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FIRST REPRINT

A.B. 65

ASSEMBLY BILL NO. 65—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA SUPREME COURT)

PREFILED DECEMBER 11, 2008

Referred to Committee on Judiciary

SUMMARY—Provides for the collection and disposition of additional court fees. (BDR 2-372)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to courts; providing for the collection and disposition of additional court fees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill: (1) authorizes a district court to charge and collect certain additional filing fees; (2) requires the fees to be deposited into a special county account maintained for the benefit of the court; and (3) provides that the fees may be used only for court staffing, capital costs, debt service, renovation, furniture, fixtures, equipment and technology.

Section 3 of this bill authorizes a board of county commissioners to impose by ordinance a filing fee of not more than \$20 to be paid on the commencement of any civil action or proceeding in the district court and provides that the fee may be used only for programs for court security or for reimbursement of capital costs for maintaining new judicial departments and must not supplant existing budgets for court security. **Section 5** of this bill requires a county clerk to collect a fee of \$50 upon the filing of any notice of default and election to sell and provides that such fees must be deposited in a special account to support a program of foreclosure mediation established by Supreme Court Rule. (NRS 107.080)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 19 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. Except as otherwise provided by specific statute and in addition to any other fee required by law, each clerk of the



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1 court or county clerk, as appropriate, shall charge and collect the
2 following fees:

3 (a) On the commencement of any action or proceeding
4 in the district court, other than those listed in paragraphs
5 (c), (e) and (f), or on the transfer of any action or
6 proceeding from a district court of another county, to be
7 paid by the party commencing the action, proceeding or
8 transfer \$99

9 (b) On the appearance of any defendant or any
10 number of defendants answering jointly, to be paid upon
11 the filing of the first paper in the action by him or them \$99

12 (c) On the filing of a petition for letters testamentary,
13 letters of administration or a guardianship, which fee does
14 not include the court fee prescribed by NRS 19.020, to be
15 paid by the petitioner:

16 (1) Where the stated value of the estate is \$200,000
17 or more \$352

18 (2) Where the stated value of the estate is more
19 than \$20,000 but less than \$200,000 \$99

20 (3) Where the stated value of the estate is \$20,000
21 or less, no fee may be charged or collected.

22 (d) On the filing of a motion for summary judgment or
23 a joinder thereto \$200

24 (e) On the commencement of an action defined as a
25 business matter pursuant to the local rules of practice and
26 on the answer or appearance of any party in any such
27 action or proceeding, to be paid by the party commencing,
28 answering or appearing in the action or proceeding
29 thereto \$1,359

30 (f) On the commencement of:

31 (1) An action for a constructional defect pursuant
32 to NRS 40.600 to 40.695, inclusive; or

33 (2) Any other action defined as "complex"
34 pursuant to the local rules of practice,
35 and on the answer or appearance of any party in any
36 such action or proceeding, to be paid by the party
37 commencing, answering or appearing in the action or
38 proceeding \$349

39 (g) On the filing of a third-party complaint, to be paid
40 by the filing party \$135

41 (h) On the filing of a motion to certify or decertify a
42 class, to be paid by the filing party \$349

43 (i) For the issuance of any writ of attachment, writ of
44 garnishment, writ of execution or any other writ designed
45 to enforce any judgment of the court \$10



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2. Except as otherwise provided in subsection 4, fees collected pursuant to this section must be deposited into a special account maintained for the benefit of the court. The money in that account must be used only:

(a) To offset the costs for adding and maintaining new judicial departments, including, without limitation, the cost for additional staff; and

(b) If any money remains in the account in a fiscal year after satisfying the purposes set forth in paragraph (a), to:

(1) Reimburse the county for any capital costs incurred for maintaining any judicial departments that are added by the 75th Session of the Nevada Legislature;

(2) Acquire land on which to construct additional facilities for the district court or a regional justice center that includes the district court;

(3) Construct or acquire additional facilities for the district court or a regional justice center that includes the district court;

(4) Renovate or remodel existing facilities for the district court or a regional justice center that includes the district court;

(5) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the district court or a regional justice center that includes the district court;

(6) Acquire advanced technology;

(7) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the district court or a regional justice center that includes the district court; or

(8) Be carried forward to the next fiscal year.

