

House Bill 1582 (AS PASSED HOUSE AND SENATE)

By: Representatives Walker of the 141st, Dix of the 76th, Squires of the 78th and Bordeaux of the 151st

A BILL TO BE ENTITLED
AN ACT

1 To revise provisions of law relating to the recording of records by clerks of superior court;
2 to amend Article 2 of Chapter 6 of Title 15 of the Official Code of Georgia Annotated,
3 relating to clerks of superior court, so as to change provisions relating to types of records
4 required to be maintained; to change provisions relating to participation in the state-wide
5 uniform automated information system; to provide that clerks shall not be required to refund
6 certain excess sums tendered to them; to amend Code Section 34-8-167 of the Official Code
7 of Georgia Annotated, relating to collection of delinquent employment security contributions,
8 so as to change provisions relating to recording of liens for such delinquent amounts; to
9 amend Article 1 of Chapter 2 of Title 44 of the Official Code of Georgia Annotated, relating
10 to recordation of deeds and other instruments, so as to change provisions relating to
11 recording of such records by clerks; to provide for other related matters; to provide an
12 effective date; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 style="text-align:center">**SECTION 1.**

15 Article 2 of Chapter 6 of Title 15 of the Official Code of Georgia Annotated, relating to
16 clerks of superior court, is amended by striking paragraph (4) of subsection (a) of Code
17 Section 15-6-61, relating to duties of clerks and their records, and inserting in its place a new
18 paragraph to read as follows:

19 "(4) To keep in the clerk's office the following dockets or books:

20 (A) ~~A~~ An automated civil docket case management system which shall contain
21 separate case number entries for all civil actions filed in the office of the clerk,
22 including complaints, proceedings, ~~URES~~ Uniform Interstate Family Support Act
23 actions, domestic relations, contempt actions, motions and modifications on closed civil
24 actions, and all other actions civil in nature except adoptions;

25 (B) ~~A~~ An automated criminal docket case management system which shall contain a
26 summary record of all criminal indictments in which true bills are rendered and all

1 criminal accusations filed in the office of the clerk of superior court. The criminal
 2 ~~docket~~ case management system shall contain entries of other matters of a criminal
 3 nature filed with the clerk, including quasi-civil proceedings and entries of cases which
 4 are ordered dead docketed at the discretion of the presiding judge and which shall be
 5 called only at the judge's pleasure. When a case is thus dead docketed, all witnesses
 6 who may have been subpoenaed therein shall be released from further attendance until
 7 resubpoenaed; and

8 ~~(C) A general execution docket on which may be entered all executions, such docket~~
 9 ~~to be indexed in the name of the judgment debtor;~~

10 ~~(D) A lis pendens docket, in which shall be recorded all notices of lis pendens on real~~
 11 ~~property filed with the clerk, such docket to have direct and reverse indexes;~~

12 ~~(E)~~(C) A docket, file, series of files, book or series of books, microfilm records, or
 13 electronic data base for recording all deeds, liens, executions, lis pendens, maps and
 14 plats, and all or other documents concerning or evidencing title to real or personal
 15 property, where not otherwise specifically provided for; and, When any other law of
 16 this state refers to a general execution docket, lis pendens docket, or attachment docket,
 17 such other law shall be deemed to refer to the docket or other record or records
 18 provided for in this subparagraph;

19 ~~(F) An attachment docket, showing the names of the plaintiff and defendant in~~
 20 ~~attachment, the court to which the attachment is returnable, the amount claimed, and~~
 21 ~~a brief description of the land or other property to be levied on;"~~

22 SECTION 2.

23 Said Article 2 of Chapter 6 of Title 15 is further amended by striking paragraph (15) of
 24 subsection (a) of said Code Section 15-6-61 and inserting in its place a new paragraph to read
 25 as follows:

26 "(15) To participate in the state-wide uniform automated information system for real and
 27 personal property records, as provided for by Code Sections 15-6-97 and 15-6-98, and
 28 any network established by the Georgia Superior Court Clerks' Cooperative Authority
 29 relating to the transmission and retrieval of electronic information concerning real estate
 30 and personal property data for any such information systems established by such
 31 authority so as to provide for public access to real estate and personal property
 32 information, including liens filed pursuant to Code Section 44-2-2 and maps and plats.
 33 Each clerk of the superior court shall provide to the authority or its designated agent in
 34 accordance with the rules and regulations of the authority such real estate information
 35 concerning or evidencing title to real property and such personal property information or
 36 access to such information which is of record in the office of clerk of the superior court

1 and which is necessary to establish and maintain the information system, including
 2 information filed pursuant to Code Section 44-2-2 and maps and plats. Each clerk of the
 3 superior court shall provide and transmit real estate and personal property information
 4 filed in the office of the clerk of superior court, including information required by Code
 5 Section 44-2-2 and maps and plats, to the authority for testing and operation of the
 6 information system at such times and in such form as prescribed by the authority;"

7 **SECTION 3.**

8 Said Article 2 of Chapter 6 of Title 15 is further amended by adding at the end of Code
 9 Section 15-6-77, relating to clerks' fees, a new subsection (n) to read as follows:

10 "(n) The clerk of superior court shall not be required to refund excess sums tendered to the
 11 clerk as payment of costs or fees enumerated in this Code section when such payment
 12 exceeds the amount required by this Code section by less than \$15.00."

