The House Committee on Judiciary offers the following substitute to HB 665:

A BILL TO BE ENTITLED
AN ACT

To amend Titles 9, 15, and 44, Chapter 18 of Title 50, and Code Section 36-9-5 of the Official Code of Georgia Annotated, relating to civil practice, courts, property, state printing and documents, and storage of documents, respectively, so as to modernize provisions relating to storage, collection, access, and transmittal of documents housed in clerk of superior court offices; to provide for modern technological advances in electronic record keeping; to provide for storage of depositions; to allow superior court clerks to serve as clerks in other courts; to change provisions relating to the selection of the clerk of court when a vacancy occurs; to increase the bond required by the clerk of court; to change provisions relating to the clerk's duties; to change provisions relating to recordation and display of maps and plats; to change provisions relating to destruction of obsolete records and preservation of newspapers with legal advertisements; to change provisions relating to payment of costs; to remove provisions relating to punishment of clerks; to change provisions relating to the process for removal of clerks; to change provisions relating to the location of clerk's offices and office hours; to remove the fee system; to change provisions relating to cases transferred from magistrate to state or superior courts; to repeal provisions relating to disposition of books; to change provisions relating to recording property records; to change provisions relating to the release of a lien upon the filing of a bond; to change provisions relating to inspection of records; to change provisions relating to microform standards; to amend Code Section 1-3-1, Title 15, and Title 42 of the Official Code of Georgia Annotated, relating to construction of statutes generally, courts, and penal institutions, respectively, so as to conform provisions and correct cross-references; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

Title 9 of the Official Code of Georgia Annotated, relating to civil practice, is amended by revising Code Section 9-11-29.1, relating to when depositions and other discovery material must be filed with court and custodian until filing, as follows:

"9-11-29.1.

(a) Depositions and other discovery material otherwise required to be filed with the court under this chapter shall not be required to be so filed unless:

(1) Required by local rule of court;

(2) Ordered by the court;

(3) Requested by any party to the action;

(4) Relief relating to discovery material is sought under this chapter and said material has not previously been filed under some other provision of this chapter, in which event copies of the material in dispute shall be filed by the movant contemporaneously with the motion for relief; or

(5) Such material is to be used at trial or is necessary to a pretrial or posttrial motion and said material has not previously been filed under some other provision of this chapter, in which event the portions to be used shall be filed with the clerk of ~~the~~ court at the outset of the trial or at the filing of the motion, insofar as their use can be reasonably anticipated by the parties having custody thereof, but a party attempting to file and use such material which was not filed with the clerk at the outset of the trial or at the filing of the motion shall show to the satisfaction of the court, before the court may authorize such filing and use, that sufficient reasons exist to justify that late filing and use and that the late filing and use will not constitute surprise or manifest injustice to any other party in the proceedings.

(b) Until such time as discovery material is filed under paragraphs (1) through (5) of subsection (a) of this Code section, the original of all depositions shall be retained by the party taking the deposition and the original of all other discovery material shall be retained by the party requesting such material, and the person thus retaining the deposition or other discovery material shall be the custodian thereof.

<u>(c) When depositions and other discovery material are filed with the clerk of court as provided in subsection (a) of this Code section, the clerk of court shall retain such original documents and materials until final disposition, either by verdict or appeal, of the action in which such materials were filed. The clerk of court shall be authorized thereafter to destroy such materials upon microfilming or digitally imaging such materials and maintaining such materials in a manner that facilitates retrieval and reproduction, so long</u>

as the microfilm and digital images meet the standards established by the Georgia Department of Archives and History; provided, however, that the clerk of court shall not be required to microfilm or digitally image depositions that are not used for evidentiary purposes during the trial of the issues of the case in which such depositions were filed.″

SECTION 1-2.

Said title is further amended by revising subsection (a) of Code Section 9-12-81, relating to the general execution docket, as follows:

″(a) The clerk of ~~the~~ superior court of each county shall be required to keep a general execution docket in paper or electronic data base form.″

SECTION 1-3.

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising Code Section 15-6-51, relating to eligibility to serve as city or state court clerk, as follows:

″15-6-51.

~~Clerks~~ The clerk of ~~the~~ superior ~~courts~~ court shall be eligible to hold the office of clerk of the ~~city or~~ municipal, state, or other court in the counties of their residence, on taking the oath and giving bond and security as prescribed by law.″

SECTION 1-4.

Said title is further amended by revising Code Section 15-6-53, relating to appointment of clerk by presiding judge, as follows:

″15-6-53.

(a) ~~If there is an absence or if the clerk or his deputy for any reason does not act as clerk at the time provided by law for holding a term of the superior courts, the presiding judge thereof shall appoint a clerk who shall hold the office of clerk during the term and for ten days thereafter. Any act which the appointed clerk does during such time which the clerk could have done shall be valid.~~ In any county in which a chief deputy clerk has been appointed pursuant to Code Section 15-6-59, the chief deputy clerk shall become the clerk of superior court if the clerk of superior court dies, resigns, is removed from office pursuant to the provisions of Code Section 45-2-1, or otherwise vacates office. The chief deputy clerk shall hold office for the unexpired term of his or her predecessor, provided that more than two years of the clerk's term of office have expired at the time the clerk vacates office. If more than two years of the clerk's term of office have not expired at the time the clerk vacates office, a special election shall be held, as provided in subsection (c) of Code Section 21-2-540, at least 120 days but no later than 365 days after the date the vacancy occurred. The person elected on such date shall hold office for the unexpired term of his

or her predecessor. The returns of the election shall be made to the Governor, who shall immediately commission the person elected clerk.

(b)(1) In any county in which a chief deputy clerk has not been appointed pursuant to Code Section 15-6-59, the probate judge shall immediately appoint a qualified person to serve as the interim clerk of superior court when the clerk vacates office for any reason. Such interim clerk shall serve in such capacity until the vacancy is filled pursuant to the provisions of this subsection; provided, however, that the interim clerk shall not serve more than one year. Any act done by the interim clerk during such period that the clerk could have done shall be valid. ~~If, by the expiration of the time specified, there is no one else to act as clerk, the appointee mentioned in subsection (a) of this Code section may continue as such until there is an appointment or election. Any appointee or other person lawfully discharging the clerk's duties shall continue to do so until there is an election and qualification.~~

(2) When a vacancy is filled pursuant to paragraph (1) of this Code section and it is more than six months from the date when the clerk vacated office until the next general election is held, the election superintendent for the county shall call a special election to fill the vacancy, as provided in subsection (c) of Code Section 21-2-540, and such official shall give notice in one or more of the public newspapers of the county, if any, at the courthouse, and at three or more of the most public places of the county at least 30 days prior to the date of election. Such special election shall be held at least 120 days but no later than 365 days after the date the vacancy occurred. The person elected on such date shall hold office for the unexpired term of his or her predecessor. The returns of the election shall be made to the Governor, who shall immediately commission the person elected clerk.″

SECTION 1-5.

Said title is further amended by revising Code Section 15-6-54, relating to the appointment by probate judge pending filling of vacancy and duration of appointment, as follows:

″15-6-54.

~~(a) As soon as a vacancy in the office of superior court clerk occurs or in anticipation of such a vacancy, the judge of the probate court must appoint some qualified person to discharge the duties of clerk until the vacancy is filled.~~

~~(b) When a vacancy occurs and it is not more than six months from the time the election can be called by the judge of the probate court and held until the existing term will expire, the person or persons appointed shall discharge the duties of the office for the balance of the term and there shall be no special election~~ Reserved.″

SECTION 1-6.

Said title is further amended by revising Code Section 15-6-55, relating to emergency service by the probate court judge or clerk, as follows:

"15-6-55.

(a) If ~~from~~ as a result of any sudden emergency there is a vacancy in the office of clerk of superior court, and a ~~proper~~ person who meets the qualifications for a clerk of superior court as set forth in Code Section 15-6-50 cannot immediately ~~be appointed~~ fill the vacancy pursuant to Code Section 15-6-53, the judge of the probate court ~~or his clerk~~ shall act as clerk of ~~the~~ superior court for a period not to exceed 120 days. Any act done by the probate judge during such period that the clerk could have done shall be valid.

(b) If there is a temporary absence of the clerk of superior court for any reason not specified in Code Section 15-6-53 or if the clerk of superior court for any reason does not act as clerk at the time provided by law for holding a term of the superior courts and there is no chief deputy clerk to perform such duties, notwithstanding local law, the judges of the superior court of the judicial circuit by a majority vote shall appoint an interim deputy clerk who shall hold the office of clerk during the term of court and for ten days thereafter. If a majority of the judges do not agree to the selection of the interim deputy clerk, the chief judge of the superior court shall select the interim deputy clerk. Any act which the chief deputy clerk or the appointed clerk does during such time which the clerk could have done shall be valid."