3. Except as otherwise provided by specific statute, all fees prescribed in this section are payable in advance if demanded by the clerk of the court or county clerk.

4. Each clerk of the court or county clerk shall, on or before the fifth day of each month, account for and pay to the county treasurer:

(a) An amount equal to \$20 of each fee collected pursuant to paragraphs (a) and (b) of subsection 1 during the preceding month. The county treasurer shall remit quarterly to the organization operating a program for legal services as set forth in NRS 19.031 all the money received from the clerk of the court or county clerk pursuant to this subsection.

(b) All remaining fees collected pursuant to this section during the preceding month.



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1 **Sec. 3. 1. In any county, the board of county**
2 **commissioners may, in addition to any other fee required by law,**
3 **impose by ordinance a filing fee of not more than \$20 to be paid**
4 **on the commencement of any civil action or proceeding in the**
5 **district court for which a filing fee is required and on the filing of**
6 **any answer or appearance in any such action or proceeding for**
7 **which a filing fee is required, except as otherwise required**
8 **pursuant to NRS 19.034.**

9 **2. On or before the fifth day of each month, in a county**
10 **where a fee has been imposed pursuant to subsection 1, the clerk**
11 **of the court shall account for and pay over to the county treasurer**
12 **any such fees collected by him during the preceding month for**
13 **credit to an account for programs for court security in the county**
14 **general fund. The money in that account:**

15 **(a) May be used only for programs for court security or to**
16 **reimburse the county for any capital costs incurred for**
17 **maintaining any judicial departments that are added by the 75th**
18 **Session of the Nevada Legislature;**

19 **(b) Must not be used to supplant existing budgets for court**
20 **security; and**

21 **(c) If any balance remains, may be carried forward to the next**
22 **fiscal year.**

23 **3. As used in this section, "programs for court security"**
24 **includes, without limitation:**

25 **(a) Funding for additional positions for bailiffs, marshals,**
26 **security guards or similar personnel;**

27 **(b) Supplementing existing funding used to pay bailiffs,**
28 **marshals, security guards and similar personnel;**

29 **(c) Acquiring necessary capital goods for court security;**

30 **(d) Providing security training and education to personnel;**

31 **(e) Conducting security audits; and**

32 **(f) Acquiring or using appropriate technology relating to court**
33 **security.**

34 **Sec. 4. (Deleted by amendment.)**

35 **Sec. 5. NRS 107.080 is hereby amended to read as follows:**

36 **107.080 1. Except as otherwise provided in NRS 107.085, if**
37 **any transfer in trust of any estate in real property is made after**
38 **March 29, 1927, to secure the performance of an obligation or the**
39 **payment of any debt, a power of sale is hereby conferred upon**
40 **the trustee to be exercised after a breach of the obligation for which**
41 **the transfer is security.**

42 **2. The power of sale must not be exercised, however, until:**

43 **(a) In the case of any trust agreement coming into force:**

44 **(1) On or after July 1, 1949, and before July 1, 1957, the**
45 **grantor, or his successor in interest, a beneficiary under a**



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1 subordinate deed of trust or any other person who has a subordinate
2 lien or encumbrance of record on the property, has for a period of 15
3 days, computed as prescribed in subsection 3, failed to make good
4 the deficiency in performance or payment; or

5 (2) On or after July 1, 1957, the grantor, or his successor in
6 interest, a beneficiary under a subordinate deed of trust or any other
7 person who has a subordinate lien or encumbrance of record on the
8 property, has for a period of 35 days, computed as prescribed in
9 subsection 3, failed to make good the deficiency in performance or
10 payment;

11 (b) The beneficiary, the successor in interest of the beneficiary
12 or the trustee first executes and causes to be recorded in the office of
13 the recorder of the county wherein the trust property, or some part
14 thereof, is situated a notice of the breach and of his election to sell
15 or cause to be sold the property to satisfy the obligation; and

16 (c) Not less than 3 months have elapsed after the recording of
17 the notice.

