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HOUSE BILL NO. 1793

Offered January 10, 2001

Prefiled December 29, 2000

A BILL to amend and reenact § 17.1-275 of the Code of Virginia, relating to fees collected by clerks of circuit courts.

Patron—Kilgore

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 17.1-275 of the Code of Virginia is amended and reenacted as follows:**

§ 17.1-275. Fees collected by clerks of circuit courts; generally.

A. A clerk of a circuit court shall, for services performed by virtue of his office, charge the following fees:

1. When a writing is admitted to record under Chapter 2 (§ 17.1-200 et seq.) of this title, or Chapter 5 (§ 55-80 et seq.) or Chapter 6 (§ 55-106 et seq.) of Title 55, for everything relating to it, except the recording in the proper book; for receiving proof of acknowledgments, entering orders, endorsing clerk's certificate, and when required, embracing it in a list for the commissioner of the revenue, one dollar.

2. For recording and indexing in the proper book any writing and all matters therewith, or for recording and indexing anything not otherwise provided for, thirteen dollars, including the fee of one dollar set forth in subdivision A 1 for up to four pages and one dollar for each page over four pages, and for recording plats too large to be recorded in the deed books, and for each sheet thereof, thirteen dollars. This fee shall be in addition to the fee for recording a deed or other instrument recorded in conjunction with such plat sheet or sheets including the fee of one dollar set forth in subdivision A 1. Only a single fee as authorized by this subdivision shall be charged for recording a certificate of satisfaction that releases the original deed of trust and any corrected or revised deeds of trust. In addition, a fee of one dollar shall be charged for indexing any document for each name indexed exceeding a total of ten in number. One dollar of the fee collected for recording and indexing shall be designated for use in preserving the permanent records of the circuit courts. The sum collected for this purpose shall be administered by The Library of Virginia in cooperation with the circuit court clerks.

3. For appointing and qualifying any personal representative, committee, trustee, guardian, or other fiduciary, in addition to any fees for recording allowed by this section, twenty dollars for estates not exceeding \$50,000, twenty-five dollars for estates not exceeding \$100,000 and thirty dollars for estates exceeding \$100,000. No fee shall be charged for estates of \$5,000 or less.

4. For entering and granting and for issuing any license, other than a marriage license or a hunting and fishing license, and administering an oath when necessary, ten dollars.

5. For issuing a marriage license, attaching certificate, administering or receiving all necessary oaths or affidavits, indexing and recording, ten dollars.

6. For making out any bond, other than those under § 17.1-267 or subdivision A 4 of this section, administering all necessary oaths and writing proper affidavits, three dollars.

7. For all services rendered by the clerk in any garnishment or attachment proceeding, the clerk's fee shall be fifteen dollars in cases not exceeding \$500 and twenty-five dollars in all other cases.

8. For making out a copy of any paper or record to go out of the office, which is not otherwise specifically provided for, a fee of fifty cents for each page. However, there shall be no charge to the recipient of a final order or decree to send an attested copy to such party.

9. For annexing the seal of the court to any paper, writing the certificate of the clerk accompanying it, the clerk shall charge two dollars and for attaching the certificate of the judge, if the clerk is requested to do so, the clerk shall charge an additional fifty cents.

10. In any case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the clerk shall assess a fee of \$150 for each felony conviction and each felony disposition under § 18.2-251 which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment Fund.

11. a. Upon conviction in misdemeanor cases, the clerk shall charge the defendant twenty-six dollars in each case. Sums shall be collected for and paid to the benefit of the Virginia Crime Victim-Witness Fund as provided for in § 19.2-11.3 and one dollar of the amount collected hereunder shall be forwarded to the State Treasurer for deposit in the Regional Criminal Justice Academy Training Fund as provided in § 9-178.2, to be used for financial support of the regional criminal justice training academies, irrespective of whether the defendant was convicted of a misdemeanor chargeable under the Code of

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HB1793

59 Virginia or pursuant to a local ordinance.

60 b. In addition, in each case in which a person is convicted of a violation of any provision of Article
61 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the clerk shall assess (i) a fee of seventy-five dollars
62 for each misdemeanor conviction which shall be taxed as costs to the defendant and shall be paid into
63 the Drug Offender Assessment Fund, unless such fee has been assessed and taxed in the general district
64 court as provided in § 16.1-69.48:3 and (ii) a fee of \$100 per case for any forensic laboratory analysis
65 performed for use in prosecution of such violation which shall be taxed as costs to the defendant and
66 shall be paid into the general fund of the state treasury.

