

# SENATE BILL No. 409

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-20; IC 33-37.

**Synopsis:** Court fees. Extends the mortgage foreclosure counseling and education court fee until July 1, 2017.

**Effective:** Upon passage.

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## Merritt

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January 12, 2015, read first time and referred to Committee on Judiciary.

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First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## SENATE BILL No. 409

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 5-20-1-27, AS AMENDED BY P.L.231-2013,  
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 27. (a) The home ownership education  
4 account within the state general fund is established to support:  
5 (1) home ownership education programs established under section  
6 4(d) of this chapter;  
7 (2) mortgage foreclosure counseling and education programs  
8 established under IC 5-20-6-2; and  
9 (3) programs conducted by one (1) or a combination of the  
10 following to facilitate settlement conferences in residential  
11 foreclosure actions under IC 32-30-10.5:  
12 (A) The judiciary.  
13 (B) Pro bono legal services agencies.  
14 (C) Mortgage foreclosure counselors (as defined in  
15 IC 32-30-10.5-6).  
16 (D) Other nonprofit entities certified by the authority under



- 1 section 4(d) of this chapter.  
 2 The account is administered by the authority.  
 3 (b) The home ownership education account consists of:  
 4 (1) court fees collected under ~~IC 33-37-5-32~~ **IC 33-37-5-33**  
 5 (before its expiration on ~~January 1, 2015~~; **July 1, 2017**);  
 6 (2) civil penalties imposed and collected under:  
 7 (A) IC 6-1.1-12-43(g)(2)(B); or  
 8 (B) IC 27-7-3-15.5(e); and  
 9 (3) any civil penalties imposed and collected by a court for a  
 10 violation of a court order in a foreclosure action under  
 11 IC 32-30-10.5.  
 12 (c) The expenses of administering the home ownership education  
 13 account shall be paid from money in the account.  
 14 (d) The treasurer of state shall invest the money in the home  
 15 ownership education account not currently needed to meet the  
 16 obligations of the account in the same manner as other public money  
 17 may be invested.  
 18 SECTION 2. IC 5-20-6-3, AS AMENDED BY P.L.231-2013,  
 19 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 UPON PASSAGE]: Sec. 3. In addition to using money provided for the  
 21 program from:  
 22 (1) court fees under ~~IC 33-37-5-32~~ **IC 33-37-5-33** (before its  
 23 expiration on ~~January 1, 2015~~; **July 1, 2017**);  
 24 (2) civil penalties imposed and collected under:  
 25 (A) IC 6-1.1-12-43(g)(2)(B); or  
 26 (B) IC 27-7-3-15.5(e); and  
 27 (3) any civil penalties imposed and collected by a court for a  
 28 violation of a court order in a foreclosure action under  
 29 IC 32-30-10.5;  
 30 the authority may solicit contributions and grants from the private  
 31 sector, nonprofit entities, and the federal government to assist in  
 32 carrying out the purposes of this chapter.  
 33 SECTION 3. IC 33-37-4-4, AS AMENDED BY P.L.231-2013,  
 34 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 UPON PASSAGE]: Sec. 4. (a) The clerk shall collect a civil costs fee  
 36 of one hundred dollars (\$100) from a party filing a civil action. This  
 37 subsection does not apply to the following civil actions:  
 38 (1) Proceedings to enforce a statute defining an infraction under  
 39 IC 34-28-5 (or IC 34-4-32 before its repeal).  
 40 (2) Proceedings to enforce an ordinance under IC 34-28-5 (or  
 41 IC 34-4-32 before its repeal).  
 42 (3) Proceedings in juvenile court under IC 31-34 or IC 31-37.



1 (4) Proceedings in paternity under IC 31-14.

2 (5) Proceedings in small claims court under IC 33-34.

3 (6) Proceedings in actions described in section 7 of this chapter.