13 **SECTION 4.**

14 Code Section 34-8-167 of the Official Code of Georgia Annotated, relating to collection of
 15 delinquent employment security contributions, is amended by striking subsections (c) and
 16 (d) and inserting in their place the following:

17 "(c) Nothing contained in this Code section shall prevent the Commissioner from having
 18 the execution or writ of fieri facias entered upon the general execution docket prior to the
 19 time the execution is turned over to a levying officer designated by the Commissioner for
 20 collection. The Commissioner may file the execution with the clerk of the superior court
 21 of the employer's residence, place of business, or ~~in any~~ the county in which the employer
 22 may own property. It shall then be the duty of the clerk of the superior court of the county
 23 in which the execution is filed to enter the execution ~~on~~ upon the ~~general execution docket~~
 24 lien records of the superior court of said county, with the execution being recorded in the
 25 same manner and form as prescribed by the general laws of the State of Georgia relating
 26 to executions issued by a superior court of this state and processed and transmitted
 27 electronically for inclusion in the state-wide uniform automated information system for real
 28 and personal property records, as provided in Code Section 15-6-97.

29 (d) The amount of any contributions not paid when due, including any interest, penalties,
 30 and costs, shall constitute a lien upon all property and rights to property and upon all
 31 after-acquired property and rights to property, both real and personal, of the employer
 32 liable for such contributions. The lien shall attach and be perfected as of the date such
 33 contributions become due and shall have parity with other tax liens and be prior, superior,
 34 and paramount to all other liens or encumbrances attaching to any of such property;
 35 provided, however, the lien shall not be preserved against purchasers, judgment creditors,

1 pledgees, subsequent tax liens, or other liens or encumbrances until an execution for such
 2 contributions has been entered on the general execution docket. When the execution has
 3 been issued and docketed as required in subsection (c) of this Code Section, the lien shall
 4 be a perfected lien upon all property and rights to property of the employer, both real and
 5 personal, in each county ~~in which such execution is docketed~~ of this state."

6 **SECTION 5.**

7 Article 1 of Chapter 2 of Title 44 of the Official Code of Georgia Annotated, relating to
 8 recordation of deeds and other instruments, is amended by striking Code Section 44-2-2,
 9 relating to dockets that clerks of superior court are required to keep for filing deeds,
 10 mortgages, and liens of all kinds, and inserting in its place the following:

11 "44-2-2.

12 (a)(1) ~~The clerk of the superior court shall keep a docket for the filing for record of~~
 13 ~~deeds, mortgages, and liens of all kinds, which docket shall show the day and hour of the~~
 14 ~~recording and which shall be open for examination and inspection as other records of his~~
 15 ~~office. file, index on a computer program designed for such purpose, and permanently~~
 16 ~~record, in the manner provided constructively in Code Sections 15-6-61 and 15-6-66, the~~
 17 ~~following instruments conveying, transferring, encumbering, or affecting real estate and~~
 18 ~~personal property:~~

19 (A) Deeds;

20 (B) Mortgages;

21 (C) Liens of all kinds except hospital liens; and

22 (D) Maps or plats relating to real estate in the county.

23 (2) For the purpose of this subsection, 'liens' shall be defined as provided in Code
 24 Sections 15-19-14, 44-14-320, and 44-14-602 and shall include all liens provided by
 25 state or federal statute.

26 (3) When indexing liens, the clerk shall enter the names of debtors in the index in the
 27 manner provided for names of grantors conveying real estate in subsection (b) of Code
 28 Section 15-6-66 and the names of creditors or claimants in the manner as provided therein
 29 for names of grantees making such conveyances.

30 (4) When indexing maps or plats relating to real estate in the county, the clerk of superior
 31 court shall index the names or titles provided in the caption of the plat, as required by
 32 paragraph (2) of subsection (b) of Code Section 15-6-67, as both the grantor and grantee.

33 (b) Deeds, mortgages, and liens of all kinds which are required by law to be recorded in
 34 the office of the clerk of the superior court and which are against the interests of third
 35 parties who have acquired a transfer or lien binding the same property and who are acting

1 in good faith and without notice shall take effect only from the time they are filed for
2 record in the clerk's office.
3 (c) Nothing in this Code section shall be construed to affect the validity or force of any
4 deed, mortgage, judgment, or lien of any kind between the parties thereto."

5 **SECTION 6.**

6 This Act shall become effective on January 1, 2004.

7 **SECTION 7.**

8 All laws and parts of laws in conflict with this Act are repealed.