

House Bill 15 (COMMITTEE SUBSTITUTE)

By: Representatives Willard of the 51st, Kelley of the 16th, Fleming of the 121st, Beskin of the 54th, and Oliver of the 82nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to
2 require certain civil pleadings to be filed electronically in superior and state courts; to
3 provide for exceptions; to change provisions relating to electronic filings and payments; to
4 provide for fees; to provide for a definition; to provide for policies and procedures; to amend
5 Code Section 9-11-5 of the Official Code of Georgia Annotated, relating to service and filing
6 of pleadings subsequent to the original complaint and other papers, so as to change
7 provisions relating to the electronic service of pleadings; to provide for related matters; to
8 repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 PART I

11 SECTION 1-1.

12 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising
13 Code Section 15-6-11, relating to electronic filings and payments, as follows:

14 "15-6-11.

15 (a) With the consent of the district attorney, by ~~By~~ court rule or standing order, any
16 superior court may provide for the filing of pleadings in criminal cases and any other
17 ~~documents~~ document related thereto and for the acceptance of payments and remittances
18 by electronic means. Nothing in this ~~Code section~~ subsection shall be construed to prevent
19 a clerk's acceptance of payments and remittances by electronic means under the clerk's own
20 authority.

21 (b)(1) On and after January 1, 2018, except as provided in paragraph (3) of this
22 subsection, all pleadings and any other document related thereto filed by an attorney to
23 initiate a civil action or in a civil case in a superior court shall be filed by electronic
24 means through the court's electronic filing service provider. Except as provided in
25 paragraph (3) of this subsection, once a court has commenced mandatory electronic

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26 filings in civil cases, a clerk shall not accept, file, or docket any pleading or any other
27 document related thereto from an attorney in a civil case.

28 (2)(A) A court's electronic filing service provider may charge a fee which shall be a
29 recoverable court cost and only include a:

30 (i) Transaction fee for electronically filing pleadings or documents in a civil action
31 and the electronic service of pleadings, which shall not exceed \$7.00 per transaction,
32 regardless of how many parties shall be served; and

33 (ii) Convenience fee for credit card and bank drafting services, which shall not
34 exceed 3.5 percent plus 30¢ per transaction.

35 (B) As used in this paragraph, the term 'per transaction' means a single upload to a
36 court's electronic filing service provider for filing:

37 (i) A pleading or document within an individual case; or

38 (ii) Multiple pleadings or documents within an individual case so long as they are
39 filed concurrently.

40 (3) This subsection shall not apply to filings:

41 (A) In connection with a pauper's affidavit, pleadings or documents filed under seal or
42 presented to a court in camera or ex parte, or pleadings or documents to which access
43 is otherwise restricted by law or court order;

44 (B) Made physically by an attorney or his or her designee at the courthouse; provided,
45 however, that the clerk may require such pleadings or documents be submitted via a
46 public access terminal in the clerk's office. The clerk shall not charge the transaction
47 fee as set forth in division (2)(A)(i) of this subsection for such filing but when payment
48 is submitted by credit card or bank draft, the clerk may charge the convenience fee as
49 set forth in division (2)(A)(ii) of this subsection; or

50 (C) Made in a court located in an area that the Governor has declared to be in a state
51 of emergency. The Judicial Council of Georgia shall provide rules for filings in such
52 circumstances.

53 (4) The Council of Superior Court Clerks of Georgia shall make and publish in print or
54 electronically such policies and procedures as it deems necessary to carry out this
55 subsection.

56 (c) By court rule or standing order, any superior court shall not require but may allow for
57 the filing of pleadings in civil actions by individuals who are not attorneys and any other
58 document related thereto and for the acceptance of payments and remittances by electronic
59 means. Nothing in this subsection shall be construed to prevent a clerk's acceptance of
60 payments and remittances by electronic means under the clerk's own authority.

61 (d) A superior court judge to whom the case is assigned shall have access to all pleadings
 62 and documents uploaded to the court's electronic filing services provided after physical
 63 acceptance by the court.

64 (e) Any pleading or document filed electronically shall be deemed filed as of the time of
 65 its receipt by the electronic filing service provider. A pleading or document filed
 66 electronically shall not be subject to disclosure under Article 4 of Chapter 18 of Title 50
 67 until it has been physically accepted by the clerk.

68 (f) A clerk shall not enter into any agreement or contract that prohibits more than one
 69 electronic filing service provider serving a court or clerk and to the extent that any clerk
 70 has obligated his or her office in contravention of this prohibition, the clerk shall seek to
 71 modify the terms of any existing contract and otherwise contracts entered into after
 72 June 30, 2017, shall comply with this subsection."