SECTION 1-7.

Said title is further amended by revising Code Section 15-6-56, relating to election to fill vacancy, term of office, and filling of vacancies in counties with chief deputy clerk, as follows:

"15-6-56.

~~(a) When a vacancy occurs or in anticipation of a vacancy, the judge of the probate court of the county where it happens shall give notice in one or more of the public newspapers of the county, if any, and at the courthouse, and at three or more of the most public places of the county 20 days prior to the date of election, which date shall be set by him.~~

~~(b) The person elected on such date shall hold office for the unexpired term of his predecessor. The returns of the election must be made to the Governor, who must commission the clerk.~~

~~(c) In any county in which the position of chief deputy clerk has been created by law or in which a chief deputy clerk has been appointed pursuant to Code Section 15-6-59, the chief deputy clerk shall succeed the clerk of the superior court if a vacancy occurs. The chief deputy clerk shall serve until January 1 following the next general election which is~~

~~held more than 60 days after the date the vacancy occurs; provided, however, that in no event shall the chief deputy clerk serve past the date that the successor is qualified immediately upon the expiration of the term of office in which the vacancy was created. If a portion of the original term will remain unexpired after January 1, then a person to fill the vacancy for the remainder of the unexpired term shall be elected at such general election. In any such case, the other provisions of law for filling such a vacancy shall not apply. The provisions of this subsection shall only be applicable to the clerk of the superior court and shall not be applicable to other county officers~~ Reserved."

SECTION 1-8.

Said title is further amended by revising subsection (a) of Code Section 15-6-58, relating to oath of office, as follows:

"(a) The clerks of ~~the~~ superior courts, before entering upon the discharge of their duties, whether appointed, elected, or acting by operation of law besides the oath required of all civil officers, must take and subscribe to the following oath:

'I do swear or affirm that I will truly and faithfully enter and record all the orders, decrees, judgments, and other proceedings of the Superior Court of the County of _____, and all other matters and things which I am required by law ~~ought by me to be recorded~~ to record; and that I will faithfully and impartially discharge and perform all the duties required of me, to the best of my understanding. So help me God.'"

SECTION 1-9.

Said title is further amended by revising Code Section 15-6-59, relating to bond and appointment of deputies, as follows:

"15-6-59.

(a) The ~~clerks~~ clerk of each of the superior courts~~, except those appointed by a judge of the superior court and those becoming clerk by operation of law,~~ shall execute bond in the sum of ~~$25,000.00~~ $150,000.00, which amount may be increased in any county by local Act or by an ordinance or resolution of the governing authority.

(b) The clerks of ~~the~~ superior courts shall have the power to appoint a deputy or deputies and ~~may~~, upon making such appointment, shall require from ~~him or them~~ such deputies a bond with good security. The deputies shall take the same oaths as the clerks do before entering upon the discharge of their duties. The oath shall be administered by the clerk of superior court and recorded on the minutes of the superior court. ~~Their powers~~ Powers and duties of deputy clerks shall be the same as those of the clerks, as long as their principals continue in office and not longer, for faithful performance of which they and their

securities shall be bound. The clerks of ~~the~~ superior courts shall also have the authority to appoint one of their deputies as chief deputy clerk ~~unless otherwise provided by local law~~.″

SECTION 1-10.

Said title is further amended by revising Code Section 15-6-61, relating to duties of clerks generally, use of computerized record-keeping system, and printed copies of the grantor and grantee indices, as follows:

″15-6-61.

(a) It is the duty of a clerk of superior court:

(1) To keep the clerk's office and all things belonging thereto at the county site and at the courthouse or at such other place or places as authorized by law;

(2) To attend to the needs of the court ~~in~~ through the performance of the duties of the clerk required and enumerated by law, or as defined in court order, or rules;

(3) To issue and sign every summons, writ, execution, process, order, or other paper under authority of the court and attach seals thereto when necessary. The clerk shall be authorized to issue and sign under authority of the court any order to show cause in any pending litigation and any other order in the nature of a rule nisi, where no injunctive or extraordinary relief is granted;

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

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

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

(C) A docket, file, series of files, book or series of books, microfilm records, or electronic data base for recording all deeds, liens, executions, lis pendens, maps and plats, and all other documents concerning or evidencing title to real or personal property. When any other law of this state refers to a general execution docket, lis pendens docket, or attachment docket, such other law shall be deemed to refer to the

docket or other record or records provided for in this subparagraph, regardless of the format used to store such docket;

(5) To keep all the books, papers, dockets, and records belonging to the office with care and security and to keep the papers filed, arranged, numbered, and labeled, so as to be of easy reference;

(6) To keep at the clerk's office all publications of the laws of the United States furnished by the state and all publications of the laws and journals of this state, all statute laws and digests, this Code, which shall be paid for from county or law library funds, the Supreme Court and Court of Appeals reports, and all other law books or other public documents distributed to ~~him~~ the clerk, for the public's convenience; provided, however, that the clerk may consent that these publications be maintained in the public law library;

(7) To procure a substantial seal of office with the name of the court and the county inscribed thereon~~, if this has not already been done~~;

(8) To make out and deliver to any applicant, upon payment to the clerk of legal fees, a correct transcript, properly certified, of any minute, record, or file of the clerk's office except for such records or documents which are, by provision of law, not to be released;

(9) Upon payment of legal fees to the clerk, to make out a transcript of the record of each case to be considered by the Supreme Court or the Court of Appeals and a duplicate thereof numbered in exact accordance with the numbering of the pages of the original transcript of the record to be transmitted to the Supreme Court and the Court of Appeals;

(10) To make a notation on all conveyances ~~or~~ of real or personal property, including liens, of the ~~day~~ date and time they were ~~left to be~~ recorded, which shall be evidence of the facts stated. ~~Beginning July 1, 1998, all~~ All liens or conveyances ~~left to be filed shall~~ presented to the clerk for filing shall be on 8 1/2 inch by 11 inch or 8 1/2 inch by 14 inch paper or the digital equivalent and shall have a three-inch margin at the top to allow space for the clerk's notation required by this paragraph. ~~If any lien or conveyance shall be presented for filing without sufficient margin, the clerk shall attach a piece of paper sufficient to give such margin at the top of the filing. Such notation~~ The clerk shall not record any instrument or document conveying real or personal property, including liens, that is not prepared as required by this paragraph. The notation required by this paragraph may be made by the clerk or the clerk's deputy or employee by written signature, facsimile signature, ~~or~~ mechanical printing, or electronic signature or stamp;

(11) To attest deeds and other written instruments for registration;

(12) To administer all oaths required by the court or that may otherwise be required by law and to record all oaths required by law;

(13) To transmit to the Georgia Superior Court Clerks' Cooperative Authority or its designated agent within 24 hours of filing of any financing statement, amendment to a

financing statement, assignment of a financing statement, continuation statement, termination statement, or release of collateral, by facsimile or other electronic means, such information and in such form and manner as may be required by the Georgia Superior Court Clerks' Cooperative Authority, for the purpose of including such information in the central indexing system administered by such authority; provided, however, that weekends and holidays shall not be included in the calculation of the 24 hour period;

(14) To remit to the Georgia Superior Court Clerks' Cooperative Authority a portion of all fees collected with respect to the filings of financing statements, amendments to financing statements, assignments of financing statements, continuation statements, termination statements, releases of collateral, or any other documents related to personal property and included in the central index, in accordance with the rules and regulations of such authority regarding the amount and payment of such fees; provided, however, that such fees shall be remitted to the authority not later than the tenth day of the month following the collection of such fees, and the clerk shall not be required to remit such fees more often than once a week;

(15) To participate in the state-wide uniform automated information system for real and personal property records, as provided for by Code Sections 15-6-97 and 15-6-98, and any network established by the Georgia Superior Court Clerks' Cooperative Authority relating to the transmission and retrieval of electronic information concerning real estate and personal property data for any such information systems established by such authority so as to provide for public access to real estate and personal property information, including liens filed pursuant to Code Section 44-2-2 and maps and plats. Each clerk of ~~the~~ superior court shall provide to the authority or its designated agent in accordance with the rules and regulations of the authority such real estate information concerning or evidencing title to real property and such personal property information or access to such information which is of record in the office of clerk of ~~the~~ superior court and which is necessary to establish and maintain the information system, including information filed pursuant to Code Section 44-2-2 and maps and plats. Each clerk of ~~the~~ superior court shall provide and transmit real estate and personal property information filed in the office of ~~the~~ clerk of superior court, including information required by Code Section 44-2-2 and maps and plats, to the authority for testing and operation of the information system at such times and in such form as prescribed by the authority;

