

House Bill 1004

By: Representatives Jasperse of the 11th, Weldon of the 3rd, Powell of the 32nd, Maxwell of the 17th, and Ballinger of the 23rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 15 and 44 of the Official Code of Georgia Annotated, relating to courts and
2 property, respectively, so as to provide requirements for maps, plats, and plans to be filed for
3 record; to provide for filing of electronic images of maps, plats, and plans; to provide for
4 electronic processing by clerks of superior court; to provide a criminal penalty; to provide
5 for public computer terminal access to electronic filing portal; to provide for rules and
6 regulations; to change certain provisions relating to the indexing of maps or plots; to provide
7 for recordation of real estate instruments; to provide for incorporation by reference to
8 instruments recorded in the office of the clerk of superior court; to provide for recordation
9 of plats in land registration proceedings; to provide for methods of filing condominium
10 instruments with the clerk of superior court; to provide for delivery of plats to the clerk of
11 superior court; to change certain provisions relating to recordation and notations of plats; to
12 provide an effective date; to provide for related matters; to repeal conflicting laws; and for
13 other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 style="text-align:center">**SECTION 1.**

16 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising
17 Code Section 15-6-67, relating to recordation of maps and plats and specifications, as
18 follows:

19 "15-6-67.

20 (a) The clerk of superior court shall file and record ~~in his or her office maps, or plats, and~~
21 subdivision plats, and condominium plats, condominium site plans, condominium plot
22 plans, and condominium floor plans presented in accordance with Code Section 44-3-83
23 relating to real estate in the county when submitted for filing as provided in this Code
24 section and accompanied with any required filing fees or costs.

25 (b) ~~Maps or plats~~ Each map, plat, or plan referred to in subsection (a) of this Code section
26 to be filed and recorded in the office of clerk of superior court shall be prepared in

27 ~~accordance with the minimum standards and specifications adopted in the rules and~~
 28 ~~regulations of the State Board of Registration for Professional Engineers and Land~~
 29 ~~Surveyors in conformance with the following requirements:~~

30 (1) **Material Caption.** Each map or plat page image shall have a caption which shall
 31 provide the following information:

32 (A) ~~Any such maps or plats shall be a good legible copy or commercial print~~
 33 ~~reproduced from an original. The county where the property lies;~~

34 (B) ~~The clerk shall enter manually or electronically the filing date, plat book number,~~
 35 ~~and page number on the plats and shall cause the same information to be entered~~
 36 ~~electronically on the digital copy presented for filing and shall return an original~~
 37 ~~physical copy of the plat with the filing information on it to the land surveyor or the~~
 38 ~~person filing the same for record. The clerk shall permanently retain the original~~
 39 ~~physical and digital copy of the plat. Both the filing information and plat shall serve~~
 40 ~~as evidence of the original drawing. The physical copy, the digital copy, or both may~~
 41 ~~be displayed to the public in compliance with Code Section 15-6-68 Any city, town,~~
 42 ~~municipality, or village wherein the property lies;~~

43 (C) The names of all owners of the property;

44 (D) If such plat is a subdivision plat, condominium plat, condominium site plan,
 45 condominium plot plan, or condominium floor plan;

46 (E) The name of any subdivision if for a named subdivision clearly identified as such;

47 (F) The name of any condominium if for a condominium plat, condominium site plan,
 48 condominium plot plan, or condominium floor plan;

49 (G) The applicable units, pods, blocks, lots, or other subdesignations of any named
 50 subdivision or condominium;

51 (H) The name or names of the developer or developers of any named subdivision or
 52 condominium;

53 (I) All applicable land districts and land lots reflected on such map, plat, or plan;

54 (J) The date of preparation or revision date;

55 (K) The name, address, telephone number, and license or registration number of the
 56 land surveyor;

57 (L) A certificate of the registered land surveyor that such map, plat, or plan meets the
 58 current specifications for filing with the clerk of superior court set forth in any rules and
 59 regulations promulgated by the Georgia Superior Court Clerks' Cooperative Authority;

