

The House Committee on Judiciary offers the following substitute to HB 288:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 9-15-4, Article 2 of Chapter 6 of Title 15, and Code Section 19-8-13
2 of the Official Code of Georgia Annotated, relating to deposit prior to filing by clerk,
3 exception if affidavit of indigence filed, repayment of excess, and exemptions, clerks of
4 superior courts, and petition, filing and contents, financial disclosures, attorney's affidavit,
5 and redaction of certain information unnecessary, respectively, so as to revise the sums that
6 the clerks of the superior courts are entitled to charge and collect for filing documents and
7 instruments pertaining to real estate or personal property; to provide for a flat sum structure;
8 to repeal certain related alternative fees; to repeal provisions related to additional fees and
9 costs in counties having a certain sized population; to provide for related matters; to provide
10 for an effective date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

13 Code Section 9-15-4 of the Official Code of Georgia Annotated, relating to deposit prior to
14 filing by clerk, exception if affidavit of indigence filed, repayment of excess, and
15 exemptions, is amended by revising subsection (a) as follows:

16 "(a) A clerk of the superior court shall not be required to file any civil case or proceeding
17 until the fee required by Code Section 15-6-77 and ~~Code Section 15-6-77.2~~, relating to fees
18 of clerks of the superior courts, has been paid to the clerk. The fee shall not be required if
19 the party desiring to file the case or proceeding is unable because of his indigence to pay
20 the fee and the party files with the clerk an affidavit to such effect."

21 style="text-align:center">**SECTION 2.**

22 Article 2 of Chapter 6 of Title 15 of the Official Code of Georgia Annotated, relating to
23 clerks of superior courts, is amended by revising subsections (b) and (c), paragraph (4) of
24 subsection (e), and subsections (f) and (o) of Code Section 15-6-77, relating to fees and
25 construction of other fee provisions, as follows:

26 "(b) All sums as provided for in this Code section shall be inclusive of the sums that the
 27 clerks of the superior courts may be required to collect pursuant to Code Section 15-6-61,
 28 15-6-77.4, 15-6-98, 45-17-4, or 47-14-51, or as otherwise provided by law as a deduction
 29 from the applicable fee. The sums provided in this Code section are exclusive of costs for
 30 service of process or other additional sums as may be provided by law.

31 ~~(c) In all counties in this state where the clerk of the superior court is paid or compensated~~
 32 ~~on a salary basis, the~~ Any fees received as provided for in this Code section shall be paid
 33 into the county treasury less and except such sums as are otherwise directed to be paid by
 34 the clerk to another entity according to some other general law expressly providing for
 35 same, including, but not limited to, any sums pursuant to Code Section 15-6-61 and such
 36 sums as are collected pursuant to Code Section ~~36-15-9 and Code Section~~ 15-6-77.4,
 37 15-6-98, ~~36-15-9, 45-17-4 or 47-14-51,~~ which sums shall be remitted to such authorities
 38 as provided by law. Fees, sums, or other remuneration for the performance of duties
 39 provided for under the laws of the United States or regulations promulgated pursuant to
 40 such laws shall be as provided in such laws or regulations as personal compensation to the
 41 clerk of the superior court for the performance of such duties."

42 "(4) No fee or cost shall be assessed for any service rendered by the clerk of superior
 43 court through entry of judgment in family violence cases under Chapter 13 of Title 19 or
 44 in connection with the filing, issuance, registration, or service of a protection order or a
 45 petition for a prosecution order to protect a victim of domestic violence, stalking, or
 46 sexual assault. A petitioner seeking a temporary protective order or a respondent
 47 involved in a temporary protective order hearing under the provisions of Code Section
 48 19-13-3 or 19-13-4 shall be provided with a foreign language or sign language interpreter
 49 when necessary for the hearing on the petition. The reasonable cost of the interpreter
 50 shall be paid by the local victim assistance funds as provided by Article 8 of Chapter 21
 51 of this title. The provisions of this paragraph shall control over any other conflicting
 52 provisions of law ~~and shall specifically control over the provisions of Code Sections~~
 53 ~~15-6-77.1, 15-6-77.2, and 15-6-77.3."~~

