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SENATE BILL NO. 241

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 11, 2004)

(Patron Prior to Substitute—Senator Norment)

A *BILL to amend and reenact §§ 2.2-3808.2 and 17.1-279 of the Code of Virginia, relating to Technology Trust Fund Fee.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3808.2 and 17.1-279 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3808.2. Posting certain information on the Internet; prohibitions.

A. Beginning January 1, 2004, no court clerk shall post on a court-controlled website any document that contains the following information: (i) an actual signature; (ii) a social security number; (iii) a date of birth identified with a particular person; (iv) the maiden name of a person's parent so as to be identified with a particular person; (v) any financial account number or numbers; or (vi) the name and age of any minor child.

B. Each such clerk shall post notice that includes a list of the documents routinely posted on its website.

C. Nothing in this section shall be construed to prohibit access to any original document as provided by law.

D. This section shall not apply to the following:

1. Providing *secure* remote access to any document by means of a network or system that is *certified* by the Department of Technology Planning to be secure and to provide for restricted access pursuant to *complies with* security standards developed by the Virginia Information Technologies Agency in consultation with the circuit court clerks, the Executive Secretary of the Supreme Court, the Compensation Board, interested citizens, and users of land and other court records. Such standards shall include, but not be limited to, a requirement, as a precondition for access, for registration by users in person or by means of a notarized or otherwise sworn application that establishes the prospective user's identity, business or residence address, and citizenship status;

2. Postings related to legitimate law-enforcement purposes;

3. Postings of historical, genealogical, interpretive, or educational documents and information about historic persons and events; and

4. Postings of instruments and records filed or recorded prior to 1902.

§ 17.1-279. Additional fee to be assessed by circuit court clerks for information technology.

A. In addition to the fees otherwise authorized by this chapter, the clerk of each circuit court shall assess a \$3\$5 fee, known as the "Technology Trust Fund Fee," in each law and chancery action, upon each instrument to be recorded in the deed books, and upon each judgment to be docketed in the judgment lien docket book. Such fee shall be deposited by the State Treasurer into a trust fund. The State Treasurer shall maintain a record of such deposits.

B. ~~Two~~ Four dollars of every \$3\$5 fee shall be allocated by the Compensation Board from the trust fund for the purposes of: (i) *developing and updating individual land records automation plans for individual circuit court clerks' offices;* (ii) *implementing automation plans to modernize land records in individual circuit court clerks' offices and provide secure remote access to land records throughout the Commonwealth;* (iii) *obtaining and updating office automation and information technology equipment, including software and conversion services;* ~~(ii)~~ (iv) *preserving, maintaining and enhancing court records, including, but not limited to, the costs of repairs, maintenance, service contracts and system upgrades which may include, but not necessarily be limited to, a digital imaging system;* and ~~(iii)~~ (v) *improving public access to court records. The Compensation Board in consultation with the circuit court clerks and other users of court records shall develop and update policies governing the allocation of funds for these purposes. In allocating funds, the Compensation Board may consider the current automation of the clerks' offices and the recommendations made in the 1996 report by the Joint Legislative Audit and Review Commission (JLARC) regarding automation of the circuit court clerks' offices. Except for improvements as provided in subsection E, such policies shall require a clerk to submit to the Compensation Board a written certification from the Virginia Information Technologies Agency that the clerk's proposed technology improvements will be compatible with a system to provide statewide remote access to land records in accordance with the recommendations of JLARC and the Task Force on Land Records Management (the Task Force) established by the Virginia Information Technologies Agency. The Compensation Board policies governing the allocation of funds shall require that a clerk submit to the Compensation Board a written certification that the clerk's proposed technology improvements of his land records will accommodate secure remote access to those land records on a statewide basis.*

60 The annual budget submitted by each circuit court clerk pursuant to § 15.2-1636.7 may include a
61 request for technology improvements in the upcoming fiscal year to be allocated by the Compensation
62 Board from the trust fund. Such request shall not exceed the deposits into the trust fund credited to that
63 locality. The Compensation Board shall allocate the funds requested by the clerks in an amount not to
64 exceed the deposits into the trust fund credited to their respective localities.