60 (M) A certificate of the registered land surveyor that such map, plat, or plan complies
 61 with the minimum standards and specifications adopted in the rules and regulations of
 62 the State Board of Registration for Professional Engineers and Land Surveyors;

63 (N) A certificate of the registered land surveyor pursuant to subsection (c) of this Code
 64 section that the filing of such map, plat, or plan has been approved in writing by any
 65 and all applicable municipal, county, or municipal-county planning commissions or
 66 municipal or county governing authorities or that such approval is not required. Each
 67 governmental entity granting approval and the dates thereof shall be stated in such
 68 certificate; and

69 (O) If the map, plat, or plan has multiple pages, the page number for each applicable
 70 page;

71 (2) **Filing information box.** Each image of a map, plat, or plan shall provide a box of
 72 not less than three inches square, if at full size, in the upper left-hand corner which shall
 73 be reserved for the clerk to append filing information; and **Caption.** Maps or plats shall
 74 have a title or name which shall be contained in the caption, and the caption shall also
 75 provide the following information:

76 (A) The county, city, town, or village, land district and land lot, and subdivision, if the
 77 property lies within a particular subdivision;

78 (B) The date of plat preparation and the date of the field survey;

79 (C) The scale, stated and shown graphically;

80 (D) The name, address, telephone number, and registration number of the land
 81 surveyor or the statement that he or she is the county surveyor and is not required by
 82 law to be a registered surveyor; and

83 (E) All reproductions of original maps or plats shall bear the original signature, in a
 84 contrasting color of ink, of the registrant placed across the registration seal in order to
 85 be a valid or recordable map or plat. The provisions of this subparagraph shall apply
 86 to all maps or plats that are sealed by a land surveyor which depict and describe real
 87 property boundaries. Maps and plats which do not meet the requirements of this
 88 subparagraph shall not be sealed nor recorded;

89 (3) **Size.** Maps or plats shall not be less than 8 1/2 inches by 11 inches and not larger
 90 than 24 inches by 36 inches, provided that the clerk shall be authorized to file maps or
 91 plats in compliance with this subparagraph. When an original map or plat is submitted
 92 to the clerk for filing and recordation, the clerk shall be authorized to accept the plat for
 93 recordation only upon receiving a minimum of two properly signed reproductions of the
 94 original physical plat and a digital copy that has been created at full scale, properly signed
 95 and in an electronic format acceptable by the Georgia Superior Court Clerks' Cooperative
 96 Authority. The digital copy shall be submitted via media approved by the clerk.

97 (c) If the plat meets the requirements of subsections (b) and (d) of this Code section, it
 98 shall be the duty of the clerk of superior court to file and record such plat and digital image
 99 of such plat.

100 (3) Format. All images of maps, plats, or plans submitted for filing shall be an
 101 electronic image of a single page certified and presented to the clerk electronically in
 102 conformance with all specifications set forth in any rules and regulations promulgated by
 103 the Georgia Superior Court Clerks' Cooperative Authority.

104 ~~(d)(c)(1)~~ Whenever the municipal planning commission, the county planning
 105 commission, the municipal-county planning commission, or, if no such planning
 106 commission exists, the appropriate municipal or county governing authority prepares and
 107 adopts subdivision regulations, and upon receiving approval thereon by the appropriate
 108 governing authority, then no plat of subdivision of land within the municipality or the
 109 county shall be filed or recorded in the office of clerk of superior court of a county
 110 without the approval ~~thereon~~ of the municipal or county planning commission or
 111 governing authority, ~~and without such approval having been entered in writing on the plat~~
 112 ~~by the secretary or other designated person of the municipal or county planning~~
 113 ~~commission or governing authority. The clerk of superior court shall not file or record~~
 114 ~~a plat of subdivision which does not have the approval of the municipal or county~~
 115 ~~planning commission or governing authority as required by this subsection. The~~
 116 ~~registered land surveyor preparing any such plat for filing shall certify thereon that such~~
 117 ~~plat has been approved for filing by all applicable municipal and county governmental~~
 118 ~~bodies specifically stating by name the bodies having made such approval and the dates~~
 119 ~~thereof.~~

