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SENATE BILL NO. 258

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 3, 2010)

(Patron Prior to Substitute—Senator Lucas)

*A BILL to amend and reenact § 17.1-275 of the Code of Virginia, relating to fees; funding of clerks' offices.***Be it enacted by the General Assembly of Virginia:****1. That § 17.1-275 of the Code of Virginia is amended and reenacted 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 [Repealed.]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, record, or electronic record to go out of the office, which is not otherwise specifically provided for herein, a fee of \$0.50 for each page or, if an electronic record, each image. 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. 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

60 shall assess a fee for each misdemeanor conviction and each misdemeanor disposition under § 18.2-251,
61 which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and
62 Treatment Fund as provided in § 17.1-275.8.

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

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

78 13a. For the filing of any petition seeking court approval of a settlement where no action has yet
79 been filed, the clerk's fee, chargeable to the petitioner, shall be \$50, to be paid by the petitioner at the
80 time of filing the petition.

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

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

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

91 17. For docketing and indexing a judgment from any other court of this Commonwealth, for
92 docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions of
93 § 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment
94 pursuant to § 8.01-452, a fee of \$5; and for issuing an abstract of any recorded judgment, when proper
95 to do so, a fee of \$5; and for filing, docketing, indexing and mailing notice of a foreign judgment, a fee
96 of \$20.

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

101 19., 20. [Repealed.]

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

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

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

106 24. For all services rendered by the clerk in matters under § 8.01-217 relating to change of name,
107 \$20; however, this subdivision shall not be applicable in cases where the change of name is incident to
108 a divorce.

109 25. For providing court records or documents on microfilm, per frame, \$0.50.

110 26. In all divorce and separate maintenance proceedings, and all civil actions that do not include one
111 or more claims for the award of monetary damages, the clerk's fee chargeable to the plaintiff shall be
112 \$60, \$10 of which shall be apportioned to the Courts Technology Fund established under § 17.1-132 to
113 be paid by the plaintiff at the time of instituting the suit, which shall include the furnishing of a duly
114 certified copy of the final decree. The fees prescribed by this subdivision shall be charged upon the
115 filing of a counterclaim or a claim impleading a third-party defendant. However, no fee shall be charged
116 for the filing of a cross-claim or setoff in any pending suit. In divorce cases, when there is a merger of
117 a divorce of separation a mensa et thoro into a decree of divorce a vinculo, the above mentioned fee
118 shall include the furnishing of a duly certified copy of both such decrees.

119 27. For the acceptance of credit cards in lieu of money to collect and secure all fees, including filing
120 fees, fines, restitution, forfeiture, penalties and costs, the clerk shall collect from the person presenting
121 such credit card a reasonable convenience fee not to exceed 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. For each petition for adoption filed pursuant to § 63.2-1201, except those filed pursuant to subdivisions 5 and 6 of § 63.2-1210, an additional \$50 filing fee as required under § 63.2-1201 shall be deposited in the Putative Father Registry Fund pursuant to § 63.2-1249.

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. [Repealed.]

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 \$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.

F. Effective July 1, 2012, and except for funds apportioned to the Courts Technology Fund established under § 17.1-132, all fees assessed under this section shall be paid to the clerk's office as local fees and deposited by the clerk into a special nonreverting local fund to be used to cover operational expenses of the clerk's office. However, the clerk shall file a report with the Compensation Board along with 20 percent of the gross receipts payable to the Treasurer of Virginia to be held by the Compensation Board in a trust fund. Effective July 1, 2012, except for transfers pursuant to this section, there shall be no transfers out of the Circuit Court Clerks' Trust Fund, including transfers to the general fund. The allocations pursuant to this subsection shall give priority to those individual clerks'

183 *offices whose deposits into the Trust Fund would not be sufficient to cover the operational expenses of*
184 *the clerk's office. Effective January 1, 2013, the funding for clerks' offices under the general fund shall*
185 *be reduced by the amount of local funds deposited by the clerk in the special nonreverting local fund.*
186 *The Compensation Board shall submit a report by September 30 of each year to the House*
187 *Appropriations Committee and the Senate Finance Committee making recommendations as to the clerk's*
188 *fees necessary in order to operate the clerks' offices without general fund appropriations.*