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**HOUSE BILL NO. 1716**

Offered January 9, 2013

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*A BILL to amend and reenact §§ 17.1-275, 17.1-295, and 17.1-502 of the Code of Virginia, relating to clerks' fees; case management systems, etc.*

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Patron—Iaquinto

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Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 17.1-275, 17.1-295, and 17.1-502 of the Code of Virginia are 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 [Repealed.]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. For recording an order to celebrate the rites of marriage pursuant to § 20-25, \$25 to be paid by the petitioner.

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

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59 shall assess a fee of \$150 for each felony conviction and each felony disposition under § 18.2-251 which  
60 shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and  
61 Treatment Fund.

62 11. In any case in which a person is convicted of a violation of any provision of Article 1  
63 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk  
64 shall assess a fee for each misdemeanor conviction and each misdemeanor disposition under § 18.2-251,  
65 which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and  
66 Treatment Fund as provided in § 17.1-275.8.

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

70 13. In all civil actions that include one or more claims for the award of monetary damages the clerk's  
71 fee chargeable to the plaintiff shall be \$100 in cases seeking recovery not exceeding \$49,999; \$200 in  
72 cases seeking recovery exceeding \$49,999, but not exceeding \$100,000; \$250 in cases seeking recovery  
73 exceeding \$100,000, but not exceeding \$500,000; and \$300 in cases seeking recovery exceeding  
74 \$500,000. Ten dollars of each such fee shall be apportioned to the Courts Technology Fund established  
75 under § 17.1-132. A fee of \$25 shall be paid by the plaintiff at the time of instituting a condemnation  
76 case, in lieu of any other fees. There shall be no fee charged for the filing of a cross-claim or setoff in  
77 any pending action. However, the fees prescribed by this subdivision shall be charged upon the filing of  
78 a counterclaim or a claim impleading a third-party defendant. The fees prescribed above shall be  
79 collected upon the filing of papers for the commencement of civil actions. This subdivision shall not be  
80 applicable to cases filed in the Supreme Court of Virginia.

81 13a. For the filing of any petition seeking court approval of a settlement where no action has yet  
82 been filed, the clerk's fee, chargeable to the petitioner, shall be \$50, to be paid by the petitioner at the  
83 time of filing the petition.

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

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

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

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

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

104 19, 20. [Repealed.]

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

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

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

109 24. For all services rendered by the clerk in matters under § 8.01-217 relating to change of name,  
110 \$20; however, this subdivision shall not be applicable in cases where the change of name is incident to  
111 a divorce.

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

113 26. In all divorce and separate maintenance proceedings, and all civil actions that do not include one  
114 or more claims for the award of monetary damages, the clerk's fee chargeable to the plaintiff shall be  
115 \$60, \$10 of which shall be apportioned to the Courts Technology Fund established under § 17.1-132 to  
116 be paid by the plaintiff at the time of instituting the suit, which shall include the furnishing of a duly  
117 certified copy of the final decree. The fees prescribed by this subdivision shall be charged upon the  
118 filing of a counterclaim or a claim impleading a third-party defendant. However, no fee shall be charged  
119 for (i) the filing of a cross-claim or setoff in any pending suit or (ii) the filing of a counterclaim or any  
120 other responsive pleading in any annulment, divorce, or separate maintenance proceeding. In divorce

cases, when there is a merger of a divorce of separation a mensa et thoro into a decree of divorce a vinculo, the above mentioned fee shall include the furnishing of a duly certified copy of both such decrees.

27. For the acceptance of credit or debit cards in lieu of money to collect and secure all fees, including filing fees, fines, restitution, forfeiture, penalties and costs, the clerk shall collect from the person presenting such credit or debit card a reasonable convenience fee for the processing of such credit or debit card. Such convenience fee shall not exceed four percent of the amount paid for the transaction or a flat fee of \$2 per transaction. Nothing herein shall be construed to prohibit the clerk from outsourcing the processing of credit and debit card transactions to a third-party private vendor engaged by the clerk.

28. For the return of any check unpaid by the financial institution on which it was drawn or notice is received from the credit or debit card issuer that payment will not be made for any reason, the clerk shall collect, if allowed by the court, a fee of \$50 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. (Effective until October 1, 2012) For lodging, indexing and preserving a will in accordance with § 64.1-56, a fee of \$2.

39. (Effective October 1, 2012) For lodging, indexing and preserving a will in accordance with § 64.2-409, 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. (Effective until October 1, 2012) For filing a petition as provided in §§ 37.2-1001 and 37.2-1013, the fee shall be \$10.

43. (Effective October 1, 2012) For filing a petition as provided in §§ 64.2-2001 and 64.2-2013, 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,

182 renovation or maintenance.

183 C. In accordance with § 17.1-278, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A  
184 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for services provided for the  
185 poor, without charge, by a nonprofit legal aid program.

186 D. In accordance with § 42.1-70, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A  
187 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for public law libraries.

188 E. All fees collected pursuant to subdivision A 27 and § 17.1-276 shall be deposited by the clerk  
189 into a special revenue fund held by the clerk, which will restrict the funds to their statutory purpose.

190 F. *If a circuit court clerk has established and is maintaining his own case management system or*  
191 *financial management system using automation or technology improvements provided by a private*  
192 *vendor or the locality pursuant to subsection B of § 17.1-502, such clerk may retain for the clerk's*  
193 *nonreverting local fund 50 percent of the fees collected pursuant to this section for the Courts*  
194 *Technology Fund established under § 17.1-132. Such fees shall be paid into the clerk's office and*  
195 *deposited by the clerk into the clerk's nonreverting local fund to be used to cover operational expenses*  
196 *as defined in § 17.1-295.*

197 G. The provisions of this section shall control the fees charged by clerks of circuit courts for the  
198 services above described.

