

House Bill 524

By: Representative Fleming of the 121st

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
6 cross-references; to provide for an automatic repeal; to provide for revised fees on and after
7 January 1, 2021; 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, 2015, 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 standardized registration statement, ~~verified by~~ and an affidavit, using forms
23 created by the Georgia Superior Court Clerks' Cooperative Authority and setting forth the
24 name or names and addresses of the person, persons, firm, or partnership owning and
25 carrying on said trade or business and stating the nature of the business being carried on

26 and the trade, partnership, or other name used and shall, upon any change of ownership,
 27 likewise file a new and amended statement of registration. Notice of such filing giving the
 28 names and addresses of each person, firm, or partnership to engage in business under such
 29 trade name or partnership name shall be delivered to and published in the paper in which
 30 the sheriff's advertisements are printed legal organ of the appropriate county once a week
 31 for two weeks. No person, firm, or partnership already registered shall be required to
 32 reregister except in the event of a change of ownership. For the purpose of including a
 33 trade or business name registered prior to July 1, 2015, but not included in the trade name
 34 registry provided for in Code Section 15-6-97, such trade or business name may be
 35 reregistered for inclusion in such registry. Such reregistration shall not adversely affect the
 36 date of filing of any previous registration. The total fee for reregistration shall be as
 37 provided in subparagraph (g)(10)(C) of Code Section 15-6-77, and the fees provided for
 38 by Code Sections 15-21A-6 and 15-21A-6.1 shall not apply.

39 (b) Beginning on July 1, 2015, The clerk shall register the same by filing the verified
 40 statement in his office and shall keep an alphabetical index of all such registrations in a
 41 permanent record book to be kept in his office, the index to show the trade, partnership, or
 42 other name registered and in connection therewith the names of the owners. The applicant
 43 for registration shall accompany each registration statement with the fee prescribed by
 44 Code Section 15-6-77, relating to fees of clerks of the superior courts, as amended shall be
 45 completed by the registrant and filed with the proper clerk of superior court. Upon
 46 payment by the registrant of the fee required in subparagraph (g)(10)(A) of Code Section
 47 15-6-77, excluding costs for publication paid to the county legal organ, the clerk of such
 48 superior court shall file, process, and record the verified statement in an automated system.

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

51 (1) Electronically by the clerk of superior court to the Georgia Superior Court Clerks'
 52 Cooperative Authority pursuant to paragraph (15.1) of subsection (a) of Code Section
 53 15-6-61; and

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

56 (d) When a person, firm, or partnership that has filed a trade name registration statement
 57 pursuant to this Code section ceases to carry on in this state the trade, business, or
 58 profession under the registered trade name, such person, firm, or partnership may cancel
 59 the trade name by filing with the clerk of the superior court in which the trade name was
 60 registered a completed affidavit to be provided by the Georgia Superior Court Clerks'
 61 Cooperative Authority. The total fee for cancellation shall be as provided in subparagraph

62 (g)(10)(B) of Code Section 15-6-77, and the fees provided for by Code Sections 15-21A-6
63 and 15-21A-6.1 shall not apply."

64 **SECTION 1-2.**

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

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

75 **SECTION 1-3.**

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

- 78 "(10) Trade names:
- 79 (A) Registering and filing trade names pursuant to Code Section 10-1-490 15.00
 - 80 (B) Cancelling a trade name registration 22.00
 - 81 (C) Reregistering an existing trade name in the trade name registry 20.00
- 82 This paragraph shall stand repealed effective December 31, 2020."

83 **SECTION 1-4.**

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

86 "15-6-97.

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

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

99 (b) In furtherance of development and implementation of the systems provided for in this
 100 Code section, the Georgia Superior Court Clerks' Cooperative Authority shall have the
 101 ability to contract with the clerks of superior courts and any other parties that the authority
 102 deems necessary. The Georgia Superior Court Clerks' Cooperative Authority shall create
 103 standardized forms for use in connection with filings pursuant to Code Section 10-1-490
 104 and shall have the authority to develop rules and regulations necessary for the usage of
 105 such forms and to implement the systems described in this Code section.

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

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

116 **SECTION 1-5.**

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

120 "(b) From the fees enumerated in division (f)(1)(A)(i) and paragraph (10) of subsection (g)
 121 of Code Section 15-6-77, the Georgia Superior Court Clerks' Cooperative Authority shall
 122 collect from each clerk of superior court \$5.00 from each fee collected. This subsection
 123 shall stand repealed effective December 31, 2020."

124 **SECTION 1-6.**

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

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

130 state-wide uniform automated information system provided for in paragraph (1) of
 131 subsection (a) of Code Section 15-6-97. The number of prior year indexes to be re-created
 132 shall be determined by the Georgia Superior Court Clerks' Cooperative Authority in
 133 cooperation with the clerks of the superior courts who shall provide copies of such county
 134 indexes or access to copies of such indexes for re-creating such indexes. A copy of the
 135 re-created index shall be furnished to each county but shall not replace or supersede the
 136 original county index."

137 **PART II**

138 **SECTION 2-1.**

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

141 "(10) Trade names:

142	<u>(A) Registering and filing trade names</u>	<u>15.00</u>
143	<u>(B) Cancelling a trade name registration</u>	<u>18.00</u>
144	<u>(C) Reregistering an existing trade name in the trade name registry</u>	<u>16.00"</u>

145 **SECTION 2-2.**

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

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

154 **PART III**

155 **SECTION 3-1.**

- 156 (a) Parts I and III of this Act shall become effective on July 1, 2015.
 157 (b) Part II of this Act shall become effective on January 1, 2021.

158 **SECTION 3-2.**

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