18 3. The 15- or 35-day period provided in paragraph (a) of
19 subsection 2 commences on the first day following the day upon
20 which the notice of default and election to sell is recorded in the
21 office of the county recorder of the county in which the property is
22 located and a copy of the notice of default and election to sell is
23 mailed by registered or certified mail, return receipt requested and
24 with postage prepaid to the grantor, and to the person who holds the
25 title of record on the date the notice of default and election to sell is
26 recorded, at their respective addresses, if known, otherwise to the
27 address of the trust property. The notice of default and election to
28 sell must describe the deficiency in performance or payment and
29 may contain a notice of intent to declare the entire unpaid balance
30 due if acceleration is permitted by the obligation secured by the
31 deed of trust, but acceleration must not occur if the deficiency in
32 performance or payment is made good and any costs, fees and
33 expenses incident to the preparation or recordation of the notice and
34 incident to the making good of the deficiency in performance or
35 payment are paid within the time specified in subsection 2.

36 4. The trustee, or other person authorized to make the sale
37 under the terms of the trust deed or transfer in trust, shall, after
38 expiration of the 3-month period following the recording of the
39 notice of breach and election to sell, and before the making of
40 the sale, give notice of the time and place thereof by recording the
41 notice of sale and by:

42 (a) Providing the notice to each trustor and any other person
43 entitled to notice pursuant to this section by personal service or by
44 mailing the notice by registered or certified mail to the last known



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1 address of the trustor and any other person entitled to such notice
2 pursuant to this section;

3 (b) Posting a similar notice particularly describing the property,
4 for 20 days successively, in three public places of the township or
5 city where the property is situated and where the property is to be
6 sold; and

7 (c) Publishing a copy of the notice three times, once each week
8 for 3 consecutive weeks, in a newspaper of general circulation in the
9 county where the property is situated.

10 5. Every sale made under the provisions of this section and
11 other sections of this chapter vests in the purchaser the title of the
12 grantor and his successors in interest without equity or right of
13 redemption. A sale made pursuant to this section may be declared
14 void by any court of competent jurisdiction in the county where the
15 sale took place if:

16 (a) The trustee or other person authorized to make the sale does
17 not substantially comply with the provisions of this section;

18 (b) Except as otherwise provided in subsection 6, an action is
19 commenced in the county where the sale took place within 90 days
20 after the date of the sale; and

21 (c) A notice of lis pendens providing notice of the pendency of
22 the action is recorded in the office of the county recorder of the
23 county where the sale took place within 30 days after
24 commencement of the action.

25 6. If proper notice is not provided pursuant to subsection 3 or
26 paragraph (a) of subsection 4 to the grantor, to the person who holds
27 the title of record on the date the notice of default and election to
28 sell is recorded, to each trustor or to any other person entitled to
29 such notice, the person who did not receive such proper notice may
30 commence an action pursuant to subsection 5 within 120 days after
31 the date on which the person received actual notice of the sale.

32 7. The sale of a lease of a dwelling unit of a cooperative
33 housing corporation vests in the purchaser title to the shares in the
34 corporation which accompany the lease.

35 8. The county clerk shall, in addition to any other fee, at the
36 time of recording a notice of default and election to sell collect the
37 sum of \$50 for deposit in the Account for Foreclosure Mediation,
38 which is hereby created in the State General Fund. The fees
39 collected must be paid over to the county treasurer by the county
40 clerk on or before the fifth day of each month for the preceding
41 calendar month, and must be placed to the credit of the Account.
42 The county treasurer shall, on or before the 15th day of each month,
43 remit the fees deposited by the county clerk to the State Controller
44 for credit to the Account. The Account must be administered by the
45 Court Administrator, and the money in the Account may be



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- 1 expended only for the purpose of supporting a program of
- 2 foreclosure mediation established by Supreme Court Rule.
- 3 **Sec. 6.** This act becomes effective on July 1, 2009.

