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HOUSE BILL NO. 2196

Offered January 20, 1999

A BILL to amend and reenact § 17.1-275 of the Code of Virginia, relating to fees collected by clerks of the circuit courts, generally.

Patron—McDonnell

Referred to Committee for Courts of Justice

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. When a writing is admitted to record under Chapter 2 (§ 17.1-200 et seq.) of this title, or Chapter 5 (§ 55-80 et seq.) or Chapter 6 (§ 55-106 et seq.) of Title 55, for everything relating to it, except the recording in the proper book; for receiving proof of acknowledgments, entering orders, endorsing clerk's certificate, and when required, embracing it in a list for the commissioner of the revenue, one dollar.

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, thirteen dollars, including the fee of one dollar set forth in subdivision A 1 for up to four pages and one dollar for each page over four pages, and for recording plats too large to be recorded in the deed books, and for each sheet thereof, thirteen dollars. This fee shall be in addition to the fee for recording a deed or other instrument recorded in conjunction with such plat sheet or sheets including the fee of one dollar set forth in subdivision A 1. 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. In addition, a fee of one dollar shall be charged for indexing any document for each name indexed exceeding a total of ten in number. One dollar 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, twenty dollars for estates not exceeding \$50,000, twenty-five dollars for estates not exceeding \$100,000 and thirty dollars 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, ten dollars.

5. For issuing a marriage license, attaching certificate, administering or receiving all necessary oaths or affidavits, indexing and recording, ten dollars.

6. For making out any bond, other than those under § 17.1-267 or subdivision A 4 of this section, administering all necessary oaths and writing proper affidavits, three dollars.

7. For ~~issuing any execution, and recording the return thereof, \$1.50~~ and for all services rendered by the clerk in any garnishment or attachment proceeding, the clerk's fee shall be fifteen dollars in cases not exceeding \$500 and twenty-five dollars in all other cases.

8. For making out a copy of any paper or record to go out of the office, which is not otherwise specifically provided for, a fee of fifty cents for each page. 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 two dollars and for attaching the certificate of the judge, if the clerk is requested to do so, the clerk shall charge an additional fifty cents.

10. a. Upon conviction in felony cases or when a felony defendant's suspension of sentence and probation is revoked pursuant to § 19.2-306, other than a revocation for failure to pay prior court costs, the clerk shall charge the defendant thirty-six dollars in each case, one dollar of which shall be forwarded to the State Treasurer for deposit in the Regional Criminal Justice Academy Training Fund as provided in § 9-178.2, to be used for financial support of the regional criminal justice training academies.

b. In addition, in each 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, the clerk shall assess (i) a fee of \$100 for each felony conviction and each felony disposition under § 18.2-251 and (ii) a fee of \$100 per case for any forensic laboratory analysis performed for use in prosecution of such violation. Such fees shall be taxed as costs

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60 to the defendant and shall be paid into the general fund of the state treasury.

61 c. In addition, in all felony cases, including the revocation of suspension of sentence and probation
62 held pursuant to § 19.2-306, other than a revocation for failure to pay prior court costs, the clerk shall
63 collect and tax as costs (i) the expense of reporting or recording the trial or hearing in an amount equal
64 to the per diem charges of the reporter or reasonable charge attributable to the cost of operating the
65 mechanical or electronic devices in accordance with § 19.2-165, (ii) a fee of two dollars and fifty cents
66 per charge, (iii) the fees of the attorney for the Commonwealth as provided for in § 15.2-1627.3, (iv) the
67 compensation of court-appointed counsel as provided in § 19.2-163, (v) the fees of the public defenders
68 as provided for in § 19.2-163.2, (vi) the additional costs per charge imposed under § 19.2-368.18 to be
69 deposited into the Criminal Injuries Compensation Fund, and (vii) in any court of record in which
70 electronic devices are used for the purpose of recording testimony, a sum not to exceed twenty dollars
71 for each day or part of a day of the trial to be paid by the clerk into a special fund to be used for the
72 purpose of repairing, replacing or supplementing such electronic devices, or if a sufficient amount is
73 available, to pay the purchase price of such devices in whole or in part. For the purpose of this
74 subdivision, repairing shall include maintenance or service contracts.

75 d. In addition, a fee of twelve dollars shall be charged to a defendant found guilty in a criminal case
76 in the circuit court as costs for (i) serving a warrant or summons other than on a witness when no arrest
77 is made or (ii) making an arrest on a felony or misdemeanor charge, when such services are provided by
78 the sheriff.

79 11. a. Upon conviction in misdemeanor cases, the clerk shall charge the defendant twenty-six dollars
80 in each case. Sums shall be collected for and paid to the benefit of the Virginia Crime Victim-Witness
81 Fund as provided for in § 19.2-11.3 and one dollar of the amount collected hereunder shall be forwarded
82 to the State Treasurer for deposit in the Regional Criminal Justice Academy Training Fund as provided
83 in § 9-178.2, to be used for financial support of the regional criminal justice training academies,
84 irrespective of whether the defendant was convicted of a misdemeanor chargeable under the Code of
85 Virginia or pursuant to a local ordinance.

86 b. In addition, in each case in which a person is convicted of a violation of any provision of Article
87 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the clerk shall assess (i) a fee of fifty dollars for each
88 misdemeanor conviction and (ii) a fee of \$100 per case for any forensic laboratory analysis performed
89 for use in prosecution of such violation. Such fees shall be taxed as costs to the defendant and shall be
90 paid into the general fund of the state treasury.