4 (b) In addition to the civil costs fee collected under this section, the  
5 clerk shall collect the following fees, if they are required under  
6 IC 33-37-5:

7 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or  
8 IC 33-37-5-4).

9 (2) A support and maintenance fee (IC 33-37-5-6).

10 (3) A document storage fee (IC 33-37-5-20).

11 (4) An automated record keeping fee (IC 33-37-5-21).

12 (5) A public defense administration fee (IC 33-37-5-21.2).

13 (6) A judicial insurance adjustment fee (IC 33-37-5-25).

14 (7) A judicial salaries fee (IC 33-37-5-26).

15 (8) A court administration fee (IC 33-37-5-27).

16 (9) A service fee (IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2)).

17 (10) A garnishee service fee (IC 33-37-5-28(b)(3) or  
18 IC 33-37-5-28(b)(4)).

19 (11) For a mortgage foreclosure action, a mortgage foreclosure  
20 counseling and education fee (~~IC 33-37-5-32~~) **(IC 33-37-5-33)**  
21 (before its expiration on ~~January 1, 2015~~) **July 1, 2017**).

22 (12) Before July 1, 2017, a pro bono legal services fee  
23 (IC 33-37-5-31).

24 SECTION 4. IC 33-37-5-33 IS ADDED TO THE INDIANA CODE  
25 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE  
26 UPON PASSAGE]: **Sec. 33. (a) This section applies to a civil action**  
27 **in which the clerk is required to collect a civil costs fee under**  
28 **IC 33-37-4-4. The clerk shall collect a fifty dollar (\$50) mortgage**  
29 **foreclosure counseling and education fee from a party filing an**  
30 **action to foreclose a mortgage.**

31 **(b) This section expires July 1, 2017.**

32 SECTION 5. IC 33-37-7-2, AS AMENDED BY P.L.284-2013,  
33 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
34 UPON PASSAGE]: Sec. 2. (a) The clerk of a circuit court shall  
35 distribute semiannually to the auditor of state as the state share for  
36 deposit in the homeowner protection unit account established by  
37 IC 4-6-12-9 one hundred percent (100%) of the automated record  
38 keeping fees collected under IC 33-37-5-21 with respect to actions  
39 resulting in the accused person entering into a pretrial diversion  
40 program agreement under IC 33-39-1-8 or a deferral program  
41 agreement under IC 34-28-5-1 and for deposit in the state general fund  
42 seventy percent (70%) of the amount of fees collected under the



- 1 following:
- 2 (1) IC 33-37-4-1(a) (criminal costs fees).
- 3 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 4 (3) IC 33-37-4-3(a) (juvenile costs fees).
- 5 (4) IC 33-37-4-4(a) (civil costs fees).
- 6 (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 7 (6) IC 33-37-4-7(a) (probate costs fees).
- 8 (7) IC 33-37-5-17 (deferred prosecution fees).
- 9 (b) The clerk of a circuit court shall distribute semiannually to the
- 10 auditor of state for deposit in the state user fee fund established in
- 11 IC 33-37-9-2 the following:
- 12 (1) Twenty-five percent (25%) of the drug abuse, prosecution,
- 13 interdiction, and correction fees collected under
- 14 IC 33-37-4-1(b)(5).
- 15 (2) Twenty-five percent (25%) of the alcohol and drug
- 16 countermeasures fees collected under IC 33-37-4-1(b)(6),
- 17 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 18 (3) One hundred percent (100%) of the child abuse prevention
- 19 fees collected under IC 33-37-4-1(b)(7).
- 20 (4) One hundred percent (100%) of the domestic violence
- 21 prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- 22 (5) One hundred percent (100%) of the highway work zone fees
- 23 collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- 24 (6) One hundred percent (100%) of the safe schools fee collected
- 25 under IC 33-37-5-18.
- 26 (7) The following:
- 27 (A) For a county operating under the state's automated judicial
- 28 system, one hundred percent (100%) of the automated record
- 29 keeping fee (IC 33-37-5-21) not distributed under subsection
- 30 (a).
- 31 (B) This clause applies before July 1, 2013, and after June 30,
- 32 2015. For a county not operating under the state's automated
- 33 judicial system, eighty percent (80%) of the automated record
- 34 keeping fee (IC 33-37-5-21) not distributed under subsection
- 35 (a).
- 36 (C) This clause applies after June 30, 2013, and before July 1,
- 37 2015. For a county not operating under the state's automated
- 38 judicial system, five dollars (\$5) of the automated record
- 39 keeping fee (IC 33-37-5-21) not distributed under subsection
- 40 (a).
- 41 (c) The clerk of a circuit court shall distribute monthly to the county
- 42 auditor the following:



