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SENATE BILL NO. 446

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on January 23, 2006)

(Patron Prior to Substitute— Senator Devolites Davis)

*A BILL to amend §§ 17.1-275 and 55-218.1 of the Code of Virginia, relating to fee for recording name of registered agent.***Be it enacted by the General Assembly of Virginia:****1. That §§ 17.1-275 and 55-218.1 of the Code of Virginia are amended 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 [Repealed.]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 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 § 2.2-3701. 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 \$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 civil actions that include one or more claims for the award of monetary damages the clerk's
66 fee chargeable to the plaintiff shall be \$50 in cases seeking recovery not exceeding \$50,000, \$100 in
67 cases seeking recovery not exceeding \$100,000, and \$150 in cases seeking recovery exceeding \$100,000.
68 A fee of \$25 shall be paid by the plaintiff at the time of instituting a condemnation case, in lieu of any
69 other fees. There shall be no fee charged for the filing of a cross-claim or setoff in any pending action.
70 However, the fees prescribed by this subdivision shall be charged upon the filing of a counterclaim or a
71 claim impleading a third-party defendant. The fees prescribed above shall be collected upon the filing of
72 papers for the commencement of civil actions. This subdivision shall not be applicable to cases filed in
73 the Supreme Court of Virginia.

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

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

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

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

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

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

97 19., 20. [Repealed.]

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

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

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

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

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

106 26. In all divorce and separate maintenance proceedings, and all civil actions that do not include one
107 or more claims for the award of monetary damages, the clerk's fee chargeable to the plaintiff shall be
108 \$50 to be paid by the plaintiff at the time of instituting the suit, which shall include the furnishing of a
109 duly certified copy of the final decree. The fees prescribed by this subdivision shall be charged upon the
110 filing of a counterclaim or a claim impleading a third-party defendant. However, no fee shall be charged
111 for the filing of a cross-claim or setoff in any pending suit. In divorce cases, when there is a merger of
112 a divorce of separation a mensa et thoro into a decree of divorce a vinculo, the above mentioned fee
113 shall include the furnishing of a duly certified copy of both such decrees.

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

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

121 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~~\$10.

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 §§ 37.2-1001 and 37.2-1013, 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 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.

§ 55-218.1. Appointment of resident agent by nonresident property owner; service of process, etc., on such agent or on Secretary of the Commonwealth.

Any nonresident person as the term "person" is defined in § 55-248.4 of this title of this Commonwealth who owns and leases residential or commercial real property consisting of four or more units within a county or city in this Commonwealth shall have and continuously maintain an agent who is a resident and maintains a business office within this Commonwealth. Every lease executed by or on behalf of nonresident property owners regarding any such real property shall specifically designate such agent and the agent's office address for the purpose of service of any process, notice, order or demand required or permitted by law to be served upon such property owner.

Whenever any nonresident property owner fails to appoint or maintain an agent, as required herein, or whenever his agent cannot with reasonable diligence be found, then the Secretary of the Commonwealth shall be an agent of the nonresident property owner upon whom may be served any process, notice, order or demand. Service may be made on the Secretary or any of his staff at his office who shall forthwith cause it to be sent by registered or certified mail addressed to the property owner at his address as shown on the lease.

The name and office address of the agent appointed as provided herein shall be filed in the office of

183 the clerk of the court in which deeds are recorded in the county or city wherein the property lies.
184 Recordation shall be in the same book as certificates of fictitious names are recorded as provided by
185 § 59.1-74 for which the clerk shall be entitled to a fee of ~~one dollar~~ \$10.
186 No nonresident property owner shall maintain an action in the courts of this Commonwealth
187 concerning property for which a designation is required hereunder until such designation has been filed.