

057233364

HOUSE BILL NO. 1959

Offered January 12, 2005

Prefiled January 10, 2005

A *BILL to amend and reenact §§ 16.1-69.48:2, 17.1-275, 17.1-328, and 17.1-418 of the Code of Virginia, relating to fees for copying court records.*

Patron—Jones, D.C.

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-69.48:2, 17.1-275, 17.1-328, and 17.1-418 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-69.48:2. Fees for services of district court judges and clerks and magistrates in civil cases.

Fees in civil cases for services performed by the judges or clerks of general district courts or magistrates in the event any such services are performed by magistrates in civil cases shall be as provided in this section, and, unless otherwise provided, shall be included in the taxed costs and shall not be refundable, except in case of error or as herein provided.

For all court and magistrate services in each distress, detinue, interrogatory summons, unlawful detainer, civil warrant, notice of motion, garnishment, attachment issued, or other civil proceeding, the fee shall be \$17 unless otherwise provided in this section or if the amount in controversy is \$200 or less, then the fee shall be \$12. No such fee shall be collected (i) in any tax case instituted by any county, city or town or (ii) in any case instituted by a school board for collection of overdue book rental fees.

The judge or clerk shall collect the foregoing fee at the time of issuing process. Any magistrate or other issuing officer shall collect the foregoing fee at the time of issuing process, and shall remit the entire fee promptly to the court to which such process is returnable, or to its clerk. When no service of process is had on a defendant named in any civil process other than a notice of motion for judgment, such process may be reissued once by the court or clerk at the court's direction by changing the return day of such process, for which service by the court or clerk there shall be no charge; however, reissuance of such process shall be within three months after the original return day.

The clerk of any district court may charge a fee for making a copy of any paper of record to go out of his office which is not otherwise specifically provided for. The amount of this fee shall be set in the discretion of the clerk but shall not exceed \$1 for the first two pages and \$0.50 for each page thereafter, *except that such fee shall not exceed \$0.10 per page for pro se litigants whose income is at or below 150 percent of the federal poverty level.*

The fees prescribed in this section shall be the only fees charged in civil cases for services performed by such judges and clerks, and when the services referred to herein are performed by magistrates such fees shall be the only fees charged by such magistrates for the prescribed services.

§ 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~~ 10 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~~ \$1.50 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

INTRODUCED

HB1959

59 be charged for estates of \$5,000 or less.

60 4. For entering and granting and for issuing any license, other than a marriage license or a hunting
61 and fishing license, and administering an oath when necessary, \$10.

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

64 6. For making out any bond, other than those under § 17.1-267 or subdivision A 4, administering all
65 necessary oaths and writing proper affidavits, \$3.

66 7. For all services rendered by the clerk in any garnishment or attachment proceeding, the clerk's fee
67 shall be \$15 in cases not exceeding \$500 and \$25 in all other cases.

68 8. For making out a copy of any paper or record to go out of the office, which is not otherwise
69 specifically provided for, a fee of \$0.50 for each page, *except that such fee shall not exceed \$0.10 per*
70 *page for pro se litigants whose income is at or below 150 percent of the federal poverty level.* However,
71 there shall be no charge to the recipient of a final order or decree to send an attested copy to such
72 party.

73 9. For annexing the seal of the court to any paper, writing the certificate of the clerk accompanying
74 it, the clerk shall charge \$2 and for attaching the certificate of the judge, if the clerk is requested to do
75 so, the clerk shall charge an additional \$0.50.

76 10. In any case in which a person is convicted of a violation of any provision of Article 1
77 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk
78 shall assess a fee of \$150 for each felony conviction and each felony disposition under § 18.2-251 which
79 shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and
80 Treatment Fund.

81 11. In any case in which a person is convicted of a violation of any provision of Article 1
82 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk
83 shall assess a fee for each misdemeanor conviction and each misdemeanor disposition under § 18.2-251,
84 which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and
85 Treatment Fund as provided in § 17.1-275.8.

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

89 13. In all actions at law the clerk's fee chargeable to the plaintiff shall be \$50 in cases not exceeding
90 \$50,000, \$100 in cases not exceeding \$100,000, and \$150 in cases exceeding \$100,000; and in
91 condemnation cases, a fee of \$25, to be paid by the plaintiff at the time of instituting the action, this fee
92 to be in lieu of any other fees. There shall be no fee charged for the filing of a cross-claim or setoff in
93 any pending action. However, the fees prescribed by this subdivision shall be charged upon the filing of
94 a counterclaim. The fees prescribed above shall be collected upon the filing of papers for the
95 commencement of civil actions. This subdivision shall not be applicable to cases filed in the Supreme
96 Court of Virginia.

