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## SENATE BILL NO. 329

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice  
on February 8, 2010)

(Patron Prior to Substitute—Senator Stuart)

*A BILL to amend and reenact §§ 16.1-77, 16.1-69.48:2, and 17.1-275 of the Code of Virginia, relating to court fees; jurisdictional limits.***Be it enacted by the General Assembly of Virginia:****1. That §§ 16.1-77, 16.1-69.48:2, and 17.1-275 of the Code of Virginia are amended and reenacted as follows:**

§ 16.1-77. (Effective until July 1, 2010) Civil jurisdiction of general district courts.

Except as provided in Article 5 (§ 16.1-122.1 et seq.) of this chapter, each general district court shall have, within the limits of the territory it serves, civil jurisdiction as follows:

(1) Exclusive original jurisdiction of any claim to specific personal property or to any debt, fine or other money, or to damages for breach of contract or for injury done to property, real or personal, or for any injury to the person that would be recoverable by action at law or suit in equity, when the amount of such claim does not exceed \$4,500 exclusive of interest and any attorney's fees contracted for in the instrument, and concurrent jurisdiction with the circuit courts having jurisdiction in such territory of any such claim when the amount thereof exceeds \$4,500 but does not exceed ~~\$15,000~~ \$25,000, exclusive of interest and any attorney's fees contracted for in the instrument. However, this ~~\$15,000~~ \$25,000 limit shall not apply with respect to distress warrants under the provisions of § 55-230, cases involving liquidated damages for violations of vehicle weight limits pursuant to § 46.2-1135, nor cases involving forfeiture of a bond pursuant to § 19.2-143.

(2) Jurisdiction to try and decide attachment cases when the amount of the plaintiff's claim does not exceed ~~\$15,000~~ \$25,000 exclusive of interest and any attorney's fees contracted for in the instrument.

(3) Jurisdiction of actions of unlawful entry or detainer as provided in Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01, and in Chapter 13 (§ 55-217 et seq.) of Title 55, and the maximum jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim or cross-claim in an action for damages sustained or rent proved to be owing where the premises were used by the occupant primarily for business, commercial or agricultural purposes. Any counter-claim or cross-claim shall arise out of the same use of the property for business, commercial or agricultural purposes.

(4) Except where otherwise specifically provided, all jurisdiction, power and authority over any civil action or proceeding conferred upon any general district court judge or magistrate under or by virtue of any provisions of the Code of Virginia.

(5) Jurisdiction to try and decide suits in interpleader involving personal property where the amount of money or value of the property is not more than the maximum jurisdictional limits of the general district court. The action shall be brought in accordance with the procedures for interpleader as set forth in § 8.01-364. However, the general district court shall not have any power to issue injunctions. Actions in interpleader may be brought by either the stakeholder or any of the claimants. The initial pleading shall be either by motion for judgment or by warrant in debt. The initial pleading shall briefly set forth the circumstances of the claim and shall name as defendant all parties in interest who are not parties plaintiff.

(6) Jurisdiction to try and decide any cases pursuant to § 2.2-3713 of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) or § 2.2-3809 of the Government Data Collection and Dissemination Practices Act, for writs of mandamus or for injunctions.

(7) Concurrent jurisdiction with the circuit courts having jurisdiction in such territory to adjudicate habitual offenders pursuant to the provisions of Article 9 (§ 46.2-355.1 et seq.) of Chapter 3 of Title 46.2.

(8) Jurisdiction to try and decide cases alleging a civil violation described in § 18.2-76.

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67 of Chapter 3 of Title 8.01, and in Chapter 13 (§ 55-217 et seq.) of Title 55, and the maximum  
68 jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim or  
69 cross-claim in an unlawful detainer action that includes a claim for damages sustained or rent against  
70 any person obligated on the lease proved to be owing where the premises were used by the occupant  
71 primarily for business, commercial or agricultural purposes. Any counter-claim or cross-claim shall arise  
72 out of the same use of the property for business, commercial or agricultural purposes.

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74 action or proceeding conferred upon any general district court judge or magistrate under or by virtue of  
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88 habitual offenders pursuant to the provisions of Article 9 (§ 46.2-355.1 et seq.) of Chapter 3 of Title  
89 46.2.

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91 § 16.1-69.48:2. Fees for services of district court judges and clerks and magistrates in civil cases.

92 Fees in civil cases for services performed by the judges or clerks of general district courts or  
93 magistrates in the event any such services are performed by magistrates in civil cases shall be as  
94 provided in this section, and, unless otherwise provided, shall be included in the taxed costs and shall  
95 not be refundable, except in case of error or as herein provided.

96 For all court and magistrate services in each ~~distress, detinue, interrogatory summons, unlawful~~  
97 ~~detainer, civil warrant, notice of motion, garnishment, attachment issued, or other civil proceeding to~~  
98 ~~enforce a judgment,~~ the fee shall be \$22 for the period between July 1, 2006, and December 31, 2006,  
99 and \$27 thereafter unless otherwise provided in this section, or if the amount in controversy is \$200 or  
100 less, then the fee shall be \$22. ~~For all court and magistrate services in each distress, detinue, unlawful~~  
101 ~~detainer, civil warrant, notice of motion, or other civil proceeding, the fee shall be \$37.50.~~ No such fee  
102 shall be collected (i) in any tax case instituted by any county, city or town or (ii) in any case instituted  
103 by a school board for collection of overdue book rental fees. Of the fees collected under this section, \$5  
104 \$10 of the fee collected for all court and magistrate services in each distress, detinue, interrogatory  
105 summons, unlawful detainer, civil warrant, notice of motion, garnishment, attachment issued, or other  
106 civil proceeding in excess of \$200 shall be apportioned to the Courts Technology Fund established  
107 under § 17.1-132 for the period between July 1, 2006, and December 31, 2006, and \$10 thereafter. Of  
108 any fees collected for these services where the amounts in controversy equal \$200 or less, \$10 from any  
109 such fees collected shall be apportioned to the Courts Technology Fund established under § 17.1-132.

