

House Bill 670 (AS PASSED HOUSE AND SENATE)

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 trade name
5 registry; to provide for duties of clerks of superior courts; to provide for fees; to correct a
6 cross-references; to provide for an automatic repeal; to provide for revised fees on and after
7 January 1, 2020; to provide for related matters; to provide for effective dates; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 PART I

11 SECTION 1-1.

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

14 "10-1-490.

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

26 amended statement of registration. Notice of such filing giving the names and addresses
 27 of each person, firm, or partnership to engage in business under such trade name or
 28 partnership name shall be delivered to and published in the paper in which the sheriff's
 29 advertisements are printed legal organ of the appropriate county once a week for two
 30 weeks. No person, firm, or partnership already registered shall be required to reregister
 31 except in the event of a change of ownership. For the purpose of including a trade or
 32 business name registered prior to July 1, 2014, but not included in the trade name registry
 33 provided for in Code Section 15-6-97, such trade or business name may be reregistered for
 34 inclusion in such registry. Such reregistration shall not adversely affect the date of filing
 35 of any previous registration. The total fee for reregistration shall be as provided in
 36 subparagraph (g)(10)(C) of Code Section 15-6-77, and the fees provided for by Code
 37 Sections 15-21A-6 and 15-21A-6.1 shall not apply.

38 (b) Beginning on July 1, 2014, The clerk shall register the same by filing the verified
 39 statement in his office and shall keep an alphabetical index of all such registrations in a
 40 permanent record book to be kept in his office, the index to show the trade, partnership, or
 41 other name registered and in connection therewith the names of the owners. The applicant
 42 for registration shall accompany each registration statement with the fee prescribed by
 43 Code Section 15-6-77, relating to fees of clerks of the superior courts, as amended shall be
 44 completed by the registrant and filed with the proper clerk of superior court. Upon
 45 payment by the registrant of the fee required in subparagraph (g)(10)(A) of Code Section
 46 15-6-77, excluding costs for publication paid to the county legal organ, the clerk of such
 47 superior court shall file, process, and record the verified statement in an automated system.

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

50 (1) Electronically by the clerk of superior court to the Georgia Superior Court Clerks'
 51 Cooperative Authority pursuant to paragraph (15.1) of subsection (a) of Code Section
 52 15-6-61; and

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

55 (d) When a person, firm, or partnership that has filed a trade name registration statement
 56 pursuant to this Code section and ceases to carry on in this state the trade, business, or
 57 profession under the registered trade name, such person, firm, or partnership may cancel
 58 the trade name by filing with the clerk of the superior court in which the trade name was
 59 registered a completed affidavit to be provided by the Georgia Superior Court Clerks'
 60 Cooperative Authority. The total fee for cancellation shall be as provided in subparagraph
 61 (g)(10)(B) of Code Section 15-6-77, and the fees provided for by Code Sections 15-21A-6
 62 and 15-21A-6.1 shall not apply."

SECTION 1-2.

63

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

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

SECTION 1-3.

74

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

77 "(10) Trade Names:

78 <u>(A) Registering and filing trade names pursuant to Code Section 10-1-490</u>	<u>15.00</u>
	<u>20.00</u>
79 <u>(B) Cancelling a trade name registration.</u>	<u>22.00</u>
80 <u>(C) Reregistering an existing trade name in the trade name registry.</u>	<u>20.00</u>

81 This paragraph shall stand repealed effective December 31, 2019."

SECTION 1-4.

82

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

85 "15-6-97.
86 (a)(1) The Georgia Superior Court Clerks' Cooperative Authority or its designated agent
87 shall develop and implement a state-wide uniform automated information system for real
88 and personal property records, excluding filings made pursuant to Article 9 of Title 11.
89 In furtherance of development and implementation of the system, the authority shall have
90 the ability to contract with the clerks of superior courts and any other parties that the
91 authority deems necessary. The Georgia Superior Court Clerks' Cooperative Authority
92 shall have authority to implement rules and regulations necessary to develop and
93 implement the system described in this Code section.

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

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

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

106 (1) To provide for the collection of moneys;
 107 (2) To manage, control, and direct such funds and the expenditures made therefrom;
 108 (3) To distribute the moneys at the discretion of the authority in such manner and subject
 109 to such terms and limitations as the Georgia Superior Court Clerks' Cooperative
 110 Authority in its discretion shall determine will best further the public purpose of the
 111 authority; and

112 (4) To exercise all other powers necessary for the development and implementation of
 113 the ~~system~~ systems provided for in this Code section."

114 **SECTION 1-5.**

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

118 "(b) From the fees enumerated in division (f)(1)(A)(i) and paragraph (10) of subsection (g)
 119 of Code Section 15-6-77, the Georgia Superior Court Clerks' Cooperative Authority shall
 120 collect from each clerk of superior court \$5.00 from each fee collected. This subsection
 121 shall stand repealed effective December 31, 2019."

122 **SECTION 1-6.**

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

125 "(a) The Georgia Superior Court Clerks' Cooperative Authority is authorized to re-create
 126 grantor and grantee indexes that exist prior to January 1, 1999, in each county for the
 127 purpose of providing information and history concerning real property records for the
 128 state-wide uniform automated information system provided for in paragraph (1) of

129 subsection (a) of Code Section 15-6-97. The number of prior year indexes to be re-created
 130 shall be determined by the Georgia Superior Court Clerks' Cooperative Authority in
 131 cooperation with the clerks of the superior courts who shall provide copies of such county
 132 indexes or access to copies of such indexes for re-creating such indexes. A copy of the
 133 re-created index shall be furnished to each county but shall not replace or supersede the
 134 original county index."

135 **PART II**

136 **SECTION 2-1.**

137 Said article is further amended in Code Section 15-6-77, relating to fees, by enacting a new
 138 paragraph (10) of subsection (g) to read as follows:

139 "(10) Trade Names:

140	<u>(A) Registering and filing trade names</u>	<u>16.00</u>
141	<u>(B) Cancelling a trade name registration</u>	<u>18.00</u>
142	<u>(C) Reregistering an existing trade name in the trade name registry</u>	<u>16.00"</u>

143 **SECTION 2-2.**

144 Said article is further amended in Code Section 15-6-98, relating to collection of fees and
 145 remittance of real estate and personal property fees to the Georgia Superior Court Clerks'
 146 Cooperative Authority, by enacting a new subsection (b) to read as follows:

147 "(b) From the fees enumerated in division (f)(1)(A)(i) of Code Section 15-6-77, the
 148 Georgia Superior Court Clerks' Cooperative Authority shall collect from each clerk of
 149 superior court \$5.00 from each fee collected. From the fees enumerated in paragraph (10)
 150 of subsection (g) of Code Section 15-6-77, the Georgia Superior Court Clerks' Cooperative
 151 Authority shall collect from each clerk of superior court \$1.00 from each fee collected."

152 **PART III**

153 **SECTION 3-1.**

- 154 (a) Parts I and III of this Act shall become effective on July 1, 2014.
- 155 (b) Part II of this Act shall become effective on January 1, 2020.

156 **SECTION 3-2.**

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