73 SECTION 1-2.

74 Said title is further amended by revising Code Section 15-7-5, relating to electronic filings
 75 and payments, as follows:

76 "15-7-5.

77 (a) With the consent of the solicitor-general, by court rule or standing order, any state
 78 court may provide for the filing of pleadings in criminal cases and any other documents
 79 document related thereto and for the acceptance of payments and remittances by electronic
 80 means. Nothing in this Code section subsection shall be construed to prevent a clerk's
 81 acceptance of payments and remittances by electronic means under the clerk's own
 82 authority.

83 (b)(1) On and after January 1, 2018, except as provided in paragraph (3) of this
 84 subsection, all pleadings and any other document related thereto filed by an attorney to
 85 initiate a civil action or in a civil case in a state court shall be filed by electronic means
 86 through the court's electronic filing service provider. Except as provided in paragraph
 87 (3) of this subsection, once a court has commenced mandatory electronic filings in civil
 88 cases, a clerk shall not accept, file, or docket any pleading or any other document related
 89 thereto from an attorney in a civil case.

90 (2)(A) A court's electronic filing service provider may charge a fee which shall be a
 91 recoverable court cost and only include a:

92 (i) Transaction fee for electronically filing pleadings or documents in a civil action
 93 and the electronic service of pleadings, which shall not exceed \$7.00 per transaction,
 94 regardless of how many parties shall be served; and

95 (ii) Convenience fee for credit card and bank drafting services, which shall not
 96 exceed 3.5 percent plus 30¢ per transaction.

97 (B) As used in this paragraph, the term 'per transaction' means a single upload to a
98 court's electronic filing service provider for filing:
99 (i) A pleading or document within an individual case; or
100 (ii) Multiple pleadings or documents within an individual case so long as they are
101 filed concurrently.

102 (3) This subsection shall not apply to filings:
103 (A) In connection with a pauper's affidavit, pleadings or documents filed under seal or
104 presented to a court in camera or ex parte, or pleadings or documents to which access
105 is otherwise restricted by law or court order;
106 (B) Made physically by an attorney or his or her designee at the courthouse; provided,
107 however, that the clerk may require such pleadings or documents be submitted via a
108 public access terminal in the clerk's office. The clerk shall not charge the transaction
109 fee as set forth in division (2)(A)(i) of this subsection for such filing but when payment
110 is submitted by credit card or bank draft, the clerk may charge the convenience fee as
111 set forth in division (2)(A)(ii) of this subsection; or
112 (C) Made in a court located in an area that the Governor has declared to be in a state
113 of emergency. The Judicial Council of Georgia shall provide rules for filings in such
114 circumstances.

115 (4) The Council of Superior Court Clerks of Georgia shall make and publish in print or
116 electronically such policies and procedures as it deems necessary to carry out this
117 subsection.

118 (c) By court rule or standing order, any state court shall not require but may allow for the
119 filing of pleadings in civil actions by individuals who are not attorneys and any other
120 document related thereto and for the acceptance of payments and remittances by electronic
121 means. Nothing in this subsection shall be construed to prevent a clerk's acceptance of
122 payments and remittances by electronic means under the clerk's own authority.

123 (d) Any pleading or document filed electronically shall be deemed filed as of the time of
124 its receipt by the electronic filing service provider. A pleading or document filed
125 electronically shall not be subject to disclosure under Article 4 of Chapter 18 of Title 50
126 until it has been physically accepted by the clerk.

127 (e) A clerk shall not enter into any agreement or contract that prohibits more than one
128 electronic filing service provider serving a court or clerk and to the extent that any clerk
129 has obligated his or her office in contravention of this prohibition, the clerk shall seek to
130 modify the terms of any existing contract and otherwise contracts entered into after
131 June 30, 2017, shall comply with this subsection."

132

PART II

133

SECTION 2-1.

134 Code Section 9-11-5 of the Official Code of Georgia Annotated, relating to service and filing
135 of pleadings subsequent to the original complaint and other papers, is amended by revising
136 paragraph (4) of subsection (f) as follows:

137 "(4) When an attorney files a pleading in a case via an electronic filing service provider,
138 such attorney shall be deemed to have consented to be served electronically with future
139 pleadings for such case unless he or she files a rescission of consent as set forth in
140 paragraph (2) of this subsection.

141 ~~(4)~~(5) If electronic service of a pleading is made upon a person to be served, and such
142 person certifies to the court under oath that he or she did not receive such pleading, it
143 shall be presumed that such pleading was not received unless the serving party disputes
144 the assertion of nonservice, in which case the court shall decide the issue of service of
145 such pleading."

146

PART III

147

SECTION 3-1.

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