~~(15.1)~~(16) To participate in any network established by the Georgia Superior Court Clerks' Cooperative Authority relating to the transmission and retrieval of electronic information concerning carbon sequestration results and related transactions for any such information systems established by such authority for purposes of the carbon

sequestration registry established pursuant to Article 5 of Chapter 6 of Title 12, so as to provide for public access to carbon sequestration registry information. Each clerk of ~~the~~ superior court shall provide to the authority or its designated agent in accordance with the rules and regulations of the authority such information evidencing carbon sequestration results and related transactions and access to such information which is of record in the office of clerk of ~~the~~ superior court and which is necessary for purposes of the carbon sequestration registry. Each clerk of ~~the~~ superior court shall provide and transmit carbon sequestration results and related transaction information filed in the office of ~~the~~ clerk of superior court to the authority for testing and operation of the electronic information system for the carbon sequestration registry at such times and in such form as prescribed by the authority. Each clerk shall charge and collect such fees as may be established by the Georgia Superior Courts Clerks' Cooperative Authority, which shall be paid into the county treasury less and except any sums as are otherwise directed to be paid to the authority, all in accordance with rules and regulations adopted by the authority pursuant to Code Section 15-6-97.2;

~~(16)~~(17) To file and transmit all civil case filing and disposition forms required to be filed pursuant to subsection (b) of Code Section 9-11-3 and subsection (b) of Code Section 9-11-58;

~~(17)~~(18)(A) To transmit to the Superior Court Clerks' Cooperative Authority within 30 days of filing the civil case filing and disposition forms prescribed in Code Section 9-11-133.

(B) To electronically collect and transmit to the Georgia Superior Court Clerks' Cooperative Authority all data elements required in subsection (g) of Code Section 35-3-36 in a form and format required by the Superior Court Clerks' Cooperative Authority and The Council of Superior Court Clerks of Georgia. ~~The electronic collection and transmission of data shall begin no later than January 1, 2002.~~ The data transmitted to the authority pursuant to this Code section shall be transmitted to the Georgia Crime Information Center in satisfaction of the clerk's duties under subsection (g) of Code Section 35-3-36 and to the Georgia Courts Automation Commission ~~who~~ which shall provide the data to the Administrative Office of the Courts for use of the state judicial branch. Public access to said data shall remain the responsibility of the Georgia Crime Information Center. No release of collected data shall be made by or through the authority;

~~(18)~~(19) To participate in agreements, contracts, and networks necessary or convenient for the performance of ~~the~~ duties ~~provided in paragraphs (16) and (17) of this subsection~~ required by law;

~~(19)~~(20) To perform such other duties ~~as are or may be~~ required by law or as necessarily appertain to the office of clerk of ~~the~~ superior court; and

~~(20)~~(21) To keep an automated, computer based jury management system that facilitates the maintenance of the county master jury list pursuant to the provisions of Chapter 12 of this title unless this duty is delegated to a jury clerk as provided in subsection (a) of Code Section 15-12-11 or subsection (b) of Code Section 15-12-23.

(b) Nothing in this Code section shall restrict or otherwise prohibit a clerk from electing to store for computer retrieval any or all records, dockets, indices, or files; nor shall a clerk be prohibited from combining or consolidating any books, dockets, files, or indices in connection with the filing for record of papers of the kind specified in this Code section or any other law, provided that any automated or computerized record-keeping method or system shall provide for the systematic and safe preservation and retrieval of all books, dockets, records, or indices. When the clerk of superior court elects to store for computer retrieval any or all records, the same data elements used in a manual system shall be used, and the same integrity and security maintained. Regardless of the automated or computerized system elected, each clerk shall maintain and make readily available to the public ~~complete, printed copies of the~~ real estate grantor and grantee indices, which shall be updated regularly~~;~~ and prepared in compliance with paragraph (15) of subsection (a) of this Code section and Code Section 15-6-66. A clerk of superior court shall be deemed to satisfy the provisions of subsection (c) of Code Section 50-18-70 when on-site, electronic access to computerized indices of county records is provided to the public during regular business hours and in compliance with this Code section; provided, however, that complete, printed copies of the real estate grantor and grantee indices shall be prepared current through June 30 and December 31 of each calendar year and any correction made on such index shall be made a part of the printout and shall reflect the time and date that said index was corrected.″

SECTION 1-11.

Said title is further amended by revising Code Section 15-6-62, relating to additional duties, as follows:

″15-6-62.

(a) The clerk of ~~the~~ superior court is required to record all the proceedings relating to any civil action or criminal case within six months after the final determination of the case. Such recording may be in well-bound books, on microfilm, or in digital format. If a clerk elects to record proceedings on microfilm or in digital format, he or she shall make available to the public a machine for reading and reproducing such microfilmed or digitally

formatted records. If a clerk elects to record proceedings in digital format, the provisions of Code Section 15-6-62.1 shall apply.

(b) Every clerk of ~~the~~ superior ~~or city courts must record immediately in his book of final records~~ court shall record, microfilm, or digitally image for the purpose of permanently preserving:

(1) Every part of the pleadings in every case;

(2) All garnishments, affidavits, bonds, and answers thereto;

(3) All attachment affidavits, bonds, and writs of attachment; and

(4) All claim affidavits and bonds and all bonds given in any judicial proceeding.

The ~~No~~ clerk shall not allow any ~~of such papers~~ record to be taken from his or her office before recording them as required in this Code section. ~~Such record shall constitute a part or all of the final record of the papers required by law to be made, as the case may be.~~

~~(c) If any subsequent paper in the case is recorded, the clerk shall make a reference at the foot of the record required in this Code section, to the page where such subsequent record may be found and shall also state the case in the index to the book of record and shall enter the number of the pages on which the same is to be found.~~

~~(d)~~(c) Where any paper ~~so recorded~~ becomes lost or destroyed, a certified copy thereof from the clerk of ~~the~~ superior court may be substituted. No fee shall be charged or collected for any such copy if the loss of the same is caused by or results from any negligence or fault of the clerk.

~~(e) Any clerk who fails to discharge the duties set forth in this Code section is subject to be fined by the presiding judge, on his own motion, for a contempt whenever the judge discovers that the clerk has failed to discharge his duties. It shall be the duty of the judges of the several superior courts to give this law specially in charge to the grand juries and to require them to inform the court whether or not the clerk has performed the duties specified as aforesaid. However, clerks shall not be punished for contempt under this Code section until after the paper or papers required to be recorded have been filed for three months.~~

~~(f)~~(d) This Code section shall not apply to cases dismissed and settled before the record is made."

SECTION 1-12.

Said title is further amended by revising subsections (a) and (b) of Code Section 15-6-66, relating to grantor-grantee index, as follows:

"(a) The clerk of ~~the~~ superior court shall provide at the expense of each county a suitable duplex index book, or a series of books, or a card index, or a microfilm record, ~~or~~ an electronic data base, or an electronic, computer-based document management system, or any combination of one or more of such systems, in which shall be indexed the name of the

grantor and grantee of every instrument recorded pursuant to subparagraph (a)(4)(C) of Code Section 15-6-61~~, such index to~~. Such index shall include the character of the instrument, the book or location of the record, and the date of filing ~~and to include the time of filing if not otherwise reflected in the record~~.

(b) The name of the grantor ~~as~~ listed in the index shall be the name of the owner of the title which such instrument purports to convey or affect, whether the instrument was executed by the owner or by some other person, firm, or corporation on behalf of such owner, and whether or not such owner is deceased."

SECTION 1-13.

Said title is further amended by revising Code Section 15-6-67, relating to recordation of maps and plats, and specifications, as follows:

"15-6-67.

(a) The clerk of ~~the~~ superior court shall file and record in his or her office maps or plats relating to real estate in the county.

(b) Maps or plats to be filed and recorded in the office of ~~the~~ clerk of ~~the~~ superior court shall be prepared in accordance with the ~~following~~ minimum standards and specifications adopted in the rules and regulations of the State Board of Registration for Professional Engineers and Land Surveyors:

(1) **Material.**

(A) Any such maps or plats shall be a good legible copy~~, such as a blue, white,~~ or ~~other~~ commercial print reproduced from an original.