1 (1) Seventy-five percent (75%) of the drug abuse, prosecution,  
2 interdiction, and correction fees collected under  
3 IC 33-37-4-1(b)(5).

4 (2) Seventy-five percent (75%) of the alcohol and drug  
5 countermeasures fees collected under IC 33-37-4-1(b)(6),  
6 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

7 The county auditor shall deposit fees distributed by a clerk under this  
8 subsection into the county drug free community fund established under  
9 IC 5-2-11.

10 (d) The clerk of a circuit court shall distribute monthly to the county  
11 auditor one hundred percent (100%) of the late payment fees collected  
12 under IC 33-37-5-22. The county auditor shall deposit fees distributed  
13 by a clerk under this subsection as follows:

14 (1) If directed to do so by an ordinance adopted by the county  
15 fiscal body, the county auditor shall deposit forty percent (40%)  
16 of the fees in the clerk's record perpetuation fund established  
17 under IC 33-37-5-2 and sixty percent (60%) of the fees in the  
18 county general fund.

19 (2) If the county fiscal body has not adopted an ordinance  
20 described in subdivision (1), the county auditor shall deposit all  
21 the fees in the county general fund.

22 (e) The clerk of the circuit court shall distribute semiannually to the  
23 auditor of state for deposit in the sexual assault victims assistance  
24 account established by IC 5-2-6-23(h) one hundred percent (100%) of  
25 the sexual assault victims assistance fees collected under  
26 IC 33-37-5-23.

27 (f) The clerk of a circuit court shall distribute monthly to the county  
28 auditor the following:

29 (1) One hundred percent (100%) of the support and maintenance  
30 fees for cases designated as non-Title IV-D child support cases in  
31 the Indiana support enforcement tracking system (ISETS) or the  
32 successor statewide automated support enforcement system  
33 collected under IC 33-37-5-6.

34 (2) The percentage share of the support and maintenance fees for  
35 cases designated as Title IV-D child support cases in ISETS or the  
36 successor statewide automated support enforcement system  
37 collected under IC 33-37-5-6 that is reimbursable to the county at  
38 the federal financial participation rate.

39 The county clerk shall distribute monthly to the department of child  
40 services the percentage share of the support and maintenance fees for  
41 cases designated as Title IV-D child support cases in ISETS, or the  
42 successor statewide automated support enforcement system, collected



1 under IC 33-37-5-6 that is not reimbursable to the county at the  
2 applicable federal financial participation rate.

3 (g) The clerk of a circuit court shall distribute monthly to the county  
4 auditor the following:

5 (1) One hundred percent (100%) of the small claims service fee  
6 under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in  
7 the county general fund.

8 (2) One hundred percent (100%) of the small claims garnishee  
9 service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for  
10 deposit in the county general fund.

11 (h) This subsection does not apply to court administration fees  
12 collected in small claims actions filed in a court described in IC 33-34.  
13 The clerk of a circuit court shall semiannually distribute to the auditor  
14 of state for deposit in the state general fund one hundred percent  
15 (100%) of the following:

16 (1) The public defense administration fee collected under  
17 IC 33-37-5-21.2.

