

House Bill 693

By: Representative Squires of the 78th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 6 of Title 15 of the Official Code of Georgia Annotated,
2 relating to clerks of the superior courts, so as to provide for consolidation of dockets and
3 books to be kept by the clerk of the superior court within his or her office; to enumerate
4 instruments subject to the provisions of Code Sections 15-6-61 and 15-6-77; to change the
5 provisions relating to fees; to amend Article 1 of Chapter 2 of Title 44 of the Official Code
6 of Georgia Annotated, relating to recordation and registration of deeds and other instruments,
7 so as to provide for consolidated indices and recording of instruments affecting real and
8 personal property; to provide a definition of "liens"; to provide rules applicable to indexing
9 liens; to amend an Act relating to the Georgia Superior Court Clerks' Cooperative Authority
10 and the state-wide uniform automated information system for real and personal property
11 records, approved April 7, 1995 (Ga. L. 1995, p. 260), as amended by an Act approved April
12 16, 1996 (Ga. L. 1996, p. 1502), and an Act approved April 14, 1997 (Ga. L. 1997, p. 560),
13 so as to change the provisions relating to automatic repeal of certain provisions and the date
14 thereof; to provide for related matters; to provide an effective date; to repeal conflicting laws;
15 and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 Article 2 of Chapter 6 of Title 15 of the Official Code of Georgia Annotated, relating to
19 clerks of the superior courts, is amended by striking paragraph (4) of subsection (a) of Code
20 Section 15-6-61, relating to duties of clerks generally, and inserting in its place the following:

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

22 (A) An automated ~~A~~ civil docket, index, or case management system which shall
23 contain separate case number entries for all civil actions filed in the office of the clerk,
24 including complaints, proceedings, URESA actions, domestic relations, contempt
25 actions, motions and modifications on closed civil actions, and all other actions civil
26 in nature except adoptions;

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

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

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

14 (E) A docket, file, series of files, book or series of books, microfilm records, or
 15 electronic data base for recording all deeds, liens, or executions, lis pendens, Uniform
 16 Commercial Code real estate notice filings, plats, and all other documents concerning
 17 or evidencing title to real property, ~~where not otherwise specifically provided for; and~~

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

21 SECTION 2.

22 Said article is further amended by striking paragraph (15) of subsection (a) of Code Section
 23 15-6-61, relating to duties of clerks generally, and inserting in its place the following:

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

1 by Code Section 44-2-2 to be filed in the office of the clerk of superior court to the
2 authority for testing and operation of the information system at such times and in such
3 form as prescribed by the authority;"

4 **SECTION 3.**

5 Said article is further amended by striking subparagraph (f)(1)(A) of Code Section 15-6-77,
6 relating to fees, and inserting in its place the following:

7 ~~"(1)(A)(i) Filing all instruments pertaining to real estate including deeds,~~
8 ~~deeds of trust, affidavits, releases, notices and certificates, and cancellation of deeds,~~
9 ~~first page.....\$ 9.50~~

10 ~~Each page, after the first 2.00~~

11 ~~(ii) Filing all instruments pertaining to real estate and personal property including~~
12 ~~liens on real estate and personal property, notice filings for Uniform Commercial~~
13 ~~Code related real estate, tax liens, hospital liens, writs of fieri facias, notices of lis~~
14 ~~pendens, written information on utilities, cancellations of liens, and writs of fieri~~
15 ~~facias, first page 4.50~~

16 ~~Each page, after the first 2.00~~

17 (1)(A)(i) Filing all instruments pertaining to real estate including deeds,
18 deeds of trust, affidavits, releases, notices and certificates, cancellation of deeds, and
19 any other instrument pertaining to real estate or personal property, including liens on
20 real estate and personal property, Uniform Commercial Code real estate notice filings,
21 tax liens, hospital liens, writs of fieri facias, notices of lis pendens, written
22 information on utilities, and cancellations of liens, and writs of fieri facias, and plats,
23 first page..... \$ 9.50

24 Each page, after the first 2.00

25 (ii) Reserved."