97 13a. For the filing of any petition seeking court approval of a settlement where no action has yet
98 been filed, the clerk's fee, chargeable to the petitioner, shall be \$50, to be paid by the petitioner at the
99 time of filing the petition.

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

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

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

110 17. For docketing and indexing a judgment from any other court of this Commonwealth, for
111 docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions of
112 § 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment
113 pursuant to § 8.01-452, a fee of \$5; and for issuing an abstract of any recorded judgment, when proper
114 to do so, a fee of \$5; and for filing, docketing, indexing and mailing notice of a foreign judgment, a fee
115 of \$20.

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

120 19., 20. [Repealed.]

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

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

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

24. For all services rendered by the clerk in matters under § 8.01-217 relating to change of name, \$20; 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, \$0.10.

26. In all chancery causes, the clerk's fee chargeable to the plaintiff shall be \$50 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.

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

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 \$20 or 10 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 \$20, in addition to the fee imposed under § 63.2-1246, 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 \$5 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 \$20.

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

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 \$1.

36. [Repealed.]

37. For recordation of certificate and registration of names of nonresident owners in accordance with § 59.1-74, a fee of \$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 \$2.

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 \$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 \$5. 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

182 18 if applicable, A 20, A 22, A 24, A 26, A 29 and A 31 to be designated for services provided for the
183 poor, without charge, by a nonprofit legal aid program.

184 D. In accordance with § 42.1-70, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A
185 18 if applicable, A 20, A 22, A 24, A 26, A 29 and A 31 to be designated for public law libraries.

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

188 § 17.1-328. Fees charged by Clerk of Supreme Court.

189 The Clerk of the Supreme Court shall charge the following fees:

190 1. In every case in which a petition is presented, ~~twenty-five dollars~~\$25, which shall be collected at
191 the time such petition is presented.

192 2. For making and certifying a copy of any record or document in the clerk's office, ~~ten cents~~\$0.10
193 per 100 words or ~~twenty-five cents~~\$0.25 per page, *provided, however, that such fee shall not exceed*
194 *\$0.10 per page for pro se litigants whose income is at or below 150 percent of the federal poverty level.*

195 3. For verifying and certifying any record or document not actually copied by the clerk, one-half of
196 the fee for copying and certifying, which shall not, however, be applied to the certification of a copy of
197 the record in this court which has already been printed.

198 4. For authentication of any record, document or paper under the seal of the court, ~~fifty cents~~\$0.50.

199 5. For copying and certifying any document or paper of less than 250 words, ~~twenty-five cents~~\$0.25.

200 6. For administering an oath and entering an order qualifying an attorney to practice in the court, ~~two~~
201 ~~dollars and fifty cents~~\$2.50.

202 7. For certificate of such qualification under seal of the court, ~~one dollar~~\$1 plus the cost of
203 engrossing.

204 8. For entering an order and licensing an attorney from another state, under the reciprocity statute,
205 \$500.

206 9. For a law license certificate under seal of the court and a certificate of qualification under seal of
207 the court, ~~one dollar~~\$1 plus the cost of engrossing.

208 10. For all other services not specifically mentioned above, the same fee would be charged by a
209 clerk of a circuit court in similar cases.

210 § 17.1-418. Fees charged by Clerk of the Court of Appeals.

211 The Clerk of the Court of Appeals shall charge the following fees:

212 1. For filing a notice of appeal or initiating any matter under the original jurisdiction of the court,
213 ~~twenty-five~~\$25 dollars payable by check or money order to the Clerk of the Court of Appeals.

214 2. For making and certifying a copy of any record or document in the Clerk's office, ~~ten cents~~\$0.10
215 per 100 words or ~~twenty-five cents~~\$0.25 per page, *provided, however, that such fee shall not exceed*
216 *\$0.10 per page for pro se litigants whose income is at or below 150 percent of the federal poverty level.*

217 3. For verifying and certifying any record or document not actually copied by the Clerk, one-half of
218 the fee for copying and certifying, which shall not, however, be applied to the certification of a copy of
219 the record in the Court which has already been printed.

220 4. For authentication of any record, document or paper under the seal of the Court, ~~fifty cents~~\$0.50.

221 5. For copying and certifying any document or paper of less than 250 words, ~~twenty-five cents~~\$0.25.

222 6. For all other services not specifically mentioned above, the same fee that would be charged by a
223 clerk of a circuit court in similar cases.