65 C. The remaining \$1 of each such fee may be allocated by the Compensation Board from the trust
66 fund for the purposes of (i) funding studies to develop and update individual land-records automation
67 plans for individual circuit court clerks' offices, *at the request of and in consultation with the individual*
68 *circuit court clerk's offices*, and (ii) ~~implementing~~ *for the purposes enumerated in subsection B to*
69 *implement the plan to modernize land records in individual circuit court clerk's offices* and
70 provide remote access to land records throughout the Commonwealth. *The allocations pursuant to this*
71 *subsection may give priority to those individual clerks' offices whose deposits into the trust fund would*
72 *not be sufficient to implement its modernization plan. The Compensation Board policies governing the*
73 *allocation of funds shall require that a clerk submit to the Compensation Board a written certification*
74 *that the clerk's proposed technology improvements of his land records will accommodate remote access*
75 *to those land records on a statewide basis.*

76 D. ~~Remote~~ Secure remote access to land records shall be by paid subscription service through
77 individual circuit court clerk's offices pursuant to § 17.1-276, or through designated application service
78 providers. *Compliance with security standards developed by the Virginia Information Technologies*
79 *Agency pursuant to § 2.2-3808.2 shall be certified by the individual circuit court clerks' offices to the*
80 *Virginia Information Technologies Agency and the Compensation Board. Nothing in this section shall*
81 *prohibit the Compensation Board from allocating trust fund money to individual circuit court clerks'*
82 *offices for the purpose of complying with such security standards.*

83 DE. Such fee shall not be assessed to any instrument to be recorded in the deed books nor any
84 judgment to be docketed in the judgment lien docket books tendered by any federal, state or local
85 government.

86 E. ~~Notwithstanding any other provisions of this chapter, each~~ *F. If a circuit court clerk has*
87 *implemented an automation plan for his land records that will accommodate secure remote access on a*
88 *statewide basis, then that clerk may apply to the Compensation Board for an allocation from the*
89 *Technology Trust Fund for automation and technology improvements for any one or more of the*
90 *following: (i) equipment and services to convert paper, microfilm, or similar documents to a digital*
91 *image format, (ii) the conversion of information into a format which will accommodate remote access,*
92 *and (iii) the law and chancery division of his office. However, allocations for (iii) above shall not*
93 *exceed the pro rata share of the collections of the \$3 fee relative to the chancery and law actions filed*
94 *in the jurisdiction as provided in this section. If a clerk has implemented the technology plan approved*
95 *by the Virginia Information Technologies Agency referred to in subsection B, and such plan has been*
96 *amended to reflect the clerk's automation progress and has been submitted to the Virginia Information*
97 *Technologies Agency at least biennially beginning July 1, 2002, the Compensation Board may approve*
98 *an application for an allocation that exceeds the pro rata share of collections of the \$3 fee relative to the*
99 *chancery and law actions filed in that jurisdiction. in the law and chancery divisions, or the criminal*
100 *division, of his office. Such request shall not exceed the deposits into the trust fund credited to that*
101 *locality. Further, such request shall be accompanied by a certification from the Virginia Information*
102 *Technologies Agency of his compliance with the Virginia Information Technologies Agency's Security*
103 *Standard for Restricted Access to Documents on Court-Controlled Websites. The Compensation Board in*
104 *approval of such application shall consider what local funds have been spent by the jurisdiction to*
105 *accelerate the implementation of the technology plan approved by the Virginia Information Technologies*
106 *Agency in each circuit court clerk's office.*

107 FG. Information regarding the technology programs adopted by the circuit court clerks shall be
108 shared with the Virginia Information Technologies Agency, The Library of Virginia, and the Office of
109 the Executive Secretary of the Supreme Court.

110 GH. Nothing in this section shall be construed to diminish the duty of local governing bodies to
111 furnish supplies and equipment to the clerks of the circuit courts pursuant to § 15.2-1656. Revenue
112 raised as a result of this section shall in no way supplant current funding to circuit court clerks' offices
113 by local governing bodies.

114 H. The provisions of this section shall expire on July 1, 2008.

115 I. It is the intent of the General Assembly that all circuit court clerks provide secure remote access
116 to land records on or before July 1, 2006.