54 "(f) Sums for filing documents, instruments, etc., pertaining to real estate or personal
 55 property, such sums to include recording and returning where applicable, shall be as
 56 follows and shall continue to be subject to the remittance requirements to be paid by the
 57 clerk pursuant to Code Section 15-6-61, 15-6-98, or 47-14-51:

| | | |
|----|--|--------------------|
| 58 | (1)(A)(i) Filing all instruments <u>each instrument</u> pertaining to real estate | |
| 59 | including, but not limited to, each deed, deed of trust, affidavit, release, | |
| 60 | <u>notice, certificate, cancellation, assignment, notice filing for Uniform</u> | \$ 9.50 |
| 61 | <u>Commercial Code related real estate, and assignment of a security deed or</u> | <u>25.00</u> |
| 62 | mortgage deeds, deeds of trust, affidavits, releases, notices and certificates, | |
| 63 | and cancellation of deeds, first page | |
| 64 | <u>For any instrument that includes a request for cancellation, satisfaction,</u> | <u>2.00</u> |
| 65 | <u>release, or assignment of more than one instrument, the filing fee specified</u> | |
| 66 | <u>in this division shall be submitted and paid for each such instrument which</u> | |
| 67 | <u>is to be canceled, satisfied, released, or assigned</u> Each page, after the first | |
| 68 | (ii) Filing all instruments <u>an instrument</u> pertaining to real estate and | |
| 69 | personal property including liens <u>a lien</u> on real estate and personal property, | |
| 70 | notice filings for Uniform Commercial Code related real estate, tax liens, | |
| 71 | hospital liens <u>lien</u> , writs of fieri facias, notices <u>notice</u> of lis pendens, written | |
| 72 | information on utilities, cancellations <u>cancellation</u> of liens <u>a lien</u> , and writs | 4.50 |
| 73 | <u>writ of fieri facias, first page</u> | <u>25.00</u> |
| 74 | <u>For any instrument that includes a request for cancellation, satisfaction,</u> | <u>2.00</u> |
| 75 | <u>release, or assignment of more than one instrument, the filing fee specified</u> | |
| 76 | <u>in this division shall be submitted and paid for each such instrument which</u> | |
| 77 | <u>is to be canceled, satisfied, released, or assigned</u> Each page, after the first | |
| 78 | (iii) Filing of a tax lien by a state or local government agency | 5.00 |
| 79 | <u>Each page, after the first page</u> | <u>2.00</u> |
| 80 | <u>For each tax cancellation, satisfaction, release, notice, withdrawal, or other</u> | <u>2.00</u> |
| 81 | <u>document referencing a previously filed tax lien, an additional sum for each</u> | |
| 82 | <u>previous tax lien referenced</u> | |
| 83 | (B) Filing and indexing <u>a financing statements statement</u> , amendments | |
| 84 | <u>amendment</u> to <u>a financing statements statement</u> , continuation statements | |
| 85 | <u>statement</u> , termination statements <u>statement</u> , release of collateral, or other | 10.00 |
| 86 | filing pursuant to Article 9 of Title 11, first page | <u>25.00</u> |
| 87 | Each page, after the first | <u>2.00</u> |
| 88 | (2) Filing maps or plats, each page | 7.50 |
| | | <u>10.00</u> |
| 89 | (3) For processing an assignment of a security deed, for each deed | |
| 90 | assigned | 4.50" |

91 "(o) In addition to the fees required by this Code section:

92 (1) ~~When any instrument that is statutorily required to be cross-indexed, canceled,~~
93 ~~satisfied, or released or when a party requests the clerk to cross-index an instrument that~~
94 ~~is not otherwise required by law to be cross-indexed to any other previously recorded or~~
95 ~~affected document, the clerk of superior court shall charge an additional fee of \$2.00 for~~
96 ~~each additional cross-indexed entry;~~

97 ~~(2) For recording any instrument that includes a request for cancellation, satisfaction, or~~
98 ~~release of more than one instrument as described in division (f)(1)(A)(i) of this Code~~
99 ~~section, the filing fee specified in division (f)(1)(A)(i) of this Code section shall be~~
100 ~~charged for each such instrument which is to be canceled, satisfied, or released;~~

