

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

A BILL TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I
SECTION 1-1.

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

"15-6-11.

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

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

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

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

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

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

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

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

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

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

(3) This subsection shall not apply to filings:

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

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

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

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

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

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

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

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

SECTION 1-2.

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

"15-7-5.

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

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

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

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

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

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

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

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

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

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

(3) This subsection shall not apply to filings:

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

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

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

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

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

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

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