

047298264

HOUSE BILL NO. 613

Offered January 14, 2004

Prefiled January 13, 2004

A BILL to amend and reenact § 17.1-275 of the Code of Virginia, relating to fees collected by clerks of circuit courts; special fund for office expenses.

Patron—Carrico

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. [Repealed.]

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, ~~sixteen dollars~~\$16 for an instrument or document consisting of ~~ten~~ 10 or fewer pages or sheets; ~~thirty dollars~~\$30 for an instrument or document consisting of 11 to 30 pages or sheets; and ~~fifty dollars~~\$50 for an instrument or document consisting of 31 or more pages or sheets. Whenever any writing to be recorded includes plat or map sheets no larger than eight and one-half inches by fourteen inches, such plat or map sheets shall be counted as ordinary pages for the purpose of computing the recording fee due pursuant to this section. A fee of ~~fifteen dollars~~\$15 per page or sheet shall be charged with respect to plat or map sheets larger than eight and one-half inches by fourteen inches. 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. One dollar and fifty cents 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~~\$20 for estates not exceeding \$50,000, ~~twenty-five dollars~~\$25 for estates not exceeding \$100,000 and ~~thirty dollars~~\$30 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~~\$10.

5. For issuing a marriage license, attaching certificate, administering or receiving all necessary oaths or affidavits, indexing and recording, ~~ten dollars~~\$10.

6. For making out any bond, other than those under § 17.1-267 or subdivision A. 4., 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~~\$15 in cases not exceeding \$500 and ~~twenty-five dollars~~\$25 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~~ 50 cents for each page, *which funds shall be kept in a special account to be used by the clerk for necessary office expenses.* 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~~\$2 and for attaching the certificate of the judge, if the clerk is requested to do so, the clerk shall charge an additional ~~fifty~~ 50 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 or is subject to a disposition under § 18.2-251, 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. 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 or is subject to a disposition under § 18.2-251, the clerk shall assess a fee for each misdemeanor conviction and each misdemeanor disposition under § 18.2-251, which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment Fund as provided in § 17.1-275.8.

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

INTRODUCED

HB613

59 if he had been convicted.

60 13. In all actions at law the clerk's fee chargeable to the plaintiff shall be ~~fifty dollars~~\$50 in cases
61 not exceeding \$50,000, \$100 in cases not exceeding \$100,000, and \$150 in cases exceeding \$100,000;
62 and in condemnation cases, a fee of ~~twenty-five dollars~~\$25, to be paid by the plaintiff at the time of
63 instituting the action, this fee to be in lieu of any other fees. There shall be no fee charged for the filing
64 of a cross-claim or setoff in any pending action. However, the fees prescribed by this subdivision shall
65 be charged upon the filing of a counterclaim. The fees prescribed above shall be collected upon the
66 filing of papers for the commencement of civil actions. This subdivision shall not be applicable to cases
67 filed in the Supreme Court of Virginia.

68 13a. For the filing of any petition seeking court approval of a settlement where no action has yet
69 been filed, the clerk's fee, chargeable to the petitioner, shall be ~~fifty dollars~~\$50, to be paid by the
70 petitioner at the time of filing the petition.

71 14. In addition to the fees chargeable for actions at law, for the costs of proceedings for judgments
72 by confession under §§ 8.01-432 through 8.01-440, the clerk shall tax as costs (i) the cost of registered
73 or certified mail, (ii) the statutory writ tax, in the amount required by law to be paid on a suit for the
74 amount of the confessed judgment, (iii) for the sheriff for serving each copy of the order entering
75 judgment, ~~twelve dollars~~\$12, and (iv) for docketing the judgment and issuing executions thereon, the
76 same fees as prescribed in subdivision A. 17.

77 15. For qualifying notaries public, including the making out of the bond and any copies thereof,
78 administering the necessary oaths, and entering the order, ~~ten dollars~~\$10.