101 ~~(3) For recording any instrument that includes a request for cancellation, satisfaction, or~~
102 ~~release of more than one instrument as described in division (f)(1)(A)(ii) of this Code~~
103 ~~section, the filing fee specified in division (f)(1)(A)(ii) of this Code section shall be~~
104 ~~charged for each such instrument which is to be canceled, satisfied, or released;~~

105 ~~(4) For any instrument that includes a request for the clerk to cross-index the instrument~~
106 ~~to a previously recorded or affected instrument but for which cross-indexing is not~~
107 ~~otherwise required by law, the clerk shall file, index, record, and cross-index each such~~
108 ~~instrument for which a request has been made upon receiving payment from the~~
109 ~~requesting party as specified by paragraph (1) of this subsection and written information~~
110 ~~specifying accurately the instrument to be cross-indexed;~~

111 (5) With respect to any instrument that includes a request for cancellation, satisfaction,
112 or release of any instrument described in division (f)(1)(A)(i) or (f)(1)(A)(ii) of this Code
113 section, the clerk shall file, index, and record the cancellation of each such instrument
114 identified and requested to be canceled, provided that the requesting party pays the
115 applicable filing fee specified by paragraph (2) or (3) of this subsection, as applicable,
116 and that such instrument accurately identifies the recording information for such
117 instrument to be canceled, satisfied, or released; and

118 ~~(6)~~(2) For the purposes of this subsection and any other Code section requiring the clerk
119 of superior court to cross-index, cross-reference, or make any other notation affecting any
120 instrument filed in the clerk's office, including, but not limited to, real estate, personal
121 property, liens, plats, and any other instruments, the clerk shall be authorized to make
122 such entry or notation through electronic or automated means in lieu of entering such
123 information manually in paper books or dockets."

124 **SECTION 3.**

125 Said article is further amended by repealing Code Section 15-6-77.1, relating to additional
 126 fees in counties with populations of 550,000 or more and disposition of such fees, and
 127 designating such Code section as reserved.

128 **SECTION 4.**

129 Said article is further amended by repealing Code Section 15-6-77.2, relating to costs for
 130 clerk's services in counties with populations of 640,000 or more, time for payment of costs,
 131 and disposition of such costs, and designating such Code section as reserved.

132 **SECTION 5.**

133 Said article is further amended by repealing Code Section 15-6-77.3, relating to additional
 134 fees in counties with populations in unincorporated areas of 350,000 or more, and
 135 designating such Code section as reserved.

136 **SECTION 6.**

137 Said article is further amended by revising subsection (a) of Code Section 15-6-77.4, relating
 138 to additional divorce case filing fee for Children's Trust Fund, as follows:

139 "(a) In addition to any fees required in Code Sections 15-6-77,~~15-6-77.2, 15-6-77.3,~~ and
 140 47-14-51, for filing each divorce case, the clerk of superior court shall charge an additional
 141 fee of \$5.00. Each clerk of the superior court shall collect the additional fees for divorce
 142 cases as provided in this Code section and shall pay such moneys over to the Georgia
 143 Superior Court Clerks' Cooperative Authority by the last day of the month there following,
 144 to be deposited by the authority into the general treasury. The authority shall, on a
 145 quarterly basis, make a report and accounting of all funds collected pursuant to this Code
 146 section and shall submit such report and accounting to the Office of Planning and Budget,
 147 the House Budget and Research Office, and the Senate Budget and Evaluation Office no
 148 later than 60 days after the last day of the preceding quarter."

149 **SECTION 7.**

150 Code Section 19-8-13 of the Official Code of Georgia Annotated, relating to petition, filing
 151 and contents, financial disclosures, attorney's affidavit, and redaction of certain information
 152 unnecessary, is amended by revising subsection (b) as follows:

153 "(b) At the time of filing the petition for adoption, the petitioner shall deposit with the clerk
 154 the deposit required by Code Section 9-15-4; the fees shall be those established by Code
 155 Sections Section 15-6-77,~~15-6-77.1, and 15-6-77.2."~~

156 **SECTION 8.**

157 This Act shall become effective on January 1, 2020.

158 **SECTION 9.**

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