(B) ~~The minimum line widths and letter or character heights delineated on such maps or plats shall be as follows:~~

~~(i) Maps or plats drawn on 8 1/2 inch by 11 inch or 8 1/2 inch by 14 inch tracings shall have a minimum line width of 0.010 inches and a minimum letter or character height of 0.080 inches;~~

~~(ii) Maps or plats drawn on 11 inch by 17 inch tracings shall have a minimum line width of 0.010 inches and minimum letter or character height of 0.080 inches; or~~

~~(iii) Maps or plats drawn on 17 inch by 22 inch or 24 inch by 36 inch tracings shall have a minimum line width of 0.013 inches and a minimum letter or character height of 0.080 inches.~~

~~(C) In counties using microfilming procedures, when a map or plat is filed for record the original drawing, which shall not be larger than 24 inches by 36 inches, shall be submitted to the clerk for microfilming and a legible copy, which shall not be larger than 17 inches by 22 inches, shall be filed for record; provided, however, that a full-size positive copy of the original may be tendered and used for microfilming.~~ The clerk

shall enter manually or electronically the filing date, plat book number, and page number on the ~~original drawing~~ plats and shall cause the same information to be entered electronically on the digital copy presented for filing and shall return ~~the~~ an original ~~drawing~~ physical copy of the plat with the filing information on it to the land surveyor or the person filing the same for record. The clerk shall permanently retain the original physical and digital copy of the plat. Both the filing information and plat shall serve as evidence of the original drawing. The physical copy, the digital copy, or both may be displayed to the public in compliance with Code Section 15-6-68;

(2) **Caption.** ~~The maps~~ Maps or plats shall have a title or name which shall be contained in the caption, and the caption shall also provide the following information:

(A) The county, city, town, or village, land district and land lot, and subdivision, if the property lies within a particular subdivision;

(B) The date of plat preparation and the date of the field survey;

(C) The scale, stated and shown graphically;

(D) The name, address, telephone number, and registration number of the land surveyor or the statement that he or she is the county surveyor and is not required by law to be a registered surveyor; and

(E) All reproductions of original maps or plats shall bear the original signature, in ~~black~~ a contrasting color of ink, of the registrant placed across the registration seal in order to be a valid or recordable map or plat. The provisions of this subparagraph shall apply to all maps or plats that are sealed by a land surveyor which depict and describe real property boundaries. Maps and plats which do not meet the requirements of this subparagraph shall not be sealed nor recorded;

(3) **Size.** Maps or plats shall not be less than 8 1/2 inches by 11 inches and not larger than ~~can be recorded without folding;~~ 24 inches by 36 inches, provided that the clerk shall be authorized to file maps or plats in compliance with this subparagraph. When an original map or plat is submitted to the clerk for filing and recordation, the clerk shall be authorized to accept the plat for recordation only upon receiving a minimum of two properly signed reproductions of the original physical plat and a digital copy that has been created at full scale, properly signed and in an electronic format acceptable by the Georgia Superior Court Clerks' Cooperative Authority. The digital copy shall be submitted via media approved by the clerk.

~~(4) **Data.** Maps or plats shall be made in a professional manner and in accordance with the standards of good drafting procedures and shall show the following information, as specified:~~

~~(A) All maps or plats shall show the direction and distance from a point of reference to a point on the boundary of the individual survey, and such additional data as may be~~

~~required to relocate the boundary point from the point of reference with the same degree of accuracy required of the parcel surveyed. The point of reference shall be an established, monumented position which can be identified or relocated from maps, plats, or other documents on public record;~~

~~(B) All maps or plats of boundary surveys or subdivision surveys shall show bearings of all lines of the boundary or lot lines, and distances of all boundary or lot lines, and area of the parcels expressed in acres or square feet;~~

~~(C) All maps or plats of boundary surveys shall show the closure precision of the field survey as the ratio of one foot to the traversed distance in which an error of one foot would occur and a statement as to the method of adjustment. The closure may be stated as follows:~~

~~'The field data upon which this map or plat is based has a closure precision of one foot in _____ feet, and an angular error of _____ per angle point, and was adjusted using _____ rule';~~

~~(D) All maps or plats of boundary surveys shall show the closure precision of the data shown on the map or plat. The closure may be stated as follows:~~

~~'This map or plat has been calculated for closure and is found to be accurate within one foot in _____ feet';~~

~~(E) All maps or plats shall show the width and the former widths, if pertinent, of all rights of way adjacent to or crossing the property or adjacent to any point of reference;~~

~~(F) All maps or plats shall show easements and apparent encroachments, if pertinent;~~

~~(G) In the case of curved lines, the curve shall be defined by curve data to include the radius, arc length, chord bearing, and distance for regular curves. Chord distances and directions shall be given for irregular curves;~~

~~(H) All land lot lines, land district lines, land section lines, and city, county, and state boundaries intersecting or adjacent to the surveyed property shall be indicated by lines drawn upon the map or plat with appropriate words and figures;~~

~~(I) All corner markers and markers of pertinent reference points shall be fully described and indicated as to their material or types and shall be constructed of a permanent material such as iron, steel, concrete, or stone;~~

~~(J) An arrow shall be shown on the map or plat to indicate the principal meridian, and a notation shall be made as to the reference of bearings to magnetic north, astronomic north, or grid north. A grid north reference shall indicate the zone;~~

~~(K) All linear distances shown on maps or plats shall be horizontal;~~

~~(L) All angular directions shown on maps or plats shall be represented in degrees and minutes. Where plats state or surveys require accuracy in excess of 1 in 5,000, the~~

~~angular directions shall be represented in degrees, minutes, and seconds. All angular directions shall be referenced to the principal meridian;~~

~~(M) A statement shall be shown on the map or plat to indicate the type of equipment used to obtain the linear and angular measurements used in the preparation of the map or plat; and~~

~~(N) All maps or plats shall show the state plane coordinates of at least two permanent monuments thereon, when a National Geodetic Survey monument is within 500 feet of any point on the property mapped or platted, or any point of reference shown thereon.~~

(c) If the plat meets the requirements of subsections (b) and (d) of this Code section, it shall be the duty of the clerk of ~~the~~ superior court to file and record such ~~map or~~ plat ~~or blueprint, tracing, photostatic copy, or other copy of a map or~~ and digital image of such plat.

(d) Whenever the municipal planning commission, the county planning commission, the municipal-county planning commission, or, if no such planning commission exists, the appropriate municipal or county governing authority prepares and adopts subdivision regulations, and upon receiving approval thereon by the appropriate governing authority, then no plat of subdivision of land within the municipality or the county shall be filed or recorded in the office of ~~the~~ clerk of ~~the~~ superior court of a county without the approval thereon of the municipal or county planning commission or governing authority and without such approval having been entered in writing on the plat by the secretary or other designated person of the municipal or county planning commission or governing authority. The clerk of ~~the~~ superior court shall not file or record a plat of subdivision which does not have the approval of the municipal or county planning commission or governing authority as required by this subsection. Notwithstanding any other provision of this subsection to the contrary, no approval of the municipal or county planning commission or governing authority shall be required if no new streets or roads are created or no new utility improvements are required or no new sanitary sewer or approval of a septic tank is required. Any plat of survey containing thereon a certification from ~~the~~ a licensed surveyor that the provisions relative to this subsection do not require approval of the municipal or county planning commission or governing authority shall entitle said plat to record. Any licensed surveyor who fraudulently certifies that a plat of survey does not require the approval specified in this subsection shall be guilty of a misdemeanor."

SECTION 1-14.

Said title is further amended by revising Code Section 15-6-68, relating to display of maps and plats, index, land lot record, and notation of date and time on face of plat, as follows:

"15-6-68.

(a) The clerk of each superior court shall provide ~~appropriate binders, not less than 18 inches by 24 inches in size, in which the maps or plats or prints thereof referred to in Code Section 15-6-67 shall be placed without the necessity of folding in any manner. One of the binders and the prints therein contained shall be open to the general public for inspection, as are all other public records in the clerk's office. Alternatively, in those counties using microfilm procedures, the clerk thereof shall take such steps as are necessary to provide access to the same information~~ books, binders, or any other alternative system, either manual or electronic, for providing public access to maps and plats. For all electronic images of plats submitted to the clerk on or after July 1, 2012, the clerk shall provide necessary equipment for printing either an entire full-size copy of each recorded plat or copies of sections of each entire recorded plat, printed in full scale.

(b) The clerk of ~~the~~ superior court shall ~~also~~ provide an ~~appropriate index book, or a series of index books, or a card index, or a microfilm record, or an electronic data base, or any combination of one or more of such systems, in which shall be indexed all such~~ electronic, computer-based indexing system in which shall be indexed all maps or plats under the caption or name of the subdivision, if any, under the name of the owner or owners of the property mapped or platted, and also under the land lot number and district number if the land lies in that portion of the state which has been surveyed into land lots and districts.

(c) In counties of this state that are divided into land lots, the clerk of superior court shall ~~maintain a record for each individual~~ provide an electronic, computer-based system for maintaining and searching a record for each land lot and land district by listing all surveys made for each lot and where they are recorded.

(d) The clerk shall note the date and time of the filing of a plat for record on the face of the plat."

SECTION 1-15.

Said title is further amended by revising Code Section 15-6-73, relating to destruction of obsolete records, as follows:

"15-6-73.