120 (2) Notwithstanding any other provision of this subsection to the contrary, no approval
 121 of the municipal ~~or planning commission~~, county planning commission,
 122 municipal-county planning commission, or, if no such planning commission exists, the
 123 appropriate municipal or county governing authority shall be required if no new streets
 124 or roads are created or no new utility improvements are required or no new sanitary sewer
 125 or approval of a septic tank is required. Any plat of survey containing thereon a
 126 certification from a ~~licensed~~ registered land surveyor that the provisions relative to this
 127 subsection do not require approval of the municipal, county, or municipal-county or
 128 county planning commission or municipal or county governing authority shall entitle said
 129 plat to record. ~~Any licensed surveyor who fraudulently certifies that a plat of survey does~~
 130 ~~not require the approval specified in this subsection shall be guilty of a misdemeanor to~~
 131 ~~be recorded.~~

132 (d) Any land surveyor who fraudulently makes any certification required under this Code
 133 section shall, upon conviction thereof, be guilty of a misdemeanor.

134 (e) The clerk of superior court shall make available a public computer terminal
 135 which provides a filer access to the Georgia Superior Court Clerks' Cooperative Authority's
 136 electronic filing portal.

137 (f) The Georgia Superior Court Clerks' Cooperative Authority shall have the power and
 138 authority to promulgate such rules and regulations deemed necessary or convenient for
 139 implementation of the provisions of this Code section.

140 (g) The clerk of superior court shall be held harmless for the filing of any map, plat, or
 141 plan that fails to meet any requirement of this Code section."

142 **SECTION 2.**

143 Said title is further amended by revising Code Section 15-6-68, relating to public access to
 144 maps and plats, as follows:

145 "(a) The clerk of each superior court shall provide books, binders, or any other alternative
 146 system, either manual or electronic, for providing public access to maps, ~~and plats, and~~
 147 plans. ~~For all electronic images of plats submitted to the clerk on or after July 1, 2012, the~~
 148 ~~clerk shall provide necessary equipment for printing either an entire full-size copy of each~~
 149 ~~recorded plat or copies of sections of each entire recorded plat, printed in full scale.~~

150 (b) The clerk of superior court shall provide an electronic, computer-based indexing
 151 system in which shall be indexed all maps, subdivision plats, condominium plats, and other
 152 plats, condominium site plans, condominium plot plans, and condominium floor plans ~~or~~
 153 ~~plats~~ under the caption or name of the subdivision, if any, under the name of the owner or
 154 owners of the property mapped or platted, and also under the land lot number and district
 155 number if the land lies in that portion of the state which has been surveyed into land lots
 156 and districts.

157 (c) In counties of this state that are divided into land lots, the clerk of superior court shall
 158 provide an electronic, computer-based system for maintaining and searching a record for
 159 each land lot and land district by listing all surveys made for each lot and where they are
 160 recorded.

161 (d) The clerk shall electronically ~~note the date and time of the filing of a plat for record on~~
 162 ~~the face of the plat~~ filing date, book, and page numbers on the image and shall
 163 electronically transmit a copy of the map, plat, or plan with such filing information to the
 164 email address of the person filing the same for record."

165 **SECTION 3.**

166 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by
 167 revising paragraph (4) of subsection (b) of Code Section 44-2-2, relating to duty of clerk to
 168 record certain transaction affecting real estate and personal property, priority or recorded
 169 instruments, and effect of recording on rights between parties to instruments, as follows:

170 "(4) When indexing maps or plats relating to real estate in the county, the clerk of
 171 superior court shall index the names or titles provided in the caption of the plat, ~~as~~

172 required by paragraph (2) of subsection (b) of Code Section 15-6-67, as both the grantor
173 and grantee."

