. In municipalities  
243 and counties that collect less than Three Hundred Dollars  
244 (\$300.00) per month from the filing fee, the avails of Fifty Cents



(50¢) of the fee shall be remitted to the State Treasurer on a quarterly basis for deposit as provided in the previous sentence. Any monies remaining in the fund at the end of a fiscal year shall not lapse into the General Fund of the State Treasury. Counties and municipalities shall expend monies derived from the fee hereinabove imposed solely to support proper management of their official records in accordance with records management standards established by the Department of Archives and History. Monies in the Local Government Records Management Fund shall be expended by the Department of Archives and History, pursuant to legislative appropriation, to support the Local Government Records Office of the department and to support a local records management grant program as funds permit.

(2) The fee provided in subsection (1) of this section shall not be collected in any county until the board of supervisors, by resolution spread upon its minutes, determines that it will collect the fee.

(3) Each municipality and participating county may collect the filing fee provided for in this section on filings in any court subject to their respective jurisdiction.

**SECTION 4.** This act shall take effect and be in force from and after January 1, 2020.