(a) Clerks of ~~the~~ superior court ~~are~~ shall be authorized, from time to time, to destroy books containing records of instruments conveying personal property only, including bills of sale, mortgages, conditional sales contracts, retention title contracts, and bills of sale to secure debt, ~~which records are over 15~~ whenever the records are older than five years of age.

(b) Every clerk of ~~the~~ superior court ~~or city court is~~ shall be, from time to time, authorized to destroy original civil pleadings which have been recorded in the minutes or writ books of the court in every civil case which has been finally terminated for 20 years or more,

except cases involving divorce, titles to land, legitimation of a child or children, and proceedings for adoption.″

SECTION 1-16.

Said title is further amended by revising Code Section 15-6-74, relating to preservation of newspapers containing advertisements, as follows:

″15-6-74.

(a) The clerk of ~~the~~ superior court is required to procure and preserve for public inspection a complete file of all newspaper issues in which ~~his~~ legal advertisements ~~actually appear~~ are published.

(b) The issues of the newspapers so preserved shall be bound, microfilmed, ~~photostated, or~~ photographed, or digitally imaged in a format approved by the clerk and such newspapers, microfilm, photographs, or ~~photostatic~~ copies thereof shall be maintained ~~within the county courthouse~~ and made available to the public for a period of not less than 50 years, after which time the newspapers, microfilm, photographs, ~~or other photostatic copies may be destroyed, at the discretion of the clerk of the superior court~~ or copies thereof shall be preserved for historical purposes in electronic or micrographic format.

(c) The clerk of ~~the~~ superior court is authorized to enter into an agreement with either the judge of the probate court or the sheriff of the county, or both, relative to the binding, retention, microfilming, photographing, or ~~photostating~~ digital imaging of the newspapers and their preservation and retention, in which event it shall be necessary that only one set of newspapers or copies thereof shall be retained in the county courthouse. Such set of newspapers or copies thereof shall include copies of the newspaper issues in which the clerk's advertisements appear and the newspaper issues in which the advertisements which the judge of the probate court or the sheriff, or both, are required to preserve and retain appear. The agreement shall specify the person who shall maintain and preserve the newspapers, microfilm, photographs, or ~~photostatic~~ digital copies.

(d) Upon the request of a clerk of superior court, any journal or newspaper declared, made, or maintained as the official organ of any county for the publication of sheriff's sales, citations of probate court judges, or any other advertising commonly known in terms of 'official or legal advertising' shall provide to the clerk of superior court copies of such journal or newspaper containing legal advertisements, in digital format, as required by the clerk, when the clerk shall be required to comply with provisions of subsection (a) or (b) of this Code section. The copies shall be provided to the clerk, the judge of the probate court, and the sheriff by January 31 of the year following the year in which the newspaper served as the official legal organ of the county. The ability of a journal or newspaper to provide copies digitally or electronically may be a qualification by the clerk of superior

court, the probate judge, and the sheriff in designating a journal or newspaper as the official legal organ of the county.″

SECTION 1-17.

Said title is further amended by revising Code Section 15-6-79, relating to payment of unpaid costs in felony cases, as follows:

″15-6-79.

~~In all of the counties of this state in which superior court clerks are paid on a fee basis, all unpaid costs arising from services rendered in felony cases, including transcripts to appellate courts under indigency affidavits, which are due clerks of the superior courts shall be paid from county funds after each term of court by order of the judge approving same, whether the defendant is convicted or acquitted~~ Reserved.″

SECTION 1-18.

Said title is further amended by revising Code Section 15-6-80, relating to payment of transcript costs to clerk before transmittal, as follows:

″15-6-80.

In all cases certified to the appellate courts, the costs for preparing the transcript of the record shall be paid by the appellant to the clerk before the same is transmitted unless the judge presiding over the case being appealed approves an affidavit submitted to the judge by the appellant ~~makes affidavit that he~~ certifying that the appellant is unable to pay such costs or ~~give security therefor~~ upon the appellant providing adequate security for such costs.″

SECTION 1-19.

Said title is further amended by revising Code Section 15-6-82, relating to removal of superior court clerks, charges, and trial, as follows:

″15-6-82.

~~A clerk of the superior court is subject to be removed from office by the judge of the court for any sufficient cause, including incapacity or misbehavior in office. The charges must be exhibited to the court in writing, and the facts tried by a jury. The clerk shall be entitled to a copy of the charges three days before trial.~~

(a) Whenever the Governor determines that an investigation of a clerk of superior court of this state should be made as a result of criminal charges, alleged misconduct in office, or alleged incapacity of the clerk of superior court to perform the functions of his or her office, the Governor shall appoint an investigative committee consisting of two clerks of superior court who are members of The Council of Superior Court Clerks of Georgia and

the Attorney General to conduct an investigation. Such clerks of superior court may be from any two counties in the state other than the county of the clerk of superior court under investigation. The members of any such committee shall receive no compensation for their services but shall be reimbursed for any expenses incurred in connection with an investigation. The funds necessary to conduct an investigation shall come from the funds appropriated to the executive branch of the state government.

(b) Any member of the committee shall be authorized to administer oaths to any witness before the committee. The committee shall make a report of its investigation to the Governor within 30 days from the date of the appointment of both clerk members by the Governor.

(c) If the committee recommends the suspension of the clerk of superior court, the Governor shall be authorized to suspend the clerk of superior court for a period of up to 60 days. In any case where a clerk of superior court has been suspended for 60 days, the Governor may extend the period of suspension for an additional 30 days. Upon such recommendation, the Governor shall also be authorized to request the district attorney of the county of the clerk's residence to bring a removal petition against the clerk in superior court based upon the evidence reported by the committee. In addition to filing of such petition as set forth in this Code section, a clerk of superior court is subject to being removed from office by the judge of the court for any sufficient cause, including incapacity or misbehavior in office. The charges must be exhibited to the court in writing, and the facts tried by a jury. The clerk shall be entitled to a copy of the charges three days before trial. In the event that the Governor determines that further investigation should be made, the Governor may then order additional investigation by the committee, the Georgia Bureau of Investigation, other law enforcement agencies of this state, or any special committee appointed by the Governor for such purpose. During any period of suspension, the clerk shall continue to hold office; however, the chief deputy clerk shall perform the duties of the clerk of superior court or, in the absence of a chief deputy clerk, an interim clerk shall be appointed as provided in paragraph (1) of subsection (b) of Code Section 15-6-53 to perform the duties of the clerk during the period of suspension.

(d) If the clerk of superior court is indicted for a felony, the provisions of Code Section 45-5-6 shall apply."

SECTION 1-20.

Said title is further amended by revising Code Section 15-6-86, relating to location of clerk's office in place other than courthouse, storage of records in different location, and county documents exception, as follows:

"15-6-86.

(a) In the event that the space at the courthouse is inadequate for the clerk's office and the things belonging thereto, the clerk, in writing, may request the governing authority of the county to move his or her office to some other designated place in the county. In his or her request, the clerk shall state the inadequacy which exists. The governing authority ~~is~~ shall be authorized to comply with the request ~~and may~~ but may only designate another place as the office of the clerk with the approval of the clerk. Such place must be owned by the county or a body politic and shall not be more than 500 feet from the courthouse at their nearest points. ~~The judge~~ Notwithstanding local law, the judges of the superior court of the judicial circuit ~~in which the county is located or the chief judge in those circuits having more than one judge~~ by a majority vote must give written consent before the clerk shall be authorized to move his or her office to such place; provided, however, that failing a majority agreement the chief judge of the judicial circuit shall make such determination.

(b) In the event that space at the courthouse or other place where the office of the clerk is located is inadequate to ensure the safe storage of archival or inactive records, the clerk, after obtaining written ~~permission~~ approval from the governing authority of the county ~~and from the superior court judge of the circuit in which the county is located or the chief judge in those circuits having more than one judge~~, may cause the records to be stored at a data storage and retrieval facility within the State of Georgia. The clerk shall give public notice of the place of storage by posting notice at the courthouse. If documents are stored ~~outside the county where the documents were created~~ in any place other than the location where the documents were created, filed, or recorded, the government entity shall:

(1) Bear all costs of transporting such documents back to the county of origin for purposes of responding to requests under Article 4 of Chapter 18 of Title 50, relating to inspections of public records; and

(2) Provide by contract for:

(A) Specific retrieval times in which documents requested shall be delivered; and

(B) Payment of additional fees by the person requesting the document from the clerk for expedited service.

