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SENATE BILL NO. 816

Offered January 12, 2011

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A *BILL to amend and reenact §§ 16.1-69.48:2, 17.1-275, 17.1-328, and 17.1-418 of the Code of Virginia, relating to fees for civil cases; judicial salaries.*

Patron—McEachin

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-69.48:2, 17.1-275, 17.1-328, and 17.1-418 of the Code of Virginia are amended and reenacted as follows:

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

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

For all court and magistrate services in each distress, detinue, interrogatory summons, unlawful detainer, civil warrant, notice of motion, garnishment, attachment issued, or other civil proceeding, the fee shall be \$30 \$80. No such fee shall be collected (i) in any tax case instituted by any county, city or town or (ii) in any case instituted by a school board for collection of overdue book rental fees. Of the fees collected under this section, \$10 of each such fee collected shall be apportioned to the Courts Technology Fund established under § 17.1-132. *Of the fees collected under this section, \$50 of each such fee collected shall be apportioned to fund judicial salaries under the general appropriations act.*

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

The clerk of any district court may charge a fee for making a copy of any paper of record to go out of his office which is not otherwise specifically provided for. The amount of this fee shall be set in the discretion of the clerk but shall not exceed \$1 for the first two pages and \$.50 for each page thereafter.

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

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59 4. For entering and granting and for issuing any license, other than a marriage license or a hunting
60 and fishing license, and administering an oath when necessary, \$10.

61 5. For issuing a marriage license, attaching certificate, administering or receiving all necessary oaths
62 or affidavits, indexing and recording, \$10.

63 6. For making out any bond, other than those under § 17.1-267 or subdivision A 4, administering all
64 necessary oaths and writing proper affidavits, \$3.

65 7. For all services rendered by the clerk in any garnishment or attachment proceeding, the clerk's fee
66 shall be \$15 in cases not exceeding \$500 and \$25 in all other cases.

67 8. For making out a copy of any paper, record, or electronic record to go out of the office, which is
68 not otherwise specifically provided for herein, a fee of \$0.50 for each page or, if an electronic record,
69 each image. From such fees, the clerk shall reimburse the locality the costs of making out the copies
70 and pay the remaining fees directly to the Commonwealth. The funds to recoup the cost of making out
71 the copies shall be deposited with the county or city treasurer or Director of Finance, and the governing
72 body shall budget and appropriate such funds to be used to support the cost of copies pursuant to this
73 subdivision. For purposes of this section, the costs of making out the copies shall include lease and
74 maintenance agreements for the equipment used to make out the copies, but shall not include salaries or
75 related benefits. The costs of copies shall otherwise be determined in accordance with § 2.2-3704.
76 However, there shall be no charge to the recipient of a final order or decree to send an attested copy to
77 such party.

78 9. For annexing the seal of the court to any paper, writing the certificate of the clerk accompanying
79 it, the clerk shall charge \$2 and for attaching the certificate of the judge, if the clerk is requested to do
80 so, the clerk shall charge an additional \$0.50.

81 10. In any case in which a person is convicted of a violation of any provision of Article 1
82 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk
83 shall assess a fee of \$150 for each felony conviction and each felony disposition under § 18.2-251 which
84 shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and
85 Treatment Fund.

86 11. In any case in which a person is convicted of a violation of any provision of Article 1
87 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk
88 shall assess a fee for each misdemeanor conviction and each misdemeanor disposition under § 18.2-251,
89 which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and
90 Treatment Fund as provided in § 17.1-275.8.

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

94 13. In all civil actions that include one or more claims for the award of monetary damages the clerk's
95 fee chargeable to the plaintiff shall be ~~\$100~~ \$150 in cases seeking recovery not exceeding \$49,999;
96 ~~\$200~~ \$250 in cases seeking recovery exceeding \$49,999, but not exceeding \$100,000; ~~\$250~~ \$300 in
97 cases seeking recovery exceeding \$100,000, but not exceeding \$500,000; and ~~\$300~~ \$350 in cases
98 seeking recovery exceeding \$500,000. Ten dollars of each such fee shall be apportioned to the Courts
99 Technology Fund established under § 17.1-132. *Fifty dollars of each such fee collected shall be*
100 *apportioned to fund judicial salaries under the general appropriations act.* A fee of \$25 shall be paid
101 by the plaintiff at the time of instituting a condemnation case, in lieu of any other fees. There shall be
102 no fee charged for the filing of a cross-claim or setoff in any pending action. However, the fees
103 prescribed by this subdivision shall be charged upon the filing of a counterclaim or a claim impleading
104 a third-party defendant. The fees prescribed above shall be collected upon the filing of papers for the
105 commencement of civil actions. This subdivision shall not be applicable to cases filed in the Supreme
106 Court of Virginia.

107 13a. For the filing of any petition seeking court approval of a settlement where no action has yet
108 been filed, the clerk's fee, chargeable to the petitioner, shall be \$50, to be paid by the petitioner at the
109 time of filing the petition.

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

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

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

120 17. For docketing and indexing a judgment from any other court of this Commonwealth, for

121 docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions of
 122 § 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment
 123 pursuant to § 8.01-452, a fee of \$5; and for issuing an abstract of any recorded judgment, when proper
 124 to do so, a fee of \$5; and for filing, docketing, indexing and mailing notice of a foreign judgment, a fee
 125 of \$20.

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

130 19, 20. [Repealed.]

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

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

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

135 24. For all services rendered by the clerk in matters under § 8.01-217 relating to change of name,
 136 \$20; however, this subdivision shall not be applicable in cases where the change of name is incident to
 137 a divorce.