26 **SECTION 4.**

27 Said article is further amended by adding a new subsection (n) to Code Section 15-6-77,
28 relating to fees, to read as follows:

29 "(n) The clerk of the superior court shall not be required to refund sums tendered to the
30 clerk as payment of costs or fees enumerated in this Code section when such payment
31 exceeds the amounts required in this Code section."

32 **SECTION 5.**

33 Article 1 of Chapter 2 of Title 44 of the Official Code of Georgia Annotated, relating to
34 recordation and registration of deeds and other instruments, is amended by striking

1 subsection (a) of Code Section 44-2-2, relating to clerks of the superior court keeping
2 dockets for filing instruments of all kinds, and inserting in its place the following:

3 "44-2-2.

4 ~~(a) The clerk of the superior court shall keep a docket for the filing for record of deeds,~~
5 ~~mortgages, and liens of all kinds, which docket shall show the day and hour of the~~
6 ~~recording and which shall be open for examination and inspection as other records of his~~
7 ~~office.~~

8 ~~(b) Deeds, mortgages, and liens of all kinds which are required by law to be recorded in~~
9 ~~the office of the clerk of the superior court and which are against the interests of third~~
10 ~~parties who have acquired a transfer or lien binding the same property and who are acting~~
11 ~~in good faith and without notice shall take effect only from the time they are filed for~~
12 ~~record in the clerk's office.~~

13 ~~(c) Nothing in this Code section shall be construed to affect the validity or force of any~~
14 ~~deed, mortgage, judgment, or lien of any kind between the parties thereto.~~

15 (a)(1) The clerk of the superior court shall file, index on a computer program designed
16 for such purposes, and permanently record in the manner applicable to clerks of superior
17 court, as provided in Code Sections 15-6-61 and 15-6-66, the following instruments
18 conveying, transferring, encumbering, or affecting real estate and personal property:

19 (A) Deeds;

20 (B) Mortgages;

21 (C) Notice filings for Uniform Commercial Code related real estate fuled pursuant to
22 Article 9 of Title 11;

23 (D) Liens of all kinds; and

24 (E) Plats;

25 (2) As used in this subsection, the term 'liens' shall be defined as provided in Code
26 Section 44-14-320 and shall include all liens provided by state or federal statute.

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

33 (4) When indexing plats, the clerk of superior court shall index the names or titles
34 provided in the caption of the plat, as required by subparagraph (C) of paragraph (2) of
35 Code Section 15-6-67, as both the grantor and grantee.

36 (5) When plats larger than 8 1/2 inches by 11 inches in size are submitted to the clerk of
37 superior court for filing and recordation pursuant to Code Section 15-6-77, the part

1 submitting the plat shall submit at the time of filing a reduced size copy of such plat
2 which shall not exceed 8 1/2 inches by 11 inches. The clerk shall file both the full size
3 and reduced size plats; however, the clerk shall be required only to record the reduced
4 size plat in the library set forth in paragraph (6) of this subsection. The clerk shall be
5 authorized to archive the oversized plat in an alternative manner, although the clerk shall
6 provide a notation on the recorded plat referencing the location of the oversized plat.

7 (b) Deeds, mortgages, and liens of all kinds which are required by law to be recorded in
8 the office of the clerk of the superior court and which are against the interests of third
9 parties who have acquired a transfer or lien binding the same property and who are acting
10 in good faith and without notice shall take effect only from the time they are filed for
11 record in the clerk's office.

12 (c) Nothing in this Code section shall be construed to affect the validity or force of any
13 deed, mortgage, judgment, or lien of any kind between the parties thereto."

14 **SECTION 6.**

15 Section 2 of this Act shall stand repealed on January 1, 2010.

16 **SECTION 7.**

17 This Act shall become effective on January 1, 2002.

18 **SECTION 8.**

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