(c)~~(1) Subject to the requirements of paragraph (2) of this subsection, in~~ In a county where the county site is located in an unincorporated area of the county and the county governing authority has constructed one or more permanent satellite courthouses within the county and has further designated each such structure as a courthouse annex or has otherwise established each such structure as an additional courthouse to the courthouse located at the county site, the clerk of superior court shall be authorized to maintain his or her offices and all things belonging thereto including the permanent records at one of the additional courthouse locations or at the courthouse at the county site. The clerk of superior court

may, but ~~is~~ shall not be required to, maintain a satellite office at an additional courthouse which is not the location of the clerk of superior court's main office where the permanent records are kept. No one may for any purpose remove records of the clerk of superior court from the courthouse or the clerk's satellite office without the written consent of the clerk; provided, however, that a judge or the judge's designee may check out a record or file for a case assigned to such judge upon providing a written receipt for such record or file to the clerk.

~~(2) The judge of the superior court of the circuit in which the county is located, or the chief judge if the county is a part of a circuit having more than one judge, must give written consent for the relocation or additional office, or both, and the county governing authority shall provide the necessary office space at the alternate or additional location, or both.~~

(d) Notwithstanding any other provision of this Code section, county documents, as defined in subsection (c) of Code Section 36-9-5, shall be stored only in accordance with the provisions of Code Section 36-9-5.″

SECTION 1-21.

Said title is further amended by revising Code Section 15-6-87, relating to use of photostatic and photographic equipment, as follows:

″15-6-87.

(a) ~~The clerk of the superior court of any county of this state may install and use photostatic or other photographic equipment, including microfilm photographic equipment, and electronic or computer equipment for use in the filing, docketing, recording, copying, binding, indexing, certification, and furnishing of copies, including certified copies, of any and all instruments, records, and proceedings or parts of the same of record or on file in the clerk's office, with the consent and permission only of the county governing authority. The equipment and supplies for the same may be provided by the proper and respective county authorities out of county funds.~~ The county governing authority shall supply all fixtures, supplies, and equipment necessary for the proper functioning of the office of clerk of superior court.

(b) All provisions of law relating to the filing, docketing, recording, keeping, copying, binding, indexing, certification, and furnishing of copies of records, including certified copies, and those provisions relating to the amount of fees of officers in connection therewith, as far as may be consistent with this Code section, shall apply to such ~~photostatic and~~ digital, photographic, and electronic records and copies.

~~(c) The provisions of this Code section for the installation and use of the equipment enumerated in subsection (a) of this Code section shall be construed as permissive only and~~

~~are cumulative of other laws. However, should such equipment be purchased as authorized in this Code section, the use of the equipment shall be mandatory insofar as practical.~~

~~(d) This Code section shall not be construed to change or repeal any rule of court or provision of law relating to records on appeal or review in the courts of this state.~~″

SECTION 1-22.

Said title is further amended by repealing Code Section 15-6-87.1, relating to participation in state-wide county computerized information network and authorized fees, as follows:

″~~15-6-87.1.~~

~~Provided that the General Assembly appropriates the necessary funds for the establishment and operation of a state-wide county computerized information network, each clerk of a superior court shall participate in the network so as to provide local public access to any information which is filed with the Secretary of State pursuant to Title 14 and which is available through such a computerized information network. The network may be developed to provide each clerk of a superior court with additional public information. Each clerk of a superior court shall be authorized, but not required, to charge and collect a fee of not more than $2.00 for the first page and 50¢ per page for each additional page to recover the cost of providing a printed copy of any information which is available through the computerized information network.~~″

SECTION 1-23.

Said title is further amended by revising Code Section 15-6-88.1, relating to adjustment of schedule for certain counties containing federal land, as follows:

″15-6-88.1.

~~In any county in which more than 70 percent of the population of the county according to the United States decennial census of 1980 or any future such census resides on property of the United States government which is exempt from taxation by this state, the population of the county for purposes of Code Section 15-6-88 shall be deemed to be the total population of the county minus the population of the county which resides on property of the United States government.~~ Reserved.″

SECTION 1-24.

Said title is further amended by revising Code Section 15-6-89, relating to additional remuneration for certain services, as follows:

″15-6-89.

In addition to the minimum salary provided in Code Section 15-6-88 or any other salary provided by any applicable general or local law, each clerk of ~~the~~ superior court of any

county who also serves as clerk of a state court, ~~city~~ court classified as a municipal court but funded through appropriations of the county governing authority, juvenile court, ~~or~~ civil court under any applicable general or local law of this state or who performs duties pursuant to paragraph (1) of subsection (a) of Code Section 15-12-1.1 shall receive for his or her services in such other court a salary of not less than $323.59 per month, to be paid from the funds of the county. In the event any such court for which a clerk of ~~the~~ superior court is serving as clerk is abolished, the clerk of ~~the~~ superior court shall not be entitled to any salary heretofore received for service in such court.″

SECTION 1-25.

Said title is further amended by revising Code Section 15-6-92, relating to continuation of fee system, as follows:

″15-6-92.

~~Code Sections 15-6-88 through 15-6-91 and this Code section shall not be construed so as to place any clerk of the superior court who is on the fee system of compensation on April 1, 1973, on a salary system of compensation. Any clerk who is compensated under the fee system of compensation on April 1, 1973, shall continue to receive compensation under the fee system of compensation until local legislation is enacted by the General Assembly placing such clerk on an annual salary equal to or greater than the minimum annual salary provided for in Code Sections 15-6-88 through 15-6-91 and this Code section.~~ Reserved.″

SECTION 1-26.

Said title is further amended by revising Code Section 15-6-93, relating to office hours, as follows:

″15-6-93.

(a) Except as provided in this Code section, the office of each clerk of ~~the~~ superior court shall be open to conduct business Monday through Friday from at least 9:00 A.M. until 5:00 P.M. and shall not close for any period of time during such hours.

(b) Any office of ~~a~~ clerk of ~~a~~ superior court which is open for operation on Saturday may close on one day Monday through Friday for a period of time equal to that period of time during which the office is open on Saturday. Nothing in this Code section shall be construed as requiring any office of ~~a~~ clerk of ~~a~~ superior court to be open on any public ~~and~~ holiday, legal holiday ~~or~~, day of rest ~~which~~, or other similar time that is recognized and designated as such by Georgia law or by the governing authority of the county.

(c) This Code section shall only apply to the office of ~~a~~ clerk of ~~a~~ superior court if there is employed in that office at least one employee other than the clerk.

(d) In any county of this state having a population of fewer than 10,000 persons according to the United States decennial census of 1980 or any future such census, the clerk of superior court may close such office for a designated lunch period if all other county offices in the county courthouse simultaneously close for a lunch period. The period of closing of the clerk's office shall coincide with the period for closing the other county offices.

(e) Nothing in this Code section shall be construed to require the office of ~~the~~ clerk of ~~the~~ superior court to be open if all other county offices are closed because of inclement weather or any other reason.

(f) When it is necessary for the clerk of superior court to conduct necessary training of employees, the clerk may close his or her office for up to eight hours during any six-month period, provided that he or she gives at least ten days' notice to the public, or sooner with the approval of the chief judge of the superior court, prior to such closing, and provided, further, that there are no proceedings scheduled in superior court during the time of the closing. Proceedings shall include all civil or criminal hearings or trials, whether or not a jury is required.

(g) When the clerk's office is closed for training purposes, the period of closure shall be deemed a legal holiday for such office and, therefore, all deadlines provided for by law for filing in the clerk's office any pleading, process, summons answer, or other document shall be extended to the next regular business day of the clerk's office. 'Business day' means a day on which the clerk's office is open for business and shall not include any Saturday, Sunday, or legal holiday officially observed by the office as provided in this Code section.″

SECTION 1-27.

Said title is further amended by adding a new Code section to read as follows:

″15-6-100.

No agreement by a clerk to acquire services, supplies, or equipment authorized by this article that requires expenditure of county funds may be entered into unless the funds to be obligated are included in the budget of the county for the operation of the clerk's office at the time of the execution of such agreement.″

SECTION 1-28.

Said title is further amended by revising Code Section 15-10-87, relating to magistrate court filing fees to be transferred upon transfer of case to state or superior court, as follows:

″15-10-87.

(a) When any case is transferred from the magistrate court to the state court or superior court, the magistrate court shall transmit to the state court clerk or superior court clerk the

filing fee paid to the magistrate court. The state court clerk or superior court clerk shall file the case without further deposit against costs or filing fee, but as between the parties the costs shall be as in other cases in the state court or superior court. This subsection shall only apply to actions filed on or before June 30, 2012.

(b) When any case is transferred from the magistrate court to the state court or superior court, the magistrate court shall transmit to the state court clerk or superior court clerk the filing fee paid to the magistrate court. The state court clerk or superior court clerk shall file the case without further deposit against costs or filing fee; provided, however, that all costs and filing fees shall be paid by the parties within 30 days. Failure to pay such costs and filing fees shall result in a dismissal of the transferred case unless there is good cause shown. The magistrate court clerk shall transmit to the clerk of the state court or superior court a certified copy of the contents of the entire file for the case being transferred. This subsection shall only apply to actions filed on or after July 1, 2012.″

SECTION 1-29.

