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SENATE BILL NO. 157

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on March 10, 2006)

(Patron Prior to Substitute—Senator Norment)

A BILL to amend and reenact §§ 16.1-69.48:2, 17.1-275, 17.1-328, 17.1-329, and 17.1-418 of the Code of Virginia, and to amend the Code of Virginia by adding in Chapter 1 of Title 17.1 a section numbered 17.1-132, relating to the creation of the Courts Technology Fund.

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-69.48:2, 17.1-275, 17.1-328, 17.1-329, and 17.1-418 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Chapter 1 of Title 17.1 a section numbered 17.1-132 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 ~~\$47~~ \$22 for the period between July 1, 2006 and December 31, 2006, and \$27 thereafter unless otherwise provided in this section or if the amount in controversy is \$200 or less, then the fee shall be ~~\$42~~ \$22. 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. *Of the fees collected under this section, \$5 of the fee collected 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 in excess of \$200 shall be apportioned to the Courts Technology Fund established under § 17.1-132 for the period between July 1, 2006 and December 31, 2006, and \$10 thereafter. Of any fees collected for these services where the amounts in controversy equal \$200 or less, \$10 from any such fees collected shall be apportioned to the Courts Technology Fund established under § 17.1-132.*

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 \$.50 for each page thereafter.

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.

§ 17.1-132. Courts Technology Fund.

A. There is hereby established the Courts Technology Fund as a special nonreverting fund to be administered by the Supreme Court of Virginia. A portion of the sums collected pursuant to §§ 16.1-69.48:2, 17.1-275, 17.1-328, and 17.1-418 as specified in each section shall be deposited into the state treasury to the credit of the Fund.

B. The Fund shall be established on the books of the Comptroller. Any funds remaining in the Fund at the end of the biennium shall not revert to the general fund, but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund. Except for transfers pursuant to this section, there shall be no transfers out of the Fund, including transfers to the general fund.

C. Money in the Fund shall be allocated at the direction of the Supreme Court of Virginia to staff, advance, update, maintain, replace, repair, and support the telecommunications and technology systems of the judicial system. The revenue raised in support of the Fund shall not be used to supplant current funding to the judicial branch.

§ 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:

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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 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 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 \$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 ~~§ 2.2-3704~~ § 2.2-3704. 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 \$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, which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and Treatment 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 if he had been convicted.

13. In all civil actions that include one or more claims for the award of monetary damages the clerk's fee chargeable to the plaintiff shall be ~~\$50~~ \$60 in cases seeking recovery not exceeding \$50,000, ~~\$10 of which shall be apportioned to the Courts Technology Fund established under § 17.1-132;~~ ~~\$100~~ \$110 in cases seeking recovery not exceeding \$100,000, ~~\$10 of which shall be apportioned to the Court Technology Fund established under § 17.1-132;~~ and ~~\$150~~ \$160 in cases seeking recovery exceeding \$100,000, ~~\$10 of which shall be apportioned to the Courts Technology Fund established under § 17.1-132.~~ A fee of \$25 shall be paid by the plaintiff at the time of instituting a condemnation case, in lieu of any other fees. There shall be no fee charged for the filing of a cross-claim or setoff in any pending action. However, the fees prescribed by this subdivision shall be charged upon the filing of a counterclaim or a claim impleading a third-party defendant. The fees prescribed above shall be collected

upon the filing of papers for the commencement of civil actions. This subdivision shall not be applicable to cases filed in the Supreme Court of Virginia.

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

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

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

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

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

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

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 divorce and separate maintenance proceedings, and all civil actions that do not include one or more claims for the award of monetary damages, the clerk's fee chargeable to the plaintiff shall be ~~\$50~~ \$60, *\$10 of which shall be apportioned to the Courts Technology Fund established under § 17.1-132* 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. The fees prescribed by this subdivision shall be charged upon the filing of a counterclaim or a claim impleading a third-party defendant. However, no fee shall be charged for the filing of a cross-claim or setoff 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

183 Court, including all papers necessary to be copied and other services rendered, except in cases in which
184 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,
185 or 17.1-275.9, a fee of \$20.

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

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

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

191 36. [Repealed.]

192 37. For recordation of certificate and registration of names of nonresident owners in accordance with
193 § 59.1-74, a fee of \$10.

194 38. For maintaining the information required under the Overhead High Voltage Line Safety Act
195 (§ 59.1-406 et seq.), the fee as prescribed in § 59.1-411.

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

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

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

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

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

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

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

208 B. In accordance with § 17.1-281, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A
209 18 if applicable, A 20, A 22, A 24, A 26, A 29 and A 31 to be designated for courthouse construction,
210 renovation or maintenance.

211 C. In accordance with § 17.1-278, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A
212 18 if applicable, A 20, A 22, A 24, A 26, A 29 and A 31 to be designated for services provided for the
213 poor, without charge, by a nonprofit legal aid program.

214 D. In accordance with § 42.1-70, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A
215 18 if applicable, A 20, A 22, A 24, A 26, A 29 and A 31 to be designated for public law libraries.

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

218 § 17.1-328. Fees charged by Clerk of Supreme Court.

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

220 1. In every case in which a petition is presented, ~~twenty-five dollars~~ \$50, which shall be collected at
221 the time such petition is presented. *Twenty-five dollars of each fee collected under this section shall be*
222 *apportioned to the Courts Technology Fund established under § 17.1-132.*

223 2. For making and certifying a copy of any record or document in the clerk's office, ten cents per
224 100 words or twenty-five cents per page.

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

228 4. For authentication of any record, document or paper under the seal of the court, fifty cents.

229 5. For copying and certifying any document or paper of less than 250 words, twenty-five cents.

230 6. For administering an oath and entering an order qualifying an attorney to practice in the court, two
231 dollars and fifty cents.

232 7. For certificate of such qualification under seal of the court, one dollar plus the cost of engrossing.

233 8. For entering an order and licensing an attorney from another state, under the reciprocity statute,
234 \$500.

235 9. For a law license certificate under seal of the court and a certificate of qualification under seal of
236 the court, ~~one dollar~~ \$15, which shall be apportioned to the Courts Technology Fund established under
237 § 17.1-132, plus the cost of engrossing.

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

240 § 17.1-329. Disposition of fees of Clerk of Supreme Court.

241 The Clerk of the Supreme Court shall keep an accurate account of all fees and costs collected by
242 him and shall make monthly deposits thereof in a depository, or depositories, approved by the State
243 Treasurer, to the credit of the Commonwealth of Virginia. A report of each deposit shall be promptly
244 submitted to the State Treasurer, and detailed reports thereof shall be made monthly to the State

245 Comptroller. ~~All~~ *Except as provided in § 17.1-328, all* such fees and costs shall be credited by the
246 Comptroller to the general fund of the state treasury.

247 § 17.1-418. Fees charged by Clerk of the Court of Appeals.

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

249 1. For filing a notice of appeal or initiating any matter under the original jurisdiction of the court,
250 ~~twenty-five dollars~~ \$50 payable by check or money order to the Clerk of the Court of Appeals.

251 *Twenty-five dollars of each fee collected under this section shall be apportioned to the Courts*
252 *Technology Fund established under § 17.1-132.*

253 2. For making and certifying a copy of any record or document in the Clerk's office, ten cents per
254 100 words or twenty-five cents per page.

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

258 4. For authentication of any record, document or paper under the seal of the Court, fifty cents.

259 5. For copying and certifying any document or paper of less than 250 words, twenty-five cents.

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