

House Bill 670

By: Representatives Fleming of the 121st, Ballinger of the 23rd, Quick of the 117th, Strickland of the 111th, and Welch of the 110th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 10-1-490 of the Official Code of Georgia Annotated, relating to
2 registration of businesses using trade names, so as to require registration of trade names with
3 the clerk of superior court; to amend Article 2 of Chapter 6 of Title 15 of the Official Code
4 of Georgia Annotated, relating to clerks of superior courts, so as to establish a state-wide
5 trade name registry; to provide for duties of clerks of superior courts; to provide for fees; to
6 provide for related matters; to correct a cross-reference; to provide for an effective date; to
7 repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

10 Code Section 10-1-490 of the Official Code of Georgia Annotated, relating to registration
11 of businesses using trade names, is amended as follows:

12 "10-1-490.

13 (a) ~~Every~~ Beginning on July 1, 2014, every person, firm, or partnership carrying on in this
14 state any trade, ~~or business, or profession~~ under any trade name or partnership name or
15 other name which does not disclose the individual ownership of the trade, business, or
16 profession carried on under such name shall, within 30 days ~~from March 29, 1937, or~~
17 ~~thereafter~~ before commencing to do business, file in the office of the clerk of the superior
18 court of the county in which the business is chiefly carried on or, in the case of a domestic
19 corporation using any name other than its corporate name, in the county of its legal
20 domicile, a registration statement, verified by affidavit, setting forth the name or names and
21 addresses of the person, persons, firm, or partnership owning and carrying on said trade or
22 business and stating the nature of the business being carried on and the trade, partnership,
23 or other name used and shall, upon any change of ownership, likewise file a new and
24 amended statement of registration. Notice of such filing giving the names and addresses
25 of each person, firm, or partnership to engage in business under such trade name or
26 partnership name shall be delivered to and published in the ~~paper in which the sheriff's~~

27 ~~advertisements are printed~~ legal organ of the appropriate county once a week for two
28 weeks. No person, firm, or partnership already registered shall be required to reregister
29 except in the event of a change of ownership. For the purpose of including a trade or
30 business name registered prior to July 1, 2014, but not included in the state-wide trade
31 name registry provided for in Code Section 15-6-97, such trade or business name may be
32 reregistered for inclusion in such registry. Such reregistration shall not adversely affect the
33 date of filing of any previous registration. The fee for reregistration shall be as provided
34 in paragraph (10) of subsection (g) of Code Section 15-6-77.

35 (b) ~~The clerk shall register the same by filing~~ Beginning on July 1, 2014, the verified
36 statement in his office and shall keep an alphabetical index of all such registrations in a
37 permanent record book to be kept in his office, the index to show the trade, partnership, or
38 other name registered and in connection therewith the names of the owners. The applicant
39 for registration shall accompany each registration statement with the fee prescribed by
40 Code Section 15-6-77, relating to fees of clerks of the superior courts, as amended shall be
41 completed by the registrant and filed with the proper clerk of superior court. Upon
42 payment by the registrant of the fee required in paragraph (10) of subsection (g) of Code
43 Section 15-6-77, excluding costs for publication paid to the county legal organ, the clerk
44 of such superior court shall file, process, and record the verified statement in an automated
45 system.

46 (c) A copy of the verified statement required by subsection (b) of this Code section shall
47 be transmitted:

48 (1) Electronically by the clerk of superior court to the Georgia Superior Court Clerks'
49 Cooperative Authority pursuant to paragraph (15.1) of subsection (a) of Code Section
50 15-6-61; and

51 (2) By the registrant to the county or municipal governmental agency that issues business
52 licenses within ten days before the registrant commences to do business.

53 (d) When a person, firm, or partnership that has filed a trade name registration statement
54 pursuant to this Code section and ceases to carry on in this state the trade, business, or
55 profession under the registered trade name, such person, firm, or partnership may cancel
56 the trade name by filing with the clerk of the superior court in which the trade name was
57 registered a completed affidavit to be provided by the Georgia Superior Court Clerks'
58 Cooperative Authority. The fee for cancellation shall be as provided in paragraph (10) of
59 subsection (g) of Code Section 15-6-77."

SECTION 2.