Said title is further amended by revising subsection (a) of Code Section 15-13-33, relating to the table of fees to be kept, as follows:

″(a) Every public official ~~must~~ shall constantly keep and have posted in a conspicuous place in his or her office ~~or~~, the place where ~~he usually executes~~ the business thereof is conducted, or in an electronic format accessible to the public a table of ~~his~~ fees for his or her office stated in fair words and figures. ~~On failure to do so, he shall forfeit $1.00 per day for every day he so neglects, to be recovered at the action of any informer. The informer shall be entitled to keep the entire recovery.~~″

SECTION 1-30.

Said title is further amended by revising Code Section 15-13-36, relating to restrictions on superior or state court clerks charging fees for certified copies of records, as follows:

″15-13-36.

No clerk of any superior court or state court shall charge any fee for providing any certified copy of any record or portion thereof requested by a ~~solicitor, solicitor-general, district attorney, or assistant district~~ prosecuting attorney in this state for use in any criminal case.″

SECTION 1-31.

Said title is further amended by revising Code Section 15-16-11, relating to disposition of books, as follows:

"15-16-11.

~~All books which the sheriff is required to keep, after becoming full, must be deposited in the office of the clerk of the superior court to be kept as are other books of record; provided, however, that records which the sheriff is required to keep and which are computerized shall be maintained and stored for computer retrieval in the office of sheriff~~

Reserved."

SECTION 1-32.

Code Section 36-9-5 of the Official Code of Georgia Annotated, relating to erection, repair, and furnishing of county buildings and storage of documents, is amended by revising paragraph (2) of subsection (c) as follows:

"(2) A county officer, the county board of tax assessors, or any other officer of the county having the responsibility or custody of any county documents set forth in paragraph (1) of this subsection shall, at night or when the county office is closed, keep such county documents:

(A) In a fireproof safe or vault;

(B) In fireproof cabinets;

(C) On microfilm, pursuant to the standards set forth in Article 6 of Chapter 18 of Title 50, only if a security copy has been sent to the Georgia State Archives; ~~or~~

(D) At a location not more than 100 miles from the county in a data storage and retrieval facility approved by the county governing authority within the State of Georgia which is in a building or facility which is in compliance with the fire safety standards applicable to archives and record centers as established by the National Fire Protection Association in Standard No. 232, as such standard was adopted on August 11, 1995. If documents are stored outside the county where the documents were created, the government entity shall bear all costs of transporting such documents back to the county of origin for purposes of responding to requests under Article 4 of Chapter 18 of Title 50, relating to inspections of public records. Such documents shall be made available to the requester; or

(E) On any other electronic imaging medium that facilitates retrieval of such documents via electronic means, provided that such medium enables conversion of such documents to future electronic imaging technologies and provided that such custodian creates a daily computer-based backup of all archival documents stored on such medium."

SECTION 1-33.

Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by revising subsection (a) of Code Section 44-2-14, relating to requirements for recordation, as follows:

"(a) Except for documents electronically filed as provided for in Chapter 12 of Title 10, and in other Code sections in this part, before ~~Before~~ any deed to realty or personalty or any mortgage, bond for title, or other recordable instrument executed in this state may be recorded, it ~~must~~ shall be an original instrument and shall be attested or acknowledged as provided by law. However, nothing in this Code section shall dispense with another witness where an additional witness is required. This Code section shall not apply to transactions covered by Article 9 of Title 11."

SECTION 1-34.

Said title is further amended by revising Code Section 44-2-26, relating to recording of a plat or a copy of a plat, as follows:

"44-2-26.

The owner of real property or of any interest therein or any holder of a lien thereon may have a plat of the property or a blueprint, tracing, ~~photostatic~~ digital copy, or other copy of a plat of the property recorded and indexed in the office of the clerk of the superior court of the county in which the property or any part thereof is located. It shall be the duty of the clerk to record and index any plat or any blueprint, tracing, ~~photostatic~~ digital copy, or other copy of the plat that conforms with Code Section 15-6-67."

SECTION 1-35.

Said title is further amended by revising Code Section 44-5-30, relating to requisites of deeds to lands, as follows:

"44-5-30.

Except for documents electronically filed as provided for in Chapter 12 of Title 10 and Part 1 of Article 1 of Chapter 2 of this title, a ~~A~~ deed to lands ~~must~~ shall be an original document, in writing, signed by the maker, and attested by at least two witnesses. It ~~must~~ shall be delivered to the purchaser or his or her representative and be made on a good or valuable consideration. The consideration of a deed may always be inquired into when the principles of justice require it."

SECTION 1-36.

Said title is further amended by revising Code Section 44-14-4, relating to the procedure for cancellation of mortgage, as follows:

"44-14-4.

Any mortgagor who has paid off his or her mortgage may present the paid mortgage to the clerk of the superior court of the county or counties in which the mortgage instrument is recorded, together with the order of the mortgagee or transferee directing that the mortgage be canceled. After payment of the fee authorized by law, the clerk shall index and record, in the same manner as the original mortgage instrument is recorded, the canceled and satisfied mortgage instrument or such portion thereof as bears the order of the mortgagee or transferee directing that the mortgage be canceled, together with any order of the mortgagee or transferee directing that the mortgage be canceled. The clerk shall show on the index of the cancellation and on the cancellation document the deed book and page number where the original mortgage instrument is recorded. The clerk shall manually or through electronic means record across the face of the mortgage instrument the words 'satisfied' and 'canceled' and the date of the entry and shall sign his or her name thereto officially. The clerk shall also manually or electronically make a notation on the record of the mortgage to indicate where the order of the cancellation is recorded."

SECTION 1-37.

Said title is further amended by revising Code Section 44-14-364, relating to the release of a lien upon filing of bond, as follows:

"44-14-364.

(a) When any person entitled under this part to claim a lien against any real estate located in this state files his or her lien in the office of the clerk of the superior court of the county in which the real estate is located, the owner of the real estate or the contractor employed to improve the property may, before or after foreclosure proceedings are instituted, discharge the lien ~~by filing a bond in the office of that clerk~~ upon the approval of a bond by the clerk of superior court. The bond shall be conditioned to pay to the holder of the lien the sum that may be found to be due the holder upon the trial of any lien action that may be filed by the lienholder to recover the amount of his or her claim within 365 days from the time the claim of lien is filed. The bond shall be in double the amount claimed under that lien and shall be either a bond with good security approved by the ~~clerk of the court~~ clerk of superior court or a cash bond, except in cases involving a lien against ~~residential property~~ the owner's domicile, in which event the bond shall be in the amount claimed under the lien. An owner or contractor may be required to provide supporting data to the clerk to prove the value of domiciled property when such property serves as a bond to discharge a lien provided for in this Code section. Upon the ~~filing~~ approval by the clerk of the bond provided for in this Code section, the real estate shall be discharged from the

lien. For purposes of this subsection, the term 'domicile' means the established, fixed, permanent, or ordinary dwelling place of the owner.

(b) Within seven days of filing ~~such~~ the bond required by subsection (a) of this Code section and any attachments, the party filing ~~the~~ such bond shall send a notice of filing such bond and a copy of the bond by registered or certified mail or statutory overnight delivery to the lien claimant at the address stated on the lien or, if no such address is shown for the lien claimant, to the person shown as having filed such lien on behalf of the claimant at the indicated address of such person or, if the bond is filed by a contractor, to the owner of the property, provided that whenever the lien claimant or the owner is an entity on file with the Secretary of State's Corporations Division, sending the notice of filing such bond and a copy of the bond to the company's address or the registered agent's address on file with the Secretary of State shall be deemed sufficient; provided, however, that the failure to send the notice of filing the bond and copy of the bond shall not invalidate the bond for purposes of discharge of a claim of lien under this Code section. With respect to property bonds, the clerk shall not accept any real property bond unless the real property is scheduled in an affidavit attached thereto setting forth a description of the property and indicating the record owner thereof, including any liens and encumbrances and amounts thereof, the market value, and the value of the sureties' interest therein, which affidavit shall be executed by the owner or owners of the interest; the bond and affidavit shall be recorded in the same manner and at the same cost as other deeds of real property. So long as the bond exists, it shall constitute a lien against the property described in the attached affidavit.

~~(b)~~(c) The clerk of the superior court shall have the right to rely upon the amount specified in the claim of lien in determining the sufficiency of any bond to discharge under this Code section. The failure to specify both the amount claimed due under the lien and the date said claim was due shall result in such lien not constituting notice for any purposes.

(d) The clerk of the superior court shall be held harmless for good faith regarding any discretionary act in connection with approval of any bond provided for in this Code section.″

SECTION 1-38.

Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating to state printing and documents, is amended by revising subsection (c) of Code Section 50-18-70, relating to inspection of public records, as follows:

″(c) ~~Any~~ Except as provided in subsection (b) of Code Section 15-6-61, any computerized index of a county real estate deed records shall be printed or made available through electronic means for purposes of public inspection no less than every 30 days and any correction made on such index shall be made a part of the printout or made available

through electronic means and shall reflect the time and date that said index was corrected; provided, however, that complete, printed copies of the real estate grantor and grantee indices shall be prepared current through June 30 and December 31 of each calendar year and any correction made on such index shall be made a part of the printout and shall reflect the time and date that said index was corrected."

SECTION 1-39.

Said chapter is further amended by revising subsection (a) of Code Section 50-18-98, relating to title to records and access to records of constitutional officers, as follows:

"(a) Title to any record transferred to the Georgia State Archives as authorized by this article shall be vested in the division. The division shall not destroy any record transferred to it by an agency without consulting with the proper official of the transferring agency prior to submitting a retention schedule requesting such destruction to the State Records Committee. Access to records of constitutional officers shall be at the discretion of the constitutional officer who created, received, or maintained the records, but no limitation on access to such records shall extend more than 25 years after creation of the records. As used in this Code section, the term 'constitutional officer' means the Governor, Lieutenant Governor, Secretary of State, Attorney General, State School Superintendent, Commissioner of Insurance, Commissioner of Agriculture, or Commissioner of Labor.

SECTION 1-40.

Said chapter is further amended by revising Code Section 50-18-120, relating to the authority for establishment of microform standards, as follows:

"50-18-120.

The authority for the establishment of microform standards shall be vested in the State Records Committee. All powers and duties of the State Records Committee as provided in Article 5 of this chapter shall be applicable to the establishment and maintenance of microform standards in this state. With respect to microform standards for the courts, the concurrence of ~~the Administrative Office of the Courts~~ The Council of Superior Court Clerks of Georgia and the Judicial Council of Georgia shall be required for the establishment of such standards."

PART II

SECTION 2-1.

Code Section 1-3-1 of the Official Code of Georgia Annotated, relating to construction of statutes generally, is amended by revising division (d)(2)(A)(ii), as follows:

"(ii) Code Sections 15-6-88 through ~~15-6-92~~ 15-6-91;"

SECTION 2-2.

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising subsection (c) of Code Section 15-1-10, relating to removal and storage of court records, as follows:

"(c) With the prior written consent of the governing authority of the county or municipality and the prior written consent of the chief judge, judge of the probate court, or chief magistrate of the affected court, the clerk of each superior court, state court, probate court, magistrate court, juvenile court, or municipal court in this state is authorized, but not required, to create and maintain digital copies of records, pleadings, orders, writs, process, and other documents submitted to or issued by the court in criminal, quasi-criminal, juvenile, or civil proceedings or in any proceedings involving the enforcement of ordinances of local governments. All digital copies created pursuant to this subsection shall be accurate copies of the original documents and shall be stored and indexed in such manner as to be readily retrievable in the office of the clerk during normal business hours. It shall be the duty of the clerk to provide and maintain software and computers, readers, printers, and other necessary equipment in sufficient numbers to permit the retrieval, duplication, and printing of such digitally stored documents in a timely fashion when copies are requested. A copy of such digitally stored document retrieved by the clerk shall be admissible in all courts in the same manner as the original document. If a backup copy is created pursuant to the process prescribed by subsections (b)~~,~~ and (c)~~, and (d)~~ of Code Section 15-6-62, the clerk is authorized to destroy the original document. This subsection shall not apply to documents or records which have been ordered sealed by the court nor to documents which are placed in evidence in a proceeding. The costs of creating and storing digital copies of documents and providing the necessary software and equipment to retrieve and reproduce such documents shall be paid from funds available for the operation of the court. The provisions of this subsection shall constitute an additional and alternative method of records management and shall not supersede or repeal Code Section 15-6-62, 15-6-62.1, 15-6-86, or 15-6-87."

SECTION 2-3.

Said title is further amended by revising Code Section 15-6-57, relating to election to break a tie, as follows:

"15-6-57.

Should any two or more candidates at an election to fill a vacancy in the office of superior court clerk, or at a regular election, have the highest and an equal number of votes, the

judge of the probate court shall set a date and advertise another election in the manner prescribed in Code Section ~~15-6-56~~ 15-6-53 and shall do so until a choice is made.″

SECTION 2-4.

Said title is further amended by revising subsections (b), (c), and (d) of Code Section 15-6-90, relating to longevity increases, as follows:

″(b) The minimum salaries provided for in Code Sections 15-6-88 and 15-6-89, this Code section, and Code ~~Sections~~ Section 15-6-91 ~~and 15-6-92~~ shall be considered as salary only. Expenses for deputy clerks, equipment, supplies, copying equipment, and other necessary and reasonable expenses for the operation of a clerk's office shall come from funds other than the funds specified as salary in such Code sections.

(c) This Code section shall not be construed to affect any local legislation, except where such local legislation provides for a salary lower than the salary provided in Code Sections 15-6-88 and 15-6-89, this Code section, and Code ~~Sections~~ Section 15-6-91 ~~and 15-6-92~~, in which event such Code sections shall prevail.

(d) Code Sections 15-6-88 and 15-6-89, this Code section, and Code ~~Sections~~ Section 15-6-91 ~~and 15-6-92~~ shall not be construed to reduce the salary of any clerk of ~~the~~ superior court presently in office.″

SECTION 2-5.

Said title is further amended by revising Code Section 15-6-91, relating to the effect of salary provisions on local legislation, as follows:

″15-6-91.

All local legislation in effect on April 1, 1973, or enacted subsequent to April 1, 1973, and affecting compensation for clerks of ~~the~~ superior courts of the various counties shall be of full force and effect except where such local legislation provides for a salary lower than the salary provided in Code Sections 15-6-88 through 15-6-90~~,~~ and this Code section, ~~and Code Section 15-6-92,~~ in which event such Code sections shall prevail.″

SECTION 2-6.

Said title is further amended by revising subsection (b) of Code Section 15-16-8, relating to filling the vacancy in the office of sheriff, as follows:

″(b) If the probate judge fails to appoint a qualified person to discharge the duties of the sheriff until the vacancy is filled ~~In case there is a failure to appoint, as set forth in Code Section 15-6-54~~, the coroner of the county shall act as sheriff. If there is no coroner, the sheriff of any adjoining county is authorized to act as sheriff until the probate judge ~~of the probate court~~ makes the appointment or an election is held.″

SECTION 2-7.

Said title is further amended by revising subsection (b) of Code Section 15-16-10, relating to duties of the sheriff and electronic storage, as follows:

"(b) If any sheriff or deputy fails to comply with any provision of subsection (a) of this Code section, he or she shall be fined for a contempt as the clerk of ~~the~~ superior court is fined in similar cases. Code Section ~~15-6-82, as to removal,~~ 15-16-26 shall also apply to sheriffs."

SECTION 2-8.

Said title is further amended by revising subsection (c) of Code Section 15-16-26, relating to investigation of charges against the sheriff, as follows:

"(c) If the committee recommends the suspension of the sheriff, the Governor shall be authorized to suspend the sheriff for a period of up to 60 days. In any case where a sheriff has been suspended for 60 days, the Governor may extend the period of suspension for an additional 30 days. Upon such recommendation, the Governor shall also be authorized to request the district attorney of the county of the sheriff's residence to bring a removal petition against the sheriff pursuant to subsection (b) of Code Section 15-16-10 and Code Section ~~15-6-82~~ 15-16-26 based upon the evidence reported by the committee. In the event that the Governor determines that further investigation should be made, he or she may then order additional investigation by the committee, by the Georgia Bureau of Investigation, by other law enforcement agencies of this state, or by any special committee appointed by the Governor for such purpose."

SECTION 2-9.

Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended by revising paragraph (5) of subsection (c) of Code Section 42-1-12, relating to the State Sexual Offender Registry, as follows:

"(5) Keep all records of sexual offenders in a secure facility in accordance with Code Sections 15-1-10, 15-6-62, and 15-6-62.1 until official proof of death of a registered sexual offender; thereafter, the records shall be destroyed ~~in accordance with Code Sections 15-1-10, 15-6-62, and 15-6-62.1~~."

SECTION 2-10.

Said title is further amended by revising subsection (c) of Code Section 42-4-4, relating to duties of sheriff as to inmates and failure to comply, as follows:

"(c) Any sheriff or deputy who fails to comply with this Code section shall be fined for contempt, as is the clerk of the superior court in similar cases. The sheriff or deputy shall also be subject to removal from office as prescribed in Code Section ~~15-6-82~~ 15-16-26."

PART III

SECTION 3-1.

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