

The House Committee on Judiciary offers 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 of the Official Code of Georgia Annotated, relating to service and filing of pleadings subsequent to the original complaint and other papers, so as to change provisions relating to the electronic service of pleadings; 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~~ subsection 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 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) 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 by an attorney or his or her designee at the courthouse; provided, however, that the clerk may 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 the Governor has declared to be in a state of emergency. The Judicial Council of Georgia shall provide rules for filings in such circumstances.

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

(c) By court rule or standing order, any superior court shall not require but may allow for the filing of pleadings in civil actions by individuals who are not attorneys and any other document related thereto and for the acceptance of payments and remittances by electronic means. Nothing in this subsection 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 shall have access to all pleadings and documents uploaded to the court's electronic filing services provided after physical acceptance by the court.

(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 under Article 4 of Chapter 18 of Title 50 until it has been physically accepted by the clerk.

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

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 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 subsection 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 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) 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 by an attorney or his or her designee at the courthouse; provided, however, that the clerk may 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 the Governor has declared to be in a state of emergency. The Judicial Council of Georgia shall provide rules for filings in such circumstances.

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

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

(d) 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 under Article 4 of Chapter 18 of Title 50 until it has been physically accepted by the clerk.

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

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."

PART III**SECTION 3-1.**

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