60

61 Article 2 of Chapter 6 of Title 15 of the Official Code of Georgia Annotated, relating to
62 clerks of superior courts, is amended in Code Section 15-6-61, relating to duties of clerks of
63 superior courts, by adding a new paragraph to subsection (a) to read as follows:

64 "(15.1) To participate in any network established by the Georgia Superior Court Clerks'
65 Cooperative Authority pursuant to Code Section 15-6-97 for the purposes of providing
66 public, state-wide electronic access to trade name registrations. Each clerk of superior
67 court shall provide to the authority or its designated agent, in accordance with any
68 applicable rules and regulations of the authority, such documents and other information
69 necessary to evidence all trade name registrations, reregistrations, and cancellations filed
70 in his or her office as required by Code Section 10-1-490."

SECTION 3.

71

72 Said article is further amended in Code Section 15-6-77, relating to fees, by revising
73 paragraph (10) of subsection (g) as follows:

- 74 "(10) Trade Names:
- 75 (A) Registering and filing trade names pursuant to Code Section 10-1-490 15.0020.00
- 76 (B) Cancelling a trade name registration. 22.00
- 77 (C) Reregistering a trade name. 20.00"

SECTION 4.

78

79 Said article is further amended by revising Code Section 15-6-97, relating to the development
80 and implementation of a state-wide uniform automated information system, as follows:

81 "15-6-97.

82 (a)(1) The Georgia Superior Court Clerks' Cooperative Authority or its designated agent
83 shall develop and implement a state-wide uniform automated information system for real
84 and personal property records, excluding filings made pursuant to Article 9 of Title 11.
85 In furtherance of development and implementation of the system, the authority shall have
86 the ability to contract with the clerks of superior courts and any other parties that the
87 authority deems necessary. The Georgia Superior Court Clerks' Cooperative Authority
88 shall have authority to implement rules and regulations necessary to develop and
89 implement the system described in this Code section.

90 (2) The Georgia Superior Court Clerks' Cooperative Authority or its designated agent
91 shall develop and implement a state-wide uniform automated information system for
92 trade names registered in the offices of the clerks of superior court of this state pursuant
93 to Code Section 10-1-490.

94 (b) In furtherance of development and implementation of the systems provided for in this
 95 Code section, the Georgia Superior Court Clerks' Cooperative Authority shall have the
 96 ability to contract with the clerks of superior courts and any other parties that the authority
 97 deems necessary. The Georgia Superior Court Clerks' Cooperative Authority shall have
 98 authority to implement rules and regulations necessary to develop and implement the
 99 systems described in this Code section.

100 ~~(b)~~(c) The Georgia Superior Court Clerks' Cooperative Authority shall have the following
 101 powers and duties in addition to those otherwise provided by law:

- 102 (1) To provide for the collection of moneys;
 103 (2) To manage, control, and direct such funds and the expenditures made therefrom;
 104 (3) To distribute the moneys at the discretion of the authority in such manner and subject
 105 to such terms and limitations as the Georgia Superior Court Clerks' Cooperative
 106 Authority in its discretion shall determine will best further the public purpose of the
 107 authority; and
 108 (4) To exercise all other powers necessary for the development and implementation of
 109 the ~~system~~ systems provided for in this Code section."

110 **SECTION 5.**

111 Said article is further amended in Code Section 15-6-98, relating to collection of fees and
 112 remittance of real estate and personal property fees to the Georgia Superior Court Clerks'
 113 Cooperative Authority, by revising subsection (b) as follows:

114 "(b) From the fees enumerated in division (f)(1)(A)(i) and paragraph (10) of subsection (g)
 115 of Code Section 15-6-77, the Georgia Superior Court Clerks' Cooperative Authority shall
 116 collect from each clerk of superior court \$5.00 from each fee collected."

117 **SECTION 6.**

118 Said article is further amended in Code Section 15-6-99, relating to the re-creation of grantor
 119 and grantee indexes, by revising subsection (a) as follows:

120 "(a) The Georgia Superior Court Clerks' Cooperative Authority is authorized to re-create
 121 grantor and grantee indexes that exist prior to January 1, 1999, in each county for the
 122 purpose of providing information and history concerning real property records for the
 123 state-wide uniform automated information system provided for in paragraph (1) of
 124 subsection (a) of Code Section 15-6-97. The number of prior year indexes to be re-created
 125 shall be determined by the Georgia Superior Court Clerks' Cooperative Authority in
 126 cooperation with the clerks of the superior courts who shall provide copies of such county
 127 indexes or access to copies of such indexes for re-creating such indexes. A copy of the

128 re-created index shall be furnished to each county but shall not replace or supersede the
129 original county index."

130 **SECTION 7.**

131 This Act shall become effective on July 1, 2014.

132 **SECTION 8.**

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