91 c. In addition, for each misdemeanor case the clerk shall collect and tax as costs (i) the fees of the
92 attorneys for the Commonwealth as provided for in § 15.2-1627.3, (ii) the compensation of
93 court-appointed counsel as provided in § 19.2-163, (iii) the fees of the public defenders as provided for
94 in § 19.2-163.2, (iv) the additional costs imposed under § 19.2-368.18 to be deposited into the Criminal
95 Injuries Compensation Fund, and (v) in any court in which electronic devices are used for the purpose
96 of recording testimony, a sum not to exceed five dollars for each day or part of a day of the trial to be
97 paid by the clerk into a special fund to be used for the purpose of repairing, replacing or supplementing
98 such electronic devices, or if a sufficient amount is available, to pay the purchase price of such devices
99 in whole or in part. For the purpose of this subdivision, repairing shall include maintenance or service
100 contracts.

101 d. In addition, a fee of twelve dollars shall be charged to a defendant found guilty in a criminal case
102 in the circuit court as costs for (i) serving a warrant or summons other than on a witness when no arrest
103 is made or (ii) making an arrest on a felony or misdemeanor charge, when such services are provided by
104 the sheriff.

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

108 13. In all actions at law the clerk's fee chargeable to the plaintiff shall be fifty dollars in cases not
109 exceeding \$50,000, \$100 in cases not exceeding \$100,000, and \$150 in cases exceeding \$100,000; and
110 in condemnation cases, a fee of twenty-five dollars, to be paid by the plaintiff at the time of instituting
111 the action, this fee to be in lieu of any other fees. There shall be no fee charged for the filing of a
112 cross-claim or setoff in any pending action. However, the fees prescribed by this subdivision shall be
113 charged upon the filing of a counterclaim. The fees prescribed above shall be collected upon the filing
114 of papers for the commencement of civil actions. This subdivision shall not be applicable to cases filed
115 in the Supreme Court of Virginia.

116 14. In addition to the fees chargeable for actions at law, for the costs of proceedings for judgments
117 by confession under §§ 8.01-432 through 8.01-440, the clerk shall tax as costs (i) the cost of registered
118 or certified mail, (ii) the statutory writ tax, in the amount required by law to be paid on a suit for the
119 amount of the confessed judgment, (iii) for the sheriff for serving each copy of the order entering
120 judgment, twelve dollars, and (iv) for docketing the judgment and issuing executions thereon, the same
121 fees as prescribed in subdivision A 17.

15. For qualifying notaries public, including the making out of the bond and any copies thereof, administering the necessary oaths, and entering the order, ten dollars.

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

17. For docketing and indexing a judgment from any other court of this Commonwealth, for docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions of § 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment pursuant to § 8.01-452, a fee of five dollars; and for issuing an abstract of any recorded judgment, when proper to do so, a fee of five dollars; and for filing, docketing, indexing and mailing notice of a foreign judgment, a fee of twenty dollars.

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

19. For receiving and processing an application for a tax deed, ten dollars.

20. For all services rendered by the clerk in any condemnation proceeding instituted by the Commonwealth, twenty-five dollars.

21. For making the endorsements on a forthcoming bond and recording the matters relating to such bond pursuant to the provisions of § 8.01-529, one dollar.

22. For all services rendered by the clerk in any proceeding pursuant to § 57-8 or § 57-15, ten dollars.

23. For preparation and issuance of a subpoena duces tecum ~~or a summons for interrogation by an execution creditor~~, five dollars.

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

25. For providing court records or documents on microfilm, per frame, ten cents.

26. In all chancery causes, the clerk's fee chargeable to the plaintiff shall be fifty dollars to be paid by the plaintiff at the time of instituting the suit, which shall include the furnishing of a duly certified copy of the final decree. However, no fee shall be charged for the filing of a cross-bill in any pending suit. 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 cards in lieu of money to collect and secure all fees, fines, restitution, forfeiture, penalties and costs in accordance with § 19.2-353.3, the clerk shall collect a service charge of 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 twenty dollars or ten percent of the amount to be paid, whichever is greater, in accordance with § 19.2-353.3.

29. For all services rendered in an adoption proceeding, a fee of twenty dollars, in addition to the fee imposed under § 63.1-236.1, to be paid by the petitioner or petitioners.

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 five dollars 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, a fee of twenty dollars.

33. For issuance of hunting and trapping permits in accordance with § 10.1-1154, twenty-five cents.

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 one dollar.

36. For filing power of attorney for service of process, or resignation or revocation thereof, in accordance with § 59.1-71, a fee of twenty-five cents.

37. For recordation of certificate and registration of names of nonresident owners in accordance with § 59.1-74, a fee of ten dollars.

38. For maintaining the information required under the Overhead High Voltage Line Safety Act

183 (§ 59.1-406 et seq.), the fee as prescribed in § 59.1-411.

184 39. For lodging, indexing and preserving a will in accordance with § 64.1-56, a fee of two dollars.

185 40. For filing a financing statement in accordance with § 8.9-403, the fee shall be as prescribed
186 under that section.

187 41. For filing a termination statement in accordance with § 8.9-404, the fee shall be as prescribed
188 under that section.

189 42. For filing assignment of security interest in accordance with § 8.9-405, the fee shall be as
190 prescribed under that section.

191 43. For filing a petition as provided in §§ 37.1-134.7 and 37.1-134.17, the fee shall be ten dollars.

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

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

196 B. In accordance with § 17.1-281, the clerk shall collect fees under subdivisions A 7, 10, 11, 13, 16,
197 18 if applicable, 20, 22, 24, 26, 29, and 31 to be designated for courthouse construction, renovation or
198 maintenance.

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

202 D. In accordance with § 9-178.1, the clerk shall collect fees under subdivisions A 10 and 11 to be
203 designated for the Intensified Drug Enforcement Jurisdiction Fund.

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

206 F. The provisions of this section shall control the fees charged by clerks of circuit courts for the
207 services above described.