79 16. For each habeas corpus proceeding, the clerk shall receive ~~ten dollars~~\$10 for all services required
80 thereunder. This subdivision shall not be applicable to such suits filed in the Supreme Court of Virginia.

81 17. For docketing and indexing a judgment from any other court of this Commonwealth, for
82 docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions of
83 § 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment
84 pursuant to § 8.01-452, a fee of five dollars; and for issuing an abstract of any recorded judgment, when
85 proper to do so, a fee of five dollars; and for filing, docketing, indexing and mailing notice of a foreign
86 judgment, a fee of ~~twenty dollars~~\$20.

87 18. For all services rendered by the clerk in any court proceeding for which no specific fee is
88 provided by law, the clerk shall charge ~~ten dollars~~\$10, to be paid by the party filing said papers at the
89 time of filing; however, this subdivision shall not be applicable in a divorce cause prior to and including
90 the entry of a decree of divorce from the bond of matrimony.

91 19., 20. [Repealed.]

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

94 22. For all services rendered by the clerk in any proceeding pursuant to § 57-8 or § 57-15, ~~ten~~
95 ~~dollars~~\$10.

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

97 24. For all services rendered by the clerk in matters under § 8.01-217 relating to change of name,
98 ~~twenty dollars~~\$20; however, this subdivision shall not be applicable in cases where the change of name
99 is incident to a divorce.

100 25. For providing court records or documents on microfilm, per frame, ~~ten~~ 10 cents.

101 26. In all chancery causes, the clerk's fee chargeable to the plaintiff shall be ~~fifty dollars~~\$50 to be
102 paid by the plaintiff at the time of instituting the suit, which shall include the furnishing of a duly
103 certified copy of the final decree. However, no fee shall be charged for the filing of a cross-bill in any
104 pending suit. In divorce cases, when there is a merger of a divorce of separation a mensa et thoro into a
105 decree of divorce a vinculo, the above mentioned fee shall include the furnishing of a duly certified
106 copy of both such decrees.

107 27. For the acceptance of credit cards in lieu of money to collect and secure all fees, including filing
108 fees, fines, restitution, forfeiture, penalties and costs, the clerk shall collect a service charge of four
109 percent of the amount paid.

110 28. For the return of any check unpaid by the financial institution on which it was drawn or notice is
111 received from the credit card issuer that payment will not be made for any reason, the clerk shall
112 collect, if allowed by the court, a fee of ~~twenty dollars~~\$20 or ~~ten~~ 10 percent of the amount to be paid,
113 whichever is greater, in accordance with § 19.2-353.3.

114 29. For all services rendered, except in cases in which costs are assessed pursuant to §§ 17.1-275.1,
115 17.1-275.2, 17.1-275.3, or § 17.1-275.4, in an adoption proceeding, a fee of ~~twenty dollars~~\$20, in
116 addition to the fee imposed under § 63.2-1246, to be paid by the petitioner or petitioners.

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

119 31. For the filing of any petition as provided in §§ 33.1-124, 33.1-125 and 33.1-129, a fee of five
120 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, 17.1-275.4, 17.1-275.7, 17.1-275.8, or § 17.1-275.9, a fee of ~~twenty dollars~~ \$20.

33. For issuance of hunting and trapping permits in accordance with § 10.1-1154, ~~twenty-five~~ 25 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. [Repealed.]

37. For recordation of certificate and registration of names of nonresident owners in accordance with § 59.1-74, a fee of ~~ten dollars~~ \$10.

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 § 8.9A-505, the fee shall be as prescribed under § 8.9A-525.

41. For filing a termination statement in accordance with § 8.9A-513, the fee shall be as prescribed under § 8.9A-525.

42. For filing assignment of security interest in accordance with § 8.9A-514, the fee shall be as prescribed under § 8.9A-525.

43. For filing a petition as provided in §§ 37.1-134.7 and 37.1-134.17, the fee shall be ~~ten dollars~~ \$10.

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

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

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

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

E. The provisions of this section shall control the fees charged by clerks of circuit courts for the services above described.