

Amendment No. 345

Assembly Amendment to Assembly Bill No. 65

(BDR 2-372)

Proposed by: Assembly Committee on Judiciary**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 65 (§§ 2, 3, 5).

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold dashed underlining* is newly added transitory language.

NCA/BAW



Date: 4/16/2009

A.B. No. 65—Provides for the collection and disposition of additional court fees.
(BDR 2-372)



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

(a) On the commencement of any action or proceeding in the district court, other than those listed in paragraphs (c), (e) and (f) ~~and~~ ~~(g)~~, or on the transfer of any action or proceeding from a district

1 court of another county, to be paid by the party commencing the action,
 2 proceeding or transfer.....\$99
 3 (b) On the appearance of any defendant or any number of
 4 defendants answering jointly, to be paid upon the filing of the first
 5 paper in the action by him or them.....\$99
 6 (c) On the filing of a petition for ~~setting aside an estate without~~
 7 ~~administration,~~ letters testamentary, letters of administration or a
 8 guardianship, which fee does not include the court fee prescribed by
 9 NRS 19.020, to be paid by the petitioner:
 10 (1) Where the stated value of the estate is \$200,000 or more.....\$352
 11 (2) Where the stated value of the estate is more than \$20,000
 12 but less than \$200,000.....\$99
 13 (3) Where the stated value of the estate is \$20,000 or less, no
 14 fee may be charged or collected.
 15 (d) On the filing of a motion for summary judgment or a joinder
 16 thereto.....\$200
 17 (e) ~~On the filing of a motion other than a motion for summary~~
 18 ~~judgment or a joinder thereto.....\$35~~
 19 ~~—(f)—~~ On the commencement of an action defined as a business
 20 matter pursuant to the local rules of practice and on the answer or
 21 appearance of any party in any such action or proceeding, to be paid by
 22 the party commencing, answering or appearing in the action or
 23 proceeding thereto.....\$1,359
 24 ~~(g)~~ (f) On the commencement of:
 25 (1) ~~A class action;~~
 26 ~~—(2)—~~ An action for a constructional defect pursuant to NRS
 27 40.600 to 40.695, inclusive; or
 28 ~~(3)~~ (2) Any other action defined as “complex” pursuant to
 29 the local rules of practice,
 30 and on the answer or appearance of any party in any such action or
 31 proceeding, to be paid by the party commencing, answering or
 32 appearing in the action or proceeding.....\$349
 33 ~~(h)~~ (g) On the filing of a third-party complaint, to be paid by the
 34 filing party.....\$135
 35 ~~(i)~~ (h) On the filing of a motion to certify or decertify a class, to
 36 be paid by the filing party.....~~[\$250]~~ \$349
 37 ~~—(j)—~~ On the filing of a petition for leave to compromise the claim of
 38 a minor, to be paid by the petitioner.....~~\$250]~~
 39 (i) For the issuance of any writ of attachment, writ of garnishment,
 40 writ of execution or any other writ designed to enforce any judgment of
 41 the court.....\$10
 42 2. ~~The~~ Except as otherwise provided in subsection 4, fees collected
 43 pursuant to this section must be deposited into a special account maintained for
 44 the benefit of the court. The money in that account must be used only:
 45 (a) To offset the costs for adding and maintaining new judicial departments,
 46 including, without limitation, the cost for additional staff; and
 47 (b) If any money remains in the account in a fiscal year after satisfying the
 48 purposes set forth in paragraph (a), to:
 49 (1) Reimburse the county for any capital costs incurred for maintaining
 50 any judicial departments that are added by the 75th Session of the Nevada
 51 Legislature;
 52 (2) Acquire land on which to construct additional facilities for the district
 53 court or a regional justice center that includes the district court;

~~1~~ ~~(2)~~ (3) Construct or acquire additional facilities for the district court or a regional justice center that includes the district court;

~~2~~ ~~(3)~~ (4) Renovate or remodel existing facilities for the district court or a regional justice center that includes the district court;

~~3~~ ~~(4)~~ (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; except that money in the account may not be used to acquire furniture, fixtures or equipment for judicial chambers;

~~4~~ ~~(5)~~ (6) Acquire advanced technology;

~~5~~ ~~(6)~~ (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

~~6~~ ~~(7) Enter into long-term interlocal agreements to pay for capital costs incurred by the county;~~

~~7~~ (8) Be carried forward to the next fiscal year.

~~8~~ 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.

~~9~~ 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 ~~for~~:

~~10~~ (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.

~~11~~ (b) All remaining fees collected pursuant to this section during the preceding month.

~~12~~ Sec. 3. 1. In any county, the board of county commissioners may, in addition to any other fee required by law, 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 for which a filing fee is required and on the filing of any answer or appearance in any such action or proceeding for which a filing fee is required, except as otherwise required pursuant to NRS 19.034.

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

~~14~~ (a) May be used only for programs for court security ~~and must~~ or to reimburse the county for any capital costs incurred for maintaining any judicial departments that are added by the 75th Session of the Nevada Legislature;

~~15~~ (b) Must not be used to supplant existing budgets for court security. ~~Any remaining balance in the account~~; and

~~16~~ (c) If any balance remains, may be carried forward to the next fiscal year.