18 (2) The judicial salaries fees collected under IC 33-37-5-26.

19 (3) The DNA sample processing fees collected under  
20 IC 33-37-5-26.2.

21 (4) The court administration fees collected under IC 33-37-5-27.

22 (i) The clerk of a circuit court shall semiannually distribute to the  
23 auditor of state for deposit in the judicial branch insurance adjustment  
24 account established by IC 33-38-5-8.2 one hundred percent (100%) of  
25 the judicial insurance adjustment fee collected under IC 33-37-5-25.

26 (j) The proceeds of the service fee collected under  
27 IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as  
28 follows:

29 (1) The clerk shall distribute one hundred percent (100%) of the  
30 service fees collected in a circuit, superior, county, or probate  
31 court to the county auditor for deposit in the county general fund.

32 (2) The clerk shall distribute one hundred percent (100%) of the  
33 service fees collected in a city or town court to the city or town  
34 fiscal officer for deposit in the city or town general fund.

35 (k) The proceeds of the garnishee service fee collected under  
36 IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as  
37 follows:

38 (1) The clerk shall distribute one hundred percent (100%) of the  
39 garnishee service fees collected in a circuit, superior, county, or  
40 probate court to the county auditor for deposit in the county  
41 general fund.

42 (2) The clerk shall distribute one hundred percent (100%) of the



1 garnishee service fees collected in a city or town court to the city  
2 or town fiscal officer for deposit in the city or town general fund.

3 (l) The clerk of the circuit court shall distribute semiannually to the  
4 auditor of state for deposit in the home ownership education account  
5 established by IC 5-20-1-27 one hundred percent (100%) of the  
6 following:

7 (1) The mortgage foreclosure counseling and education fees  
8 collected under ~~IC 33-37-5-32~~ **IC 33-37-5-33** (before its  
9 expiration on ~~January 1, 2015~~) **July 1, 2017**).

10 (2) Any civil penalties imposed and collected by a court for a  
11 violation of a court order in a foreclosure action under  
12 IC 32-30-10.5.

13 (m) This subsection applies to a county that is not operating under  
14 the state's automated judicial system. The clerk of a circuit court shall  
15 distribute monthly to the county auditor the following part of the  
16 automated record keeping fee (IC 33-37-5-21) not distributed under  
17 subsection (a) for deposit in the clerk's record perpetuation fund:

18 (1) Twenty percent (20%), before July 1, 2013, and after June 30,  
19 2015.

20 (2) Two dollars (\$2) of each fee collected, after June 30, 2013,  
21 and before July 1, 2015.

22 (n) The clerk of a circuit court shall distribute semiannually to the  
23 auditor of state one hundred percent (100%) of the pro bono legal  
24 services fees collected before July 1, 2017, under IC 33-37-5-31. The  
25 auditor of state shall transfer semiannually the pro bono legal services  
26 fees to the Indiana Bar Foundation (or a successor entity) as the entity  
27 designated to organize and administer the interest on lawyers trust  
28 accounts (IOLTA) program under Rule 1.15 of the Rules of  
29 Professional Conduct of the Indiana supreme court. The Indiana Bar  
30 Foundation shall:

31 (1) deposit in an appropriate account and otherwise manage the  
32 fees the Indiana Bar Foundation receives under this subsection in  
33 the same manner the Indiana Bar Foundation deposits and  
34 manages the net earnings the Indiana Bar Foundation receives  
35 from IOLTA accounts; and

36 (2) use the fees the Indiana Bar Foundation receives under this  
37 subsection to assist or establish approved pro bono legal services  
38 programs.

39 The handling and expenditure of the pro bono legal services fees  
40 received under this section by the Indiana Bar Foundation (or its  
41 successor entity) are subject to audit by the state board of accounts. The  
42 amounts necessary to make the transfers required by this subsection are



1 appropriated from the state general fund.  
2 SECTION 6. **An emergency is declared for this act.**