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

139 26. In all divorce and separate maintenance proceedings, and all civil actions that do not include one
 140 or more claims for the award of monetary damages, the clerk's fee chargeable to the plaintiff shall be
 141 ~~\$60~~ \$110, \$10 of which shall be apportioned to the Courts Technology Fund established under
 142 § 17.1-132 *and \$50 of which shall be apportioned to fund judicial salaries under the general*
 143 *appropriations act* to be paid by the plaintiff at the time of instituting the suit, which shall include the
 144 furnishing of a duly certified copy of the final decree. The fees prescribed by this subdivision shall be
 145 charged upon the filing of a counterclaim or a claim impleading a third-party defendant. However, no
 146 fee shall be charged for the filing of a cross-claim or setoff in any pending suit. In divorce cases, when
 147 there is a merger of a divorce of separation a mensa et thoro into a decree of divorce a vinculo, the
 148 above mentioned fee shall include the furnishing of a duly certified copy of both such decrees.

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

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

156 29. For all services rendered, except in cases in which costs are assessed pursuant to § 17.1-275.1,
 157 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
 158 imposed under § 63.2-1246, to be paid by the petitioner or petitioners. For each petition for adoption
 159 filed pursuant to § 63.2-1201, except those filed pursuant to subdivisions 5 and 6 of § 63.2-1210, an
 160 additional \$50 filing fee as required under § 63.2-1201 shall be deposited in the Putative Father Registry
 161 Fund pursuant to § 63.2-1249.

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

164 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
 165 be paid by the petitioner; and for the recordation of a certificate or copy thereof, as provided for in
 166 § 33.1-122, as well as for any order of the court relating thereto, the clerk shall charge the same fee as
 167 for recording a deed as provided for in this section, to be paid by the party upon whose request such
 168 certificate is recorded or order is entered.

169 32. For making up, certifying and transmitting original record pursuant to the Rules of the Supreme
 170 Court, including all papers necessary to be copied and other services rendered, except in cases in which
 171 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,
 172 or 17.1-275.9, a fee of \$20.

173 33. [Repealed.]

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

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

178 36. [Repealed.]

179 37. For recordation of certificate and registration of names of nonresident owners in accordance with
 180 § 59.1-74, a fee of \$10.

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

182 (§ 59.1-406 et seq.), the fee as prescribed in § 59.1-411.

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

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

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

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

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

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

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

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

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

201 D. In accordance with § 42.1-70, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A
202 18 if applicable, A 20, A 22, A 24, A 26, A 29 and A 31 to be designated for public law libraries.

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

205 § 17.1-328. Fees charged and collected by Clerk of Supreme Court.

206 A. The Clerk of the Supreme Court shall charge the following fees:

207 1. In every case in which a petition is presented, ~~\$50~~ \$100, which shall be collected at the time such
208 petition is presented. Twenty-five dollars of each fee collected under this section shall be apportioned to
209 the Courts Technology Fund established under § 17.1-132. *Fifty dollars of each fee collected under this*
210 *section shall be apportioned to fund judicial salaries under the general appropriations act.*

211 2. For making and certifying a copy of any record or document in the clerk's office, ten cents per
212 100 words or twenty-five cents per page.

213 3. For verifying and certifying any record or document not actually copied by the clerk, one-half of
214 the fee for copying and certifying, which shall not, however, be applied to the certification of a copy of
215 the record in this court which has already been printed.

216 4. For authentication of any record, document or paper under the seal of the court, fifty cents.

217 5. For copying and certifying any document or paper of less than 250 words, twenty-five cents.

218 6. For administering an oath and entering an order qualifying an attorney to practice in the court, two
219 dollars and fifty cents.

220 7. For certificate of such qualification under seal of the court, one dollar plus the cost of engrossing.

221 8. For entering an order and licensing an attorney from another state, under the reciprocity statute,
222 \$500.

223 9. For a law license certificate under seal of the court and a certificate of qualification under seal of
224 the court, ~~\$15~~ \$65, *\$15 of which shall be apportioned to the Courts Technology Fund established under*
225 *§ 17.1-132 and \$50 of which shall be apportioned to fund judicial salaries under the general*
226 *appropriations act*, plus the cost of engrossing.

227 10. For all other services not specifically mentioned above, the same fee as would be charged by a
228 clerk of a circuit court in similar cases.

229 B. The tribunal wherein a motion to associate counsel pro hac vice and an application of an
230 out-of-state lawyer are filed shall collect the fee specified in Rule 1A:4 of the Rules of the Supreme
231 Court and transmit such fee to the Clerk of the Supreme Court, who shall deposit such fee in the Pro
232 Hac Vice Fund established pursuant to § 17.1-205.

233 § 17.1-418. Fees charged by Clerk of the Court of Appeals.

234 The Clerk of the Court of Appeals shall charge the following fees:

235 1. For filing a notice of appeal or initiating any matter under the original jurisdiction of the court,
236 ~~\$50~~ \$100 payable by check or money order to the Clerk of the Court of Appeals. Twenty-five dollars of
237 each fee collected under this section shall be apportioned to the Courts Technology Fund established
238 under § 17.1-132. *Fifty dollars of each fee collected shall be apportioned to fund judicial salaries under*
239 *the general appropriations act.*

240 2. For making and certifying a copy of any record or document in the Clerk's office, ten cents per
241 100 words or twenty-five cents per page.

242 3. For verifying and certifying any record or document not actually copied by the Clerk, one-half of
243 the fee for copying and certifying, which shall not, however, be applied to the certification of a copy of

- 244 the record in the Court which has already been printed.
245 4. For authentication of any record, document or paper under the seal of the Court, fifty cents.
246 5. For copying and certifying any document or paper of less than 250 words, twenty-five cents.
247 6. For all other services not specifically mentioned above, the same fee that would be charged by a
248 clerk of a circuit court in similar cases.

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