~~17~~ 3. As used in this section, "programs for court security" includes, without limitation:

~~18~~ (a) Funding for additional positions for bailiffs, marshals, security guards or similar personnel;

~~19~~ (b) Supplementing existing funding used to pay bailiffs, marshals, security guards and similar personnel;

~~20~~ (c) Acquiring necessary capital goods for court security;

- (d) *Providing security training and education to personnel;*
(e) *Conducting security audits; and*
(f) *Acquiring or using appropriate technology relating to court security. ~~fr~~*
~~and~~

~~(g) Other purposes relating to court security, as approved by the chief judge or his designee.~~

Sec. 4. ~~[NRS 41.200 is hereby amended to read as follows:~~

~~41.200 1. If an unemancipated minor has a disputed claim for money against a third person, either parent, or if the parents of the minor are living separate and apart, then the custodial parent, or if no custody award has been made, the parent with whom the minor is living, or if a general guardian or guardian of the estate of the minor has been appointed, then that guardian, has the right to compromise the claim. Such a compromise is not effective until it is approved by the district court of the county where the minor resides, or if the minor is not a resident of the State of Nevada, then by the district court of the county where the claim was incurred, upon a verified petition in writing, regularly filed with the court.~~

~~2. The petition must set forth:~~

~~(a) The name, age and residence of the minor;~~

~~(b) The facts which bring the minor within the purview of this section, including:~~

~~(1) The circumstances which make it a disputed claim for money;~~

~~(2) The name of the third person against whom the claim is made; and~~

~~(3) If the claim is the result of an accident, the date, place and facts of the accident;~~

~~(c) The names and residence of the parents or the legal guardian of the minor;~~

~~(d) The name and residence of the person or persons having physical custody or control of the minor;~~

~~(e) The name and residence of the petitioner and the relationship of the petitioner to the minor;~~

~~(f) The total amount of the proceeds of the proposed compromise and the apportionment of those proceeds, including the amount to be used for:~~

~~(1) Attorney's fees and whether the attorney's fees are fixed or contingent fees, and if the attorney's fees are contingent fees, the percentage of the proceeds to be paid as attorney's fees;~~

~~(2) Medical expenses; and~~

~~(3) Other expenses;~~

~~and whether these fees and expenses are to be deducted before or after the calculation of any contingency fee;~~

~~(g) Whether the petitioner believes the acceptance of this compromise is in the best interest of the minor; and~~

~~(h) That the petitioner has been advised and understands that acceptance of the compromise will bar the minor from seeking further relief from the third person offering the compromise.~~

~~3. If the claim involves a personal injury suffered by the minor, the petitioner must submit all relevant medical and health care records to the court at the compromise hearing. The records must include documentation of:~~

~~(a) The injury, prognosis, treatment and progress of recovery of the minor; and~~

~~(b) The amount of medical expenses incurred to date, the nature and amount of medical expenses which have been paid and by whom, any amount owing for medical expenses and an estimate of the amount of medical expenses which may be incurred in the future.~~

~~4. If the court approves the compromise of the claim of the minor, the court must direct the money to be paid to the father, mother or guardian of the minor, with or without the filing of any bond, or it must require a general guardian or guardian ad litem to be appointed and the money to be paid to the guardian or guardian ad litem, with or without a bond, as the court, in its discretion, deems to be in the best interests of the minor.~~

~~5. Upon receiving the proceeds of the compromise, the parent or guardian to whom the proceeds of the compromise are ordered to be paid [,] shall establish a blocked financial investment for the benefit of the minor with the proceeds of the compromise. Money may be obtained from the blocked financial investment only pursuant to subsection 6. Within 30 days after receiving the proceeds of the compromise, the parent or guardian shall file with the court proof that the blocked financial investment has been established. If the balance of the investment is more than \$10,000, the parent, guardian or person in charge of managing the investment shall annually file with the court a verified report detailing the activities of the investment during the previous 12 months. If the balance of the investment is \$10,000 or less, the court may order the parent, guardian or person in charge of managing the investment to file such periodic verified reports as the court deems appropriate. The court may hold a hearing on a verified report only if it deems a hearing necessary to receive an explanation of the activities of the investment.~~

~~6. The beneficiary of a block financial investment may obtain control of or money from the investment:~~

~~(a) By an order of the court which held the compromise hearing; or~~

~~(b) By certification of the court which held the compromise hearing that the beneficiary has reached the age of 18 years, at which time control of the investment must be transferred to the beneficiary or the investment must be closed and the money distributed to the beneficiary.~~

~~7. [The clerk of the district court shall not charge any fee for filing a petition for leave to compromise or for placing the petition upon the calendar to be heard by the court.~~

~~8.] As used in this section, the term "blocked financial investment" means a savings account established in a depository institution in this State, a certificate of deposit, a United States savings bond, a fixed or variable annuity contract [,] or another reliable investment that is approved by the court.](Deleted by amendment.)~~

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

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

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

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

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

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

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

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

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

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

(a) Providing the notice to each trustor and any other person entitled to notice pursuant to this section by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

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

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

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

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

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

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

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice

1 may commence an action pursuant to subsection 5 within 120 days after the date on
2 which the person received actual notice of the sale.

3 7. The sale of a lease of a dwelling unit of a cooperative housing corporation
4 vests in the purchaser title to the shares in the corporation which accompany the
5 lease.

6 8. The county clerk shall, in addition to any other fee, at the time of
7 recording a notice of default and election to sell collect the sum of \$50 for deposit
8 in the Account for Foreclosure Mediation, which is hereby created in the State
9 General Fund. The fees collected must be paid over to the county treasurer by the
10 county clerk on or before the fifth day of each month for the preceding calendar
11 month, and must be placed to the credit of the Account. The county treasurer
12 shall, on or before the 15th day of each month, remit the fees deposited by the
13 county clerk to the State Controller for credit to the Account. The Account must
14 be administered by the Court Administrator, and the money in the Account may
15 be expended only for the purpose of supporting a program of foreclosure
16 mediation established by Supreme Court Rule.

17 ~~[Sec. 5.]~~ Sec. 6. This act becomes effective on July 1, 2009.