

The Senate Committee on Judiciary offered the following substitute to HB 15:

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 and Chapter 1 of Title 15 of the Official Code of Georgia Annotated,
6 relating to service and filing of pleadings subsequent to the original complaint and other
7 papers and general provisions relating to courts, respectively, so as to change provisions
8 relating to the electronic service of pleadings; to provide for contracts with electronic filing
9 service providers; to provide for related matters; to repeal conflicting laws; and for other
10 purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 PART I
13 SECTION 1-1.

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

16 "15-6-11.

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

23 (b)(1) On and after January 1, 2018, except as provided in paragraph (3) of this
24 subsection, all pleadings and any other document related thereto filed by an attorney to
25 initiate a civil action or in a civil case in a superior court shall be filed by electronic

26 means through the court's electronic filing service provider. Except as provided in
27 paragraph (3) of this subsection, once a court has commenced mandatory electronic
28 filings in civil cases, a clerk shall not accept, file, or docket any pleading or any other
29 form of paper document related thereto from an attorney in a civil case.

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

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

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

37 (B) No amount of the fee charged pursuant to subparagraph (A) of this paragraph shall
38 be remitted to a clerk, the Georgia Superior Court Clerks' Cooperative Authority, the
39 Council of Superior Court Clerks of Georgia, or any other office or entity of the state
40 or governing authority of a county or municipality.

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

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

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

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

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

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

57 (C) Made in a court located in an area that has been declared to be in a state of
58 emergency pursuant to Article 3 of Chapter 3 of Title 38. The Judicial Council of
59 Georgia shall provide rules for filings in such circumstances.

60 (4) The Council of Superior Court Clerks of Georgia shall create such policies and
61 procedures as it deems necessary to carry out this subsection, subject to the approval of

62 the Judicial Council of Georgia, and thereafter publish such policies and procedures in
 63 print or electronically.

64 (c) Nothing in this Code section shall be construed to prevent a clerk's acceptance of
 65 payments and remittances by electronic means under the clerk's own authority.

66 (d) A superior court judge to whom the case is assigned and his or her staff shall, at all
 67 times, have access to all pleadings and documents electronically filed and such access shall
 68 be provided upon the physical acceptance of such pleadings and documents by the clerk.

69 (e) Any pleading or document filed electronically shall be deemed filed as of the time of
 70 its receipt by the electronic filing service provider. A pleading or document filed
 71 electronically shall not be subject to disclosure until it has been physically accepted by the
 72 clerk."

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 ~~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 shall be construed to prevent a clerk's acceptance of~~
 81 ~~payments and remittances by electronic means under the clerk's own authority.~~

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

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

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

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

96 (B) No amount of the fee charged pursuant to subparagraph (A) of this paragraph shall
 97 be remitted to a clerk, the Georgia Superior Court Clerks' Cooperative Authority, the

98 Council of Superior Court Clerks of Georgia, or any other office or entity of the state
99 or governing authority of a county or municipality.

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

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

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

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

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

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

116 (C) Made in a court located in an area that has been declared to be in a state of
117 emergency pursuant to Article 3 of Chapter 3 of Title 38. The Judicial Council of
118 Georgia shall provide rules for filings in such circumstances.

119 (4) The Council of Superior Court Clerks of Georgia shall create such policies and
120 procedures as it deems necessary to carry out this subsection, subject to the approval of
121 the Judicial Council of Georgia, and thereafter publish such policies and procedures in
122 print or electronically.

123 (c) Nothing in this Code section shall be construed to prevent a clerk's acceptance of
124 payments and remittances by electronic means under the clerk's own authority.

125 (d) A state court judge to whom the case is assigned and his or her staff shall, at all times,
126 have access to all pleadings and documents electronically filed and such access shall be
127 provided upon the physical acceptance of such pleadings and documents by the clerk.

128 (e) Any pleading or document filed electronically shall be deemed filed as of the time of
129 its receipt by the electronic filing service provider. A pleading or document filed
130 electronically shall not be subject to disclosure until it has been physically accepted by the
131 clerk."

PART II**SECTION 2-1.**

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

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

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

SECTION 2-2.

Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by adding a new Code section to read as follows:

"15-1-22.

No court or clerk of court shall enter into any exclusive agreement or contract that prohibits more than one electronic filing service provider to serve a court or clerk of court; provided, however, that such prohibition shall not require a court or clerk of court to enter into more than one agreement or contract with an electronic service provider."

PART III**SECTION 3-1.**

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