

10105038D

## 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 [Repealed.]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.

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

126 29. For all services rendered, except in cases in which costs are assessed pursuant to § 17.1-275.1,  
127 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  
128 imposed under § 63.2-1246, to be paid by the petitioner or petitioners. For each petition for adoption  
129 filed pursuant to § 63.2-1201, except those filed pursuant to subdivisions 5 and 6 of § 63.2-1210, an  
130 additional \$50 filing fee as required under § 63.2-1201 shall be deposited in the Putative Father Registry  
131 Fund pursuant to § 63.2-1249.

132 30. For issuing a duplicate license for one lost or destroyed as provided in § 29.1-334, a fee in the  
133 same amount as the fee for the original license.

134 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  
135 be paid by the petitioner; and for the recordation of a certificate or copy thereof, as provided for in  
136 § 33.1-122, as well as for any order of the court relating thereto, the clerk shall charge the same fee as  
137 for recording a deed as provided for in this section, to be paid by the party upon whose request such  
138 certificate is recorded or order is entered.

139 32. For making up, certifying and transmitting original record pursuant to the Rules of the Supreme  
140 Court, including all papers necessary to be copied and other services rendered, except in cases in which  
141 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,  
142 or 17.1-275.9, a fee of \$20.

143 33. [Repealed.]

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

146 35. For filing the appointment of a resident agent for a nonresident property owner in accordance  
147 with § 55-218.1, a fee of \$10.

148 36. [Repealed.]

149 37. For recordation of certificate and registration of names of nonresident owners in accordance with  
150 § 59.1-74, a fee of \$10.

151 38. For maintaining the information required under the Overhead High Voltage Line Safety Act  
152 (§ 59.1-406 et seq.), the fee as prescribed in § 59.1-411.

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

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

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

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

160 43. For filing a petition as provided in §§ 37.2-1001 and 37.2-1013, the fee shall be \$10.

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

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

165 B. In accordance with § 17.1-281, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A  
166 18 if applicable, A 20, A 22, A 24, A 26, A 29 and A 31 to be designated for courthouse construction,  
167 renovation or maintenance.

168 C. In accordance with § 17.1-278, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A  
169 18 if applicable, A 20, A 22, A 24, A 26, A 29 and A 31 to be designated for services provided for the  
170 poor, without charge, by a nonprofit legal aid program.

171 D. In accordance with § 42.1-70, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A  
172 18 if applicable, A 20, A 22, A 24, A 26, A 29 and A 31 to be designated for public law libraries.

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

175 F. *Effective July 1, 2012, and except for funds apportioned to the Courts Technology Fund*  
176 *established under § 17.1-132, all fees assessed under this section shall be paid to the clerk's office as*  
177 *local fees and deposited by the clerk into a special nonreverting local fund to be used to cover*  
178 *operational expenses of the clerk's office. However, the clerk shall file a report with the Compensation*  
179 *Board along with 20 percent of the gross receipts payable to the Treasurer of Virginia to be held by the*  
180 *Compensation Board in a trust fund. Effective July 1, 2012, except for transfers pursuant to this section,*  
181 *there shall be no transfers out of the Circuit Court Clerks' Trust Fund, including transfers to the*  
182 *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.*