67 c. In addition, for each misdemeanor case the clerk shall collect and tax as costs (i) the fees of the
68 attorneys for the Commonwealth as provided for in § 15.2-1627.3, (ii) the compensation of
69 court-appointed counsel as provided in § 19.2-163, (iii) the fees of the public defenders as provided for
70 in § 19.2-163.2, (iv) the additional costs imposed under § 19.2-368.18 to be deposited into the Criminal
71 Injuries Compensation Fund, and (v) in any court in which electronic devices are used for the purpose
72 of recording testimony, a sum not to exceed five dollars for each day or part of a day of the trial to be
73 paid by the clerk into a special fund to be used for the purpose of repairing, replacing or supplementing
74 such electronic devices, or if a sufficient amount is available, to pay the purchase price of such devices
75 in whole or in part. For the purpose of this subdivision, repairing shall include maintenance or service
76 contracts.

77 d. In addition, a fee of twelve dollars shall be charged to a defendant found guilty in a criminal case
78 in the circuit court as costs for (i) serving a warrant or summons other than on a witness when no arrest
79 is made or (ii) making an arrest on a felony or misdemeanor charge, when such services are provided by
80 the sheriff.

81 12. Upon the defendant's being required to successfully complete traffic school or a driver
82 improvement clinic in lieu of a finding of guilty, the court shall charge the defendant fees and costs as
83 if he had been convicted.

84 13. In all actions at law the clerk's fee chargeable to the plaintiff shall be fifty dollars in cases not
85 exceeding \$50,000, \$100 in cases not exceeding \$100,000, and \$150 in cases exceeding \$100,000; and
86 in condemnation cases, a fee of twenty-five dollars, to be paid by the plaintiff at the time of instituting
87 the action, this fee to be in lieu of any other fees. There shall be no fee charged for the filing of a
88 cross-claim or setoff in any pending action. However, the fees prescribed by this subdivision shall be
89 charged upon the filing of a counterclaim. The fees prescribed above shall be collected upon the filing
90 of papers for the commencement of civil actions. This subdivision shall not be applicable to cases filed
91 in the Supreme Court of Virginia.

92 13a. For the filing of any petition seeking court approval of a settlement where no action has yet
93 been filed, the clerk's fee, chargeable to the petitioner, shall be fifty dollars, to be paid by the petitioner
94 at the time of filing the petition.

95 14. In addition to the fees chargeable for actions at law, for the costs of proceedings for judgments
96 by confession under §§ 8.01-432 through 8.01-440, the clerk shall tax as costs (i) the cost of registered
97 or certified mail, (ii) the statutory writ tax, in the amount required by law to be paid on a suit for the
98 amount of the confessed judgment, (iii) for the sheriff for serving each copy of the order entering
99 judgment, twelve dollars, and (iv) for docketing the judgment and issuing executions thereon, the same
100 fees as prescribed in subdivision A 17.

101 15. For qualifying notaries public, including the making out of the bond and any copies thereof,
102 administering the necessary oaths, and entering the order, ten dollars.

103 16. For each habeas corpus proceeding, the clerk shall receive ten dollars for all services required
104 thereunder. This subdivision shall not be applicable to such suits filed in the Supreme Court of Virginia.

105 17. For docketing and indexing a judgment from any other court of this Commonwealth, for
106 docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions of
107 § 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment
108 pursuant to § 8.01-452, a fee of five dollars; and for issuing an abstract of any recorded judgment, when
109 proper to do so, a fee of five dollars; and for filing, docketing, indexing and mailing notice of a foreign
110 judgment, a fee of twenty dollars.

111 18. For all services rendered by the clerk in any court proceeding for which no specific fee is
112 provided by law, the clerk shall charge ten dollars, to be paid by the party filing said papers at the time
113 of filing; however, this subdivision shall not be applicable in a divorce cause prior to and including the
114 entry of a decree of divorce from the bond of matrimony.

115 19. For receiving and processing an application for a tax deed, ten dollars.

116 20. For all services rendered by the clerk in any condemnation proceeding instituted by the
117 Commonwealth, twenty-five dollars.

118 21. For making the endorsements on a forthcoming bond and recording the matters relating to such
119 bond pursuant to the provisions of § 8.01-529, one dollar.

120 22. For all services rendered by the clerk in any proceeding pursuant to § 57-8 or § 57-15, ten

dollars.

23. For preparation and issuance of a subpoena duces tecum, five dollars.

24. For all services rendered by the clerk in matters under § 8.01-217 relating to change of name, twenty dollars; however, this subdivision shall not be applicable in cases where the change of name is incident to a divorce.

25. For providing court records or documents on microfilm, per frame, ten cents.

26. In all chancery causes, the clerk's fee chargeable to the plaintiff shall be fifty dollars to be paid by the plaintiff at the time of instituting the suit, which shall include the furnishing of a duly certified copy of the final decree. However, no fee shall be charged for the filing of a cross-bill in any pending suit. In divorce cases, when there is a merger of a divorce of separation a mensa et thoro into a decree of divorce a vinculo, the above mentioned fee shall include the furnishing of a duly certified copy of both such decrees.