174 **SECTION 4.**

175 Said title is further amended by revising Code Section 44-2-25, relating to recording
176 techniques and photostatic copies of plats, as follows:

177 "44-2-25.

178 All decrees, deeds, mortgages, or other instruments affecting the title to land shall be
179 recorded by the clerk of the superior court by the use of printing, typewriting, handwriting
180 in ink, photostating, or photographing, which record shall be clear, legible, and permanent.
181 ~~The record may be made by any one or more of such methods~~ so as to provide a permanent
182 record of such instruments. It shall be lawful to make a photostatic copy or copies of any
183 plats, blueprints, or other copies of plats that are already of record in the clerk's office.
184 These copies ~~or photostatic copies thereof~~ shall serve all purposes and shall be as authentic
185 as the originals."

186 **SECTION 5.**

187 Said title is further amended by revising Code Section 44-2-26, relating to recording of plat
188 or copy of plat, when and where authorized, and duty of clerk, as follows:

189 "44-2-26.

190 The owner of real property or of any interest therein or any holder of a lien thereon may
191 ~~have file~~ a plat of the property ~~or a blueprint, tracing, digital copy, or other copy of a plat~~
192 ~~of the property recorded and indexed~~ in the office of the clerk of the superior court of the
193 county in which the property or any part thereof is located. It shall be the duty of the clerk
194 to record and index any plat ~~or any blueprint, tracing, digital copy, or other copy of the plat~~
195 that conforms with Code Section 15-6-67."

196 **SECTION 6.**

197 Said title is further amended by revising Code Section 44-2-27, relating to recording of plat
198 or copy of plat and when deemed recorded, as follows:

199 "44-2-27.

200 When any plat ~~or any blueprint, tracing, photostatic copy, or other copy of the plat is~~
201 ~~securely pasted or fastened in the book provided by the clerk for that purpose, such pasting~~
202 ~~or fastening is filed by the clerk of superior court, such filing~~ shall be deemed a recording
203 of the plat."

204 **SECTION 7.**

205 Said title is further amended by revising Code Section 44-2-28, relating to recording of plat
206 or copy of plat and incorporation by reference, as follows:

207 "44-2-28.

208 When any deed, mortgage, or other instrument conveying an interest in or creating a lien
209 on real property refers to the boundaries, metes, courses, or distances of the real estate
210 delineated or shown on any plat of the property or on any blueprint, tracing, photostatic or
211 digital copy, or other copy of the plat which has been recorded as authorized in Code
212 Section 44-2-26 and when the deed, mortgage, or other instrument states the office, book,
213 and page of recordation of the plat or of the blueprint, tracing, photostatic or digital copy,
214 or other copy of the plat, the reference shall be equivalent to setting forth in the deed,
215 mortgage, or other instrument the boundaries, metes, courses, or distances of the real estate
216 as may be delineated or shown on the plat or on the blueprint, tracing, photostatic or digital
217 copy, or other copy thereof."

218 **SECTION 8.**

219 Said title is further amended by revising Code Section 44-2-237, relating to recordation and
220 notation of plat, attaching certified copy to certificate, and fee, as follows:

221 "44-2-237.

222 Whenever a plat of the premises which is too large or too intricate for easy transcription
223 on the register of decrees of title or on the certificate of title is a part of the description of
224 the lands or is used to aid description, it shall not be necessary for the clerk to copy such
225 plat on the register of decrees of title or on the certificate of title. In lieu of copying such
226 plat, the clerk shall record it ~~in one of the public record books in his office~~ and shall note
227 ~~its existence together with~~ a reference to the book and page where recorded. ~~If the holder~~
228 ~~of the owner's certificate desires a copy of the plat to be attached as a part of his owner's~~
229 ~~certificate, the clerk shall make a certified copy and attach it upon payment of the fee~~
230 ~~provided for in paragraph (2) of subsection (f) of Code Section 15-6-77."~~

231 **SECTION 9.**

232 Said title is further amended by revising Code Section 44-3-74, relating to recording
233 condominium instruments, plats, plans, and encumbrances and record books, as follows:

234 "44-3-74.