110 The judge or clerk shall collect the foregoing fee at the time of issuing process. Any magistrate or  
111 other issuing officer shall collect the foregoing fee at the time of issuing process, and shall remit the  
112 entire fee promptly to the court to which such process is returnable, or to its clerk. When no service of  
113 process is had on a defendant named in any civil process other than a notice of motion for judgment,  
114 such process may be reissued once by the court or clerk at the court's direction by changing the return  
115 day of such process, for which service by the court or clerk there shall be no charge; however,  
116 reissuance of such process shall be within three months after the original return day.

117 The clerk of any district court may charge a fee for making a copy of any paper of record to go out  
118 of his office which is not otherwise specifically provided for. The amount of this fee shall be set in the  
119 discretion of the clerk but shall not exceed \$1 for the first two pages and \$0.50 for each page thereafter.

120 The fees prescribed in this section shall be the only fees charged in civil cases for services  
121 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.

§ 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 shall assess a fee for each misdemeanor conviction and each misdemeanor 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 as provided in § 17.1-275.8.

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

13. In all civil actions that include one or more claims for the award of monetary damages, the clerk's fee chargeable to the plaintiff shall be \$60 \$250 in cases seeking recovery not exceeding \$50,000, \$10 of which shall be apportioned to the Courts Technology Fund established under § 17.1-132; \$110 in cases seeking recovery not exceeding \$100,000, \$10 of which shall be apportioned

183 to the Courts Technology Fund established under § 17.1-132; ~~\$1 million~~ and ~~\$160~~ \$500 in cases seeking  
184 recovery exceeding \$100,000, ~~\$10 of which \$1 million~~. *Ten dollars of each of the fees collected under*  
185 *this subsection* shall be apportioned to the Courts Technology Fund established under § 17.1-132. A fee  
186 of \$25 shall be paid by the plaintiff at the time of instituting a condemnation case, in lieu of any other  
187 fees. There shall be no fee charged for the filing of a cross-claim or setoff in any pending action.  
188 However, the fees prescribed by this subdivision shall be charged upon the filing of a counterclaim or a  
189 claim impleading a third-party defendant. The fees prescribed above shall be collected upon the filing of  
190 papers for the commencement of civil actions. This subdivision shall not be applicable to cases filed in  
191 the Supreme Court of Virginia.

192 13a. For the filing of any petition seeking court approval of a settlement where no action has yet  
193 been filed, the clerk's fee, chargeable to the petitioner, shall be \$50, to be paid by the petitioner at the  
194 time of filing the petition.

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

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

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

205 17. For docketing and indexing a judgment from any other court of this Commonwealth, for  
206 docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions of  
207 § 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment  
208 pursuant to § 8.01-452, a fee of \$5; and for issuing an abstract of any recorded judgment, when proper  
209 to do so, a fee of \$5; and for filing, docketing, indexing and mailing notice of a foreign judgment, a fee  
210 of \$20.

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

215 19., 20. [Repealed.]

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

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

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

220 24. For all services rendered by the clerk in matters under § 8.01-217 relating to change of name,  
221 \$20; however, this subdivision shall not be applicable in cases where the change of name is incident to  
222 a divorce.

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

224 26. In all divorce and separate maintenance proceedings, and all civil actions that do not include one  
225 or more claims for the award of monetary damages, the clerk's fee chargeable to the plaintiff shall be  
226 \$60, \$10 of which shall be apportioned to the Courts Technology Fund established under § 17.1-132 to  
227 be paid by the plaintiff at the time of instituting the suit, which shall include the furnishing of a duly  
228 certified copy of the final decree. The fees prescribed by this subdivision shall be charged upon the  
229 filing of a counterclaim or a claim impleading a third-party defendant. However, no fee shall be charged  
230 for the filing of a cross-claim or setoff in any pending suit. In divorce cases, when there is a merger of  
231 a divorce of separation a mensa et thoro into a decree of divorce a vinculo, the above mentioned fee  
232 shall include the furnishing of a duly certified copy of both such decrees.

233 27. For the acceptance of credit cards in lieu of money to collect and secure all fees, including filing  
234 fees, fines, restitution, forfeiture, penalties and costs, the clerk shall collect from the person presenting  
235 such credit card a reasonable convenience fee not to exceed four percent of the amount paid.

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

240 29. For all services rendered, except in cases in which costs are assessed pursuant to § 17.1-275.1,  
241 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  
242 imposed under § 63.2-1246, to be paid by the petitioner or petitioners. For each petition for adoption  
243 filed pursuant to § 63.2-1201, except those filed pursuant to subdivisions 5 and 6 of § 63.2-1210, an  
244 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.

**2. That the fee increases under the provisions of § 16.1-69.48:2 of the Code of Virginia shall be allocated by the Compensation Board exclusively to fund sheriffs' offices.**

**3. That 85 percent of the fee increases provided for under the provisions of § 17.1-275 of the Code of Virginia shall be allocated by the Compensation Board exclusively to fund sheriffs' offices; and that 15 percent of the fee increases provided for under the provisions of § 17.1-275 of the Code of Virginia shall be allocated by the Compensation Board exclusively to fund offices of the attorneys for the Commonwealth.**