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SENATE BILL NO. 1442

Offered January 19, 2009

A BILL to amend and reenact §§ 17.1-279, 17.1-293, and 17.1-502 of the Code of Virginia, relating to statewide case and financial management systems; interface with circuit courts.

Patron—Stolle

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 17.1-279, 17.1-293, and 17.1-502 of the Code of Virginia are amended and reenacted as follows:

§ 17.1-279. Additional fee to be assessed by circuit court clerks for information technology.

A. In addition to the fees otherwise authorized by this chapter, the clerk of each circuit court shall assess a \$5 fee, known as the "Technology Trust Fund Fee," in each civil action, upon each instrument to be recorded in the deed books, and upon each judgment to be docketed in the judgment lien docket book. Such fee shall be deposited by the State Treasurer into a trust fund. The State Treasurer shall maintain a record of such deposits.

B. Four dollars of every \$5 fee shall be allocated by the Compensation Board from the trust fund for the purposes of: (i) developing and updating individual land records automation plans for individual circuit court clerks' offices; (ii) implementing automation plans to modernize land records in individual circuit court clerks' offices and provide secure remote access to land records throughout the Commonwealth pursuant to § 17.1-294; (iii) obtaining and updating office automation and information technology equipment including software and conversion services; (iv) preserving, maintaining and enhancing court records, including, but not limited to, the costs of repairs, maintenance, land records, consulting services, service contracts, redaction of social security numbers from land records, and system replacements or upgrades; and (v) improving public access to court records. The Compensation Board in consultation with circuit court clerks and other users of court records shall develop and update policies governing the allocation of funds for these purposes. However, such funds shall not be used for personnel costs within the circuit court clerks' offices. The Compensation Board policies governing the allocation of funds shall require that a clerk submit to the Compensation Board a written certification that the clerk's proposed technology improvements of his land records will provide secure remote access to those land records on or before July 1, 2008.

The annual budget submitted by each circuit court clerk pursuant to § 15.2-1636.7 may include a request for technology improvements in the upcoming fiscal year to be allocated by the Compensation Board from the trust fund. Such request shall not exceed the deposits into the trust fund credited to that locality. The Compensation Board shall allocate the funds requested by the clerks in an amount not to exceed the deposits into the trust fund credited to their respective localities.

C. The remaining \$1 of each such fee may be allocated by the Compensation Board from the trust fund (i) for the purposes of funding studies to develop and update individual land-records automation plans for individual circuit court clerks' offices, at the request of and in consultation with the individual circuit court clerk's offices, and (ii) for the purposes enumerated in subsection B to implement the plan to modernize land records in individual circuit court clerks' offices and provide secure remote access to land records throughout the Commonwealth. The allocations pursuant to this subsection may give priority to those individual clerks' offices whose deposits into the trust fund would not be sufficient to implement its modernization plan. The Compensation Board policies governing the allocation of funds shall require that a clerk submit to the Compensation Board a written certification that the clerk's proposed technology improvements of his land records will provide secure remote access to those land records on or before July 1, 2008.

D. 1. Secure remote access to land records shall be by paid subscription service through individual circuit court clerk's offices pursuant to § 17.1-276, or through designated application service providers. Compliance with secure remote access standards developed by the Virginia Information Technologies Agency pursuant to § 17.1-294 shall be certified by the individual circuit court clerks' offices to the Compensation Board. The individual circuit court clerk's office or its designated application service provider shall certify compliance with such secure remote access standards. Nothing in this section shall prohibit the Compensation Board from allocating trust fund money to individual circuit court clerks' offices for the purpose of complying with such secure remote access standards or redaction of social security numbers from land records.

2. If a circuit court clerk proceeds to accelerate the redaction of social security numbers from land

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59 records using local funds, the clerk may request reimbursement for such expenditures from the
60 Technology Trust Fund in accordance with clause (iv) of subsection B to provide reimbursement to the
61 locality for advancing such funds in the fiscal year in which such local expenditures are incurred. For
62 local expenditures to accelerate the redaction of social security numbers from land records incurred in
63 prior fiscal years for which reimbursement has not been previously made, the Compensation Board may
64 approve payment to the locality in accordance with clause (iv) of subsection B upon certification by the
65 locality that it has advanced such funds.

66 3. Every circuit court clerk shall provide secure remote access to land records pursuant to § 17.1-294
67 on or before July 1, 2008.

68 E. Such fee shall not be assessed to any instrument to be recorded in the deed books nor any
69 judgment to be docketed in the judgment lien docket books tendered by any federal, state or local
70 government.

