

House Bill 670 (COMMITTEE SUBSTITUTE)

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

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"10-1-490.

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

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~~advertisements are printed~~ legal organ of the appropriate county once a week for two weeks. No person, firm, or partnership already registered shall be required to reregister except in the event of a change of ownership. For the purpose of including a trade or business name registered prior to July 1, 2014, but not included in the trade name registry provided for in Code Section 15-6-97, such trade or business name may be reregistered for inclusion in such registry. Such reregistration shall not adversely affect the date of filing of any previous registration. The total fee for reregistration shall be as provided in subparagraph (g)(10)(C) of Code Section 15-6-77, and the fees provided for by Code Sections 15-21A-6 and 15-21A-6.1 shall not apply.

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

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

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

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

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

SECTION 2.

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

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

SECTION 3.

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

"(10) Trade Names:

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

SECTION 4.

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

"15-6-97.

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

(2) The Georgia Superior Court Clerks' Cooperative Authority or its designated agent shall develop and implement a uniform automated information system for trade names

93 registered in the offices of the clerks of superior court of this state pursuant to Code
94 Section 10-1-490.

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

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

103 (1) To provide for the collection of moneys;

104 (2) To manage, control, and direct such funds and the expenditures made therefrom;

105 (3) To distribute the moneys at the discretion of the authority in such manner and subject
106 to such terms and limitations as the Georgia Superior Court Clerks' Cooperative
107 Authority in its discretion shall determine will best further the public purpose of the
108 authority; and

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

111 SECTION 5.

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

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

118 SECTION 6.

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

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

128 indexes or access to copies of such indexes for re-creating such indexes. A copy of the
129 re-created index shall be furnished to each county but shall not replace or supersede the
130 original county index."

131 **SECTION 7.**

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

133 **SECTION 8.**

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