199 **§ 17.1-295. Definitions.**

200 As used in this title:

201 "Electronic recording of land records" means the networks or systems maintained by a clerk of the  
202 circuit court, or the clerk's designated application services providers, for the submittal of instruments for  
203 electronic filing of land records in accordance with the Uniform Real Property Electronic Recording Act  
204 (§ 55-142.10 et seq.) and the provisions of Article 2.1 (§ 55-66.8 et seq.) of Chapter 4 of Title 55  
205 regarding the satisfaction of mortgages.

206 "Operational expenses" means expenses of the clerk of court used to maintain the clerk's office and  
207 includes (i) computer support, maintenance, enhancements, upgrades, and replacements and office  
208 automation and information technology equipment, including software and conversion services; (ii)  
209 preserving, maintaining, and enhancing court records, including the costs of repairs, maintenance,  
210 consulting services, service contracts, redaction of social security numbers from certain records, and  
211 system replacements of upgrades; and (iii) improving public access to records maintained by the clerk,  
212 including locating technology in an offsite facility for such purposes or for implementation of a disaster  
213 recovery plan.

214 "Public access" means that the clerk of the circuit court has made available to subscribers that are  
215 other than governmental agencies, secure remote access to land records maintained by the clerk in  
216 accordance with § 17.1-294.

217 "Secure remote access" means public access by electronic means on a network or system to land  
218 records maintained by the clerk of the circuit court or the clerk's designated application service  
219 providers, in compliance with the Secure Remote Access Standards developed by the Virginia  
220 Information Technologies Agency.

221 "Subscriber" means any person who has entered into a subscriber agreement with the clerk of the  
222 circuit court authorizing the subscriber to have secure remote access to land records *or remote access to*  
223 *court records* maintained by the clerk or the clerk's designated application services providers. If the  
224 subscriber is an entity with more than one person who will use the network or system to access land  
225 records maintained by the clerk, or the clerk's designated application services providers, each individual  
226 user shall execute a subscriber agreement and obtain a separate "user id" and "password" from the clerk.  
227 The subscriber is responsible for the fees due under this title and the proper use of the secure remote  
228 access system pursuant to the subscriber agreement, applicable Virginia law, and Secure Remote Access  
229 Standards developed by the Virginia Information Technologies Agency.

230 **§ 17.1-502. Administrator of circuit court system.**

231 A. The Executive Secretary of the Supreme Court shall be the administrator of the circuit court  
232 system, which ~~shall include responsibility for~~ *includes* the operation and maintenance of a case  
233 management system and financial management system, and related technology improvements; ~~that the~~  
234 ~~Executive Secretary shall deem necessary for the administration of the circuit court system. The~~.

235 B. *Any circuit court clerk may establish and maintain his own case management system, financial*  
236 *management system, or other independent technology using automation or technology improvements*  
237 *provided by a private vendor or the locality. Any data from the clerk's independent system may be*  
238 *provided directly from such clerk to designated state agencies. An electronic interface to such data shall*  
239 *be made available by the Executive Secretary and the cost of any such interface shall be paid by the*  
240 *Executive Secretary from the Courts Technology Fund established under § 17.1-132.*

241 C. *Where data is maintained on technology systems operated by the Executive Secretary, the*  
242 *Executive Secretary shall permit provide an electronic interface with the his case management system,*  
243 *financial management system, and related or other technology improvements for the purpose of*

244 providing electronic information to state agencies, upon *written* request of any circuit court that uses  
245 automation or technology improvements provided by a private vendor or the locality clerk. The circuit  
246 court clerk and the clerk's designated application service provider shall comply with the *any* security and  
247 data standards established by the Executive Secretary for any such *electronic* interface between a case  
248 management or financial management system operated by a circuit court clerk and the systems of the  
249 Executive Secretary that may exist at the time of the written request by the circuit court clerk. The  
250 Executive Secretary shall establish security and data standards for *any* such *interface electronic*  
251 *interfaces* on or before June 30, 2013, and such standards shall be consistent with the policies,  
252 standards, and guidelines established pursuant to § 2.2-2009.

253 D. The costs of designing, implementing, and maintaining any such interface with the systems of the  
254 Executive Secretary shall be the responsibility of the circuit court clerk. Any reasonable expenses  
255 incurred within the office of the Executive Secretary related to the operation and maintenance of such  
256 interfaces with the case management system and financial management system shall be reimbursed  
257 through the Technology Trust Fund established pursuant to subsection A of § 17.1-279. Prior to  
258 incurring any costs, the Office of the Executive Secretary shall provide the circuit court clerk a written  
259 explanation and amount of the expenses for reimbursement from the Compensation Board, notify the  
260 circuit court clerk of the amount being requested for reimbursement and an explanation of the expenses  
261 incurred, and enter into a written contract with the clerk to provide such services paid for by the  
262 Executive Secretary from the Courts Technology Fund established under § 17.1-132.

263 E. The Executive Secretary shall assist the chief judges in the performance of their administrative  
264 duties. He may employ such staff and other assistants, from state funds appropriated to him for the  
265 purpose, as may be necessary to carry out his duties, and may secure such office space as may be  
266 requisite, to be located in an appropriate place to be selected by the Executive Secretary.