27a. For the acceptance of credit cards in lieu of money to collect and secure all fees, fines, restitution, forfeiture, penalties and costs in accordance with § 19.2-353.3, the clerk shall collect a service charge of four percent of the amount paid.

27b. *Until July 1, 2006, for all services rendered by the clerk in any county with a population between 810,000 and 820,000 or with a population between 39,000 and 40,000, the clerk may accept personal checks, credits cards, debit cards and/or any other commercially acceptable method of payment. For the acceptance of any credit card, debit card or any other commercially acceptable method of payment, for which the clerk is charging a processing fee, the clerk shall collect a service charge sufficient to cover the costs of credit card merchant processing for the services.*

28. For the return of any check unpaid by the financial institution on which it was drawn or notice is received from the credit card issuer that payment will not be made for any reason, the clerk shall collect, if allowed by the court, a fee of twenty dollars or ten percent of the amount to be paid, whichever is greater, in accordance with § 19.2-353.3.

29. For all services rendered, except in cases in which costs are assessed pursuant to §§ 17.1-275.1, 17.1-275.2, 17.1-275.3, or § 17.1-275.4, in an adoption proceeding, a fee of twenty dollars, in addition to the fee imposed under § 63.1-219.53, to be paid by the petitioner or petitioners.

30. For issuing a duplicate license for one lost or destroyed as provided in § 29.1-334, a fee in the same amount as the fee for the original license.

31. For the filing of any petition as provided in §§ 33.1-124, 33.1-125 and 33.1-129, a fee of five dollars to be paid by the petitioner; and for the recordation of a certificate or copy thereof, as provided for in § 33.1-122, as well as for any order of the court relating thereto, the clerk shall charge the same fee as for recording a deed as provided for in this section, to be paid by the party upon whose request such certificate is recorded or order is entered.

32. For making up, certifying and transmitting original record pursuant to the Rules of the Supreme Court, including all papers necessary to be copied and other services rendered, except in cases in which costs are assessed pursuant to §§ 17.1-275.1, 17.1-275.2, 17.1-275.3, or § 17.1-275.4, a fee of twenty dollars.

33. For issuance of hunting and trapping permits in accordance with § 10.1-1154, twenty-five cents.

34. For filings, etc., under the Uniform Federal Lien Registration Act (§ 55-142.1 et seq.), the fees shall be as prescribed in that Act.

35. For filing the appointment of a resident agent for a nonresident property owner in accordance with § 55-218.1, a fee of one dollar.

36. For filing power of attorney for service of process, or resignation or revocation thereof, in accordance with § 59.1-71, a fee of twenty-five cents.

37. For recordation of certificate and registration of names of nonresident owners in accordance with § 59.1-74, a fee of ten dollars.

38. For maintaining the information required under the Overhead High Voltage Line Safety Act (§ 59.1-406 et seq.), the fee as prescribed in § 59.1-411.

39. For lodging, indexing and preserving a will in accordance with § 64.1-56, a fee of two dollars.

40. For filing a financing statement in accordance with § 8.9-403, the fee shall be as prescribed under that section.

41. For filing a termination statement in accordance with § 8.9-404, the fee shall be as prescribed under that section.

42. For filing assignment of security interest in accordance with § 8.9-405, the fee shall be as prescribed under that section.

43. For filing a petition as provided in §§ 37.1-134.7 and 37.1-134.17, the fee shall be ten dollars.

44. For issuing any execution, and recording the return thereof, a fee of \$1.50.

45. For the preparation and issuance of a summons for interrogation by an execution creditor, a fee of five dollars. If there is no outstanding execution, and one is requested herewith, the clerk shall be

182 allowed an additional fee of \$1.50, in accordance with subdivision A 44.

183 B. In accordance with § 17.1-281, the clerk shall collect fees under subdivisions A 7, 10, 11, 13, 16,
184 18 if applicable, 20, 22, 24, 26, 29 and 31 to be designated for courthouse construction, renovation or
185 maintenance.

186 C. In accordance with § 17.1-278, the clerk shall collect fees under subdivisions A 7, 13, 16, 18 if
187 applicable, 20, 22, 24, 26, 29 and 31 to be designated for services provided for the poor, without
188 charge, by a nonprofit legal aid program.

189 D. In accordance with § 9-178.1, the clerk shall collect fees under subdivisions A 10 and 11 to be
190 designated for the Intensified Drug Enforcement Jurisdiction Fund.

191 E. In accordance with § 42.1-70, the clerk shall collect fees under subdivisions A 7, 13, 16, 18 if
192 applicable, 20, 22, 24, 26, 29 and 31 to be designated for public law libraries.

193 F. The provisions of this section shall control the fees charged by clerks of circuit courts for the
194 services above described. #