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HOUSE BILL NO. 1706

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on January 21, 2005)

(Patrons Prior to Substitute—Delegates Kilgore and Carrico [HB 1894])

*A BILL to amend and reenact §17.1-275 of the Code of Virginia, relating to fees collected by clerks of circuit courts; authorization to use funds for office expenses.***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 [Repealed.]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, \$16 for an instrument or document consisting of ten or fewer pages or sheets; \$30 for an instrument or document consisting of 11 to 30 pages or sheets; and \$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 14 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 \$15 per page or sheet shall be charged with respect to plat or map sheets larger than eight and one-half inches by 14 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, \$20 for estates not exceeding \$50,000, \$25 for estates not exceeding \$100,000 and \$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, \$10.

5. For issuing a marriage license, attaching certificate, administering or receiving all necessary oaths or affidavits, indexing and recording, \$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, \$3.

7. For all services rendered by the clerk in any garnishment or attachment proceeding, the clerk's fee shall be \$15 in cases not exceeding \$500 and \$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 ~~\$50~~\$0.50 for each page. *From such fees, the clerk shall reimburse the locality the costs of making out the copies and pay the remaining fees directly to the Commonwealth. The funds to recoup the cost of making out the copies shall be deposited with the county or city treasurer or Director of Finance, and the governing body shall budget and appropriate such funds to be used to support the cost of copies pursuant to this subdivision. For purposes of this section, the costs of making out the copies shall include lease and maintenance agreements for the equipment used to make out the copies, but shall not include salaries or related benefits. The costs of copies shall otherwise be determined in accordance with § 2.2-3701.* 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 \$2 and for attaching the certificate of the judge, if the clerk is requested to do so, the clerk shall charge an additional ~~\$50~~\$0.50.

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 and Treatment 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,

60 which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and
61 Treatment Fund as provided in § 17.1-275.8.

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

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

73 13a. For the filing of any petition seeking court approval of a settlement where no action has yet
74 been filed, the clerk's fee, chargeable to the petitioner, shall be \$50, to be paid by the petitioner at the
75 time of filing the petition.

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

82 15. For qualifying notaries public, including the making out of the bond and any copies thereof,
83 administering the necessary oaths, and entering the order, \$10.

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

86 17. For docketing and indexing a judgment from any other court of this Commonwealth, for
87 docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions of
88 § 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment
89 pursuant to § 8.01-452, a fee of \$5; and for issuing an abstract of any recorded judgment, when proper
90 to do so, a fee of \$5; and for filing, docketing, indexing and mailing notice of a foreign judgment, a fee
91 of \$20.

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

96 19., 20. [Repealed.]

97 21. For making the endorsements on a forthcoming bond and recording the matters relating to such
98 bond pursuant to the provisions of § 8.01-529, \$1.

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

100 23. For preparation and issuance of a subpoena duces tecum, \$5.

101 24. For all services rendered by the clerk in matters under § 8.01-217 relating to change of name,
102 \$20; however, this subdivision shall not be applicable in cases where the change of name is incident to
103 a divorce.

104 25. For providing court records or documents on microfilm, per frame, ~~\$10~~ \$0.10.

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

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

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

118 29. For all services rendered, except in cases in which costs are assessed pursuant to §§ 17.1-275.1,
119 17.1-275.2, 17.1-275.3, or § 17.1-275.4, in an adoption proceeding, a fee of \$20, in addition to the fee
120 imposed under § 63.2-1246, to be paid by the petitioner or petitioners.

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

122 same amount as the fee for the original license.

123 31. For the filing of any petition as provided in §§ 33.1-124, 33.1-125 and 33.1-129, a fee of \$5 to
124 be paid by the petitioner; and for the recordation of a certificate or copy thereof, as provided for in
125 § 33.1-122, as well as for any order of the court relating thereto, the clerk shall charge the same fee as
126 for recording a deed as provided for in this section, to be paid by the party upon whose request such
127 certificate is recorded or order is entered.

128 32. For making up, certifying and transmitting original record pursuant to the Rules of the Supreme
129 Court, including all papers necessary to be copied and other services rendered, except in cases in which
130 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,
131 or § 17.1-275.9, a fee of \$20.

132 33. For issuance of hunting and trapping permits in accordance with § 10.1-1154, ~~\$.25~~\$0.25.

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

135 35. For filing the appointment of a resident agent for a nonresident property owner in accordance
136 with § 55-218.1, a fee of \$1.

137 36 [Repealed.]

138 37. For recordation of certificate and registration of names of nonresident owners in accordance with
139 § 59.1-74, a fee of \$10.

140 38. For maintaining the information required under the Overhead High Voltage Line Safety Act
141 (§ 59.1-406 et seq.), the fee as prescribed in § 59.1-411.

142 39. For lodging, indexing and preserving a will in accordance with § 64.1-56, a fee of \$2.

143 40. For filing a financing statement in accordance with § 8.9A-505, the fee shall be as prescribed
144 under § 8.9A-525.

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

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

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

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

151 45. For the preparation and issuance of a summons for interrogation by an execution creditor, a fee
152 of \$5. If there is no outstanding execution, and one is requested herewith, the clerk shall be allowed an
153 additional fee of \$1.50, in accordance with subdivision A 44.

154 B. In accordance with § 17.1-281, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A
155 18 if applicable, A 20, A 22, A 24, A 26, A 29 and A 31 to be designated for courthouse construction,
156 renovation or maintenance.

157 C. In accordance with § 17.1-278, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A
158 18 if applicable, A 20, A 22, A 24, A 26, A 29 and A 31 to be designated for services provided for the
159 poor, without charge, by a nonprofit legal aid program.

160 D. In accordance with § 42.1-70, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A
161 18 if applicable, A 20, A 22, A 24, A 26, A 29 and A 31 to be designated for public law libraries.

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