235 (a) The declaration and any amendments thereto shall be entitled to recordation if executed
236 in the manner required for recording deeds to real property. All condominium instruments
237 and any amendments and certifications thereto shall set forth the name of the
238 condominium; the name of the county or counties in which the condominium is located;

239 and, except for the declaration itself, the deed book and page number where the first page
 240 of the declaration is recorded or the document number assigned to the declaration upon its
 241 recordation. All condominium instruments and all amendments and certifications thereto
 242 shall be recorded in every county where any portion of the condominium is located. The
 243 recordation shall not require the approval of any county or municipal authority or official
 244 except as to the manner of execution prescribed by this Code section.

245 ~~(b) In addition to the records and indexes required to be maintained by the~~ The clerk of the
 246 superior court, ~~such clerk shall~~ continue to maintain one or more separate plat books,
 247 ~~entitled 'Condominium Plat Book,' in which shall be recorded all plats required to be filed~~
 248 ~~pursuant to this article. In addition to such plats, there shall also be entitled to be recorded~~
 249 ~~in such plat books other plats, including site plans and plot plans, prepared by a registered~~
 250 ~~land surveyor and affecting any condominium; but the same shall not constitute the~~
 251 ~~recording of a plat pursuant to Code Section 44-3-83 unless they comply with all~~
 252 ~~requirements thereof. The record of the declaration and of any amendment thereto shall~~
 253 ~~contain a reference to the plat book and page number of the plat or plats recorded in~~
 254 ~~connection therewith~~ any legacy condominium plats books, condominium site plan books,
 255 condominium plot plan books, or condominium floor plan books that currently exist either
 256 in their current form or in electronic format.

257 ~~(c) The plans required to be recorded pursuant to Code Section 44-3-83 shall be kept by~~
 258 ~~the clerk of the superior court in a separate file for each condominium and shall be indexed~~
 259 ~~in the same manner as a conveyance entitled to record, numbered serially in the order of~~
 260 ~~receipt, each designated 'Condominium Plans,' with the name of the condominium, and~~
 261 ~~each containing a reference to the deed book and page number where the first page of the~~
 262 ~~declaration is recorded or the document number assigned to the declaration upon its~~
 263 ~~recordation. The record of the declaration and of any amendment thereto shall contain a~~
 264 ~~reference to the file number of the plans recorded in connection therewith.~~

265 ~~(d)~~(c) All deeds, mortgages, liens, leases, and encumbrances of any kind affecting any
 266 condominium unit or duplicate originals thereof or copies thereof certified by the clerk of
 267 the superior court in whose office the same are first recorded shall be recorded in all
 268 counties in which any part of the submitted property is located."

269 SECTION 10.

270 Said title is further amended by revising Code Section 44-13-13, relating to appointment of
 271 appraisers upon filing of objections, examination and valuation of property, alterations in plat
 272 and schedule, approval and recordation, and appeal, as follows:

273 "44-13-13.
274 Upon an objection being made as provided for in Code Section 44-13-12, unless the
275 applicant shall so alter the schedule or plat or both as to remove the objections, the judge
276 of the probate court shall appoint three disinterested appraisers to examine the property
277 concerning which the objections are made and to value the same. On the appraisers' return
278 under oath, if either the schedule or the plat shall be found to be too large, such alterations
279 shall be made in the schedule and in the plat as the judge may deem proper to bring them
280 within the limits of the value allowed by this article. Thereafter, the judge shall approve the
281 schedule and the plat as required by Code Section 44-13-11 and shall ~~hand~~ cause the same
282 to be delivered to the clerk of ~~the~~ superior court of his or her county who shall record the
283 schedule and plat as required by Code Section 44-13-11. Either party dissatisfied with the
284 judgment shall have the right to appeal under the same rules, regulations, and restrictions
285 as are provided by law in cases of appeals from the probate court."

286 **SECTION 11.**

287 This Act shall become effective on January 1, 2017.

288 **SECTION 12.**

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