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HOUSE BILL NO. 1550

Offered January 18, 2008

A *BILL to amend and reenact § 16.1-69.48:2 of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 16.1-82.1, relating to service of process.*

 Patron—Peace

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-69.48:2 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 16.1-82.1 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 \$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 \$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. *When no service of process is had on a defendant on either the original attempt or the first reissuance of process, such process may be reissued by the court or clerk at the court's discretion upon payment of the foregoing fee by the person requesting service of process for each additional reissuance.*

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.

§ 16.1-82.1. *When service of process is timely.*

Service of process in an action or suit within 12 months of commencement of the action or suit against a defendant shall be timely as to that defendant. Service of process on a defendant more than 12 months after the suit or action was commenced shall be timely upon a finding by the court that the plaintiff exercised due diligence to have timely service made on the defendant.

INTRODUCED

HB1550