71 F. If a circuit court clerk provides secure remote access to land records on or before July 1, 2008,
72 then that clerk may apply to the Compensation Board for an allocation from the Technology Trust Fund
73 for automation and technology improvements in his office that are not related to land records. *If such*
74 *application includes automation or technology improvements that would require an interface with the*
75 *statewide case management system or the financial management system operated and maintained by the*
76 *Executive Secretary of the Supreme Court, the circuit court clerk, or the court's designated application*
77 *service provider, shall certify to the Compensation Board that such automation or technology*
78 *improvements will interface with the systems operated and maintained by the Executive Secretary of the*
79 *Supreme Court. For purposes of this section and § 17.1-502, "interface" means automation or*
80 *technology improvements of the circuit court clerk that will have the capacity to function with, send*
81 *information to, or receive information from, the statewide case management system or the financial*
82 *management system operated and maintained by the Executive Secretary of the Supreme Court. Such*
83 *request shall not exceed the deposits into the trust fund credited to that locality.*

84 G. Information regarding the technology programs adopted by the circuit court clerks shall be shared
85 with the Virginia Information Technologies Agency, The Library of Virginia, and the Office of the
86 Executive Secretary of the Supreme Court.

87 H. Nothing in this section shall be construed to diminish the duty of local governing bodies to
88 furnish supplies and equipment to the clerks of the circuit courts pursuant to § 15.2-1656. Revenue
89 raised as a result of this section shall in no way supplant current funding to circuit court clerks' offices
90 by local governing bodies.

91 I. Effective July 1, 2006, except for transfers pursuant to this section, there shall be no transfers out
92 of the fund, including transfers to the general fund.

93 § 17.1-293. Posting and availability of certain information on the Internet; prohibitions.

94 A. Notwithstanding Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 or subsection B of this section, it
95 shall be unlawful for any court clerk to disclose the social security number or other identification
96 numbers appearing on driver's licenses or information on credit cards, debit cards, bank accounts, or
97 other electronic billing and payment systems that was supplied to a court clerk for the purpose of paying
98 fees, fines, taxes, or other charges collected by such court clerk. The prohibition shall not apply where
99 disclosure of such information is required (i) to conduct or complete the transaction for which such
100 information was submitted or (ii) by other law or court order.

101 B. Beginning January 1, 2004, no court clerk shall post on the Internet any document that contains
102 the following information: (i) an actual signature, (ii) a social security number, (iii) a date of birth
103 identified with a particular person, (iv) the maiden name of a person's parent so as to be identified with
104 a particular person, (v) any financial account number or numbers, or (vi) the name and age of any minor
105 child.

106 C. Each such clerk shall post notice that includes a list of the documents routinely posted on its
107 website.

108 D. Nothing in this section shall be construed to prohibit access to any original document as provided
109 by law.

110 E. This section shall not apply to the following:

111 1. Providing access to any document among the land records via secure remote access pursuant to
112 § 17.1-294;

113 2. Postings related to legitimate law-enforcement purposes;

114 3. Postings of historical, genealogical, interpretive, or educational documents and information about
115 historic persons and events;

116 4. Postings of instruments and records filed or recorded prior to 1907; and

117 5. Providing secure remote access to any person and his counsel to documents filed in matters to
118 which such person is a party.

119 F. Nothing in this section shall prohibit the Supreme Court or any other court from providing online
120 access to a case management system, *in a manner consistent with the provisions of § 17.1-502*, that may

121 include abstracts of case filings and proceedings in the courts of the Commonwealth.

122 G. The court clerk shall be immune from suit arising from any acts or omissions relating to
123 providing remote access on the Internet pursuant to this section unless the clerk was grossly negligent or
124 engaged in willful misconduct.

125 This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity
126 already existing in statutory or common law, or to affect any cause of action accruing prior to July 1,
127 2005.

128 § 17.1-502. Administrator of circuit court system.

129 The Executive Secretary of the Supreme Court shall be the administrator of the circuit court system,
130 *which shall include responsibility for the operation of maintenance of a statewide case management*
131 *system and financial management system, and related technology improvements, that the Executive*
132 *Secretary shall deem necessary for the administration of the circuit court system. The Executive*
133 *Secretary shall permit an interface, as defined in § 17.1-279, with its statewide case management system,*
134 *financial management system, and related technology improvements, to any circuit court that uses*
135 *automation or technology improvements provided by a private vendor or the locality. The costs of*
136 *designing and implementing any such interface with the systems of the Executive Secretary shall be the*
137 *responsibility of the circuit court clerk. He*The Executive Secretary shall assist the chief judges in the
138 performance of their administrative duties. He may employ such staff and other assistants, from state
139 funds appropriated to him for the purpose, as may be necessary to carry out his duties, and may secure
140 such office space as may be requisite, to be located in an appropriate place to be selected by the
141 Executive Secretary.