

By: Naishtat

H.B. No. 1392

A BILL TO BE ENTITLED

AN ACT

relating to a fee imposed on the transfer of property following a
foreclosure sale to fund civil legal services for indigents.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 118.011(a), Local Government Code, is
amended to read as follows:

(a) A county clerk shall collect the following fees for
services rendered to any person:

(1) Personal Property Records Filing (Sec. 118.012):

for the first page \$ 5.00

for each additional page or part of a page on which

there are visible marks of any kind \$ 4.00

(2) Real Property Records Filing (Sec. 118.013):

for the first page \$ 5.00

for each additional page or part of a page on which

there are visible marks of any kind \$ 4.00

for all or part of each 8-1/2" X 14" attachment or

rider \$ 4.00

for each name in excess of five names that has to be

indexed in all records in which the document must

be indexed \$ 0.25

for property sold at foreclosure sale

(Sec. 118.026) \$95.00

(3) Certified Papers (Sec. 118.014):

- 1 for the clerk's certificate \$ 5.00
- 2 plus a fee for each page or part of a page . . . \$ 1.00
- 3 (4) Noncertified Papers (Sec. 118.0145):
- 4 for each page or part of a page \$ 1.00
- 5 (5) Birth or Death Certificate
- 6 (Sec. 118.015) same as state registrar
- 7 (6) Bond Approval (Sec. 118.016) \$ 3.00
- 8 (7) Marriage License (Sec. 118.018) \$60.00
- 9 (8) Declaration of Informal Marriage
- 10 (Sec. 118.019) \$25.00
- 11 (9) Brand Registration (Sec. 118.020) \$ 5.00
- 12 (10) Oath Administration (Sec. 118.021) . . . \$ 1.00

13 SECTION 2. Subchapter B, Chapter 118, Local Government
14 Code, is amended by adding Section 118.026 to read as follows:

15 Sec. 118.026. FEE RELATING TO PROPERTY SOLD AT FORECLOSURE
16 SALE. (a) A county clerk shall collect a \$95 fee, in addition to
17 the fee required by Section 118.013, at the time a deed is filed
18 transferring title to real property sold at a foreclosure sale
19 under a power of sale conferred by a deed of trust or other contract
20 lien.

21 (b) This section does not apply if the holder of the
22 security instrument under which a foreclosure sale was conducted is
23 the original grantee of the security instrument.

24 (c) The county clerk shall keep a separate record of the
25 fees collected under this section and shall remit the fees to the
26 county treasurer not later than the deadline provided by Section
27 113.022. The county may retain not more than five percent of the

1 fees for the county's costs for implementing and administering this
2 section.

3 (d) On or before the last day of the month following each
4 calendar quarter, the county treasurer shall remit to the
5 comptroller the money from all fees collected during the preceding
6 quarter, except as provided by Subsection (c).

7 (e) The comptroller shall deposit the money received under
8 Subsection (d) in the judicial fund for programs approved by the
9 supreme court that provide basic civil legal services to the
10 indigent.

11 SECTION 3. Section 51.0075, Property Code, is amended by
12 adding Subsection (g) to read as follows:

13 (g) The fee required under Section 118.026, Local
14 Government Code, is considered a cost of sale in a sale held by a
15 trustee or substitute trustee under this section and shall be paid
16 from the proceeds of the sale, but the fee may not be considered a
17 cost of sale for purposes of calculating a deficiency under
18 Sections 51.003-51.005, or, if the sale does not result in a
19 deficiency, calculating any disbursement amount that may be
20 available to the debtor.

21 SECTION 4. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2011.