

SENATE SUBSTITUTE TO HB 15:

**AS PASSED SENATE**

**A BILL TO BE ENTITLED  
AN ACT**

1 To amend Title 15 and Chapter 1 of Title 16 of the Official Code of Georgia Annotated,  
 2 relating to courts and general provisions for crimes and offenses, respectively, so as to  
 3 require certain court filings to be filed electronically and in writing; to require certain civil  
 4 pleadings to be filed electronically in superior and state courts; to provide for exceptions; to  
 5 change provisions relating to electronic filings and payments; to provide for fees; to provide  
 6 for a definition; to provide for policies and procedures; to change provisions relating to  
 7 restrictions on contingency fee compensation of an attorney appointed to represent the state  
 8 in forfeiture actions; to amend Code Section 9-11-5 and Chapter 1 of Title 15 of the Official  
 9 Code of Georgia Annotated, relating to service and filing of pleadings subsequent to the  
 10 original complaint and other papers and general provisions relating to courts, respectively,  
 11 so as to change provisions relating to the electronic service of pleadings; to provide for  
 12 contracts with electronic filing service providers; to provide for related matters; to repeal  
 13 conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **PART I**  
16 **SECTION 1-1.**

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

19 "15-6-11.

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

26 (b)(1) On and after January 1, 2018, except as provided in paragraph (3) of this  
27 subsection, all pleadings and any other document related thereto filed by an attorney to  
28 initiate a civil action or in a civil case in a superior court may be filed by electronic means  
29 through the court's electronic filing service provider.

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) Any user shall be permitted to view and download all pleadings and documents  
42 electronically filed with an electronic service provider and such provider shall not be  
43 authorized to charge or collect a fee for such viewing or downloading.

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

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

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

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

50 (A) In connection with a pauper's affidavit, any validation of revenue bonds as  
51 otherwise provided for by law, pleadings or documents filed under seal or presented to  
52 a court in camera or ex parte, or pleadings or documents to which access is otherwise  
53 restricted by law or court order;

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

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

64 (4) The Judicial Council of Georgia shall make and publish in print or electronically such  
 65 statewide minimum standards, policies, procedures and rules, as it deems necessary to  
 66 carry out this subsection, to ensure effective and efficient development of electronic filing  
 67 and electronic access to court records, and to develop procedures to ensure compliance  
 68 before an electronic filing service provider will be authorized to conduct e-filing in the  
 69 courts of this State. Any Clerk of this State or the Council of Superior Court Clerks shall  
 70 be authorized to submit for consideration and approval of the Judicial Council any policy  
 71 or procedure necessary to carry out the purposes of this subsection.

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

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

77 (e) Any pleading or document filed electronically shall be deemed filed as of the time of  
 78 its receipt by the electronic filing service provider. A pleading or document filed  
 79 electronically shall not be subject to disclosure until it has been physically accepted by the  
 80 clerk. Upon such acceptance as provided for in this subsection, such pleading or document  
 81 shall be publicly accessible for viewing at no cost to the viewer on a public access terminal  
 82 available at the courthouse during regular business hours."

### 83 **SECTION 1-2.**

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

86 "15-7-5.

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

92 (b)(1) On and after January 1, 2018, except as provided in paragraph (3) of this  
 93 subsection, all pleadings and any other document related thereto filed by an attorney to  
 94 initiate a civil action or in a civil case in a state court may be filed by electronic means  
 95 through the court's electronic filing service provider.

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

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

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

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

107 (C) Any user shall be permitted to view and download all pleadings and documents  
 108 electronically filed with an electronic service provider and such provider shall not be  
 109 authorized to charge or collect a fee for such viewing or downloading.

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

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

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

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

116 (A) In connection with a pauper's affidavit, any validation of revenue bonds as  
 117 otherwise provided for by law, pleadings or documents filed under seal or presented to  
 118 a court in camera or ex parte, or pleadings or documents to which access is otherwise  
 119 restricted by law or court order;

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

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

130 (4) The Judicial Council of Georgia shall make and publish in print or electronically such  
 131 statewide minimum standards, policies, procedures and rules, as it deems necessary to  
 132 carry out this subsection, to ensure effective and efficient development of electronic filing

133 and electronic access to court records, and to develop procedures to ensure compliance  
 134 before an electronic service provider will be authorized to conduct e-filing in the courts  
 135 of this state. Any Clerk of this State or the Council of Superior Court Clerks shall be  
 136 authorized to submit for consideration and approval of the Judicial Council any policy  
 137 or procedure necessary to carry out the purposes of this subsection.

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

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

143 (e) Any pleading or document filed electronically shall be deemed filed as of the time of  
 144 its receipt by the electronic filing service provider. A pleading or document filed  
 145 electronically shall not be subject to disclosure until it has been physically accepted by the  
 146 clerk. Upon such acceptance as provided for in this subsection, such pleading or document  
 147 shall be publicly accessible for viewing at no cost to the viewer on a public access terminal  
 148 available at the courthouse during regular business hours."

## 149 PART II

### 150 SECTION 2-1.

151 Chapter 1 of Title 16 of the Official Code of Georgia Annotated, relating to general  
 152 provisions for crimes and offenses, is amended by revising Code Section 16-1-12, relating  
 153 to restrictions on contingency fee compensation of an attorney appointed to represent the  
 154 state in forfeiture actions, as follows:

155 "16-1-12.

156 (a) In any forfeiture action brought pursuant to this title or Title 3, 7, 10, 12, 17, 27, 40,  
 157 46, 48, 49, or 52, an attorney appointed by the Attorney General or district attorney as a  
 158 special assistant attorney general, special assistant district attorney, or other attorney  
 159 appointed to represent this state in such forfeiture action shall not be compensated ~~on:~~

160 (1) On a contingent basis by a percentage of assets which arise or are realized from such  
 161 forfeiture action. ~~Such attorneys shall also not be compensated on; or~~

162 (2) On a contingent basis by an hourly, fixed fee, or other arrangement which is  
 163 contingent on a successful prosecution of such forfeiture action.

164 (b) When an attorney is appointed by the Attorney General or district attorney as a special  
 165 assistant attorney general, special assistant district attorney, or other attorney to represent  
 166 this state in a forfeiture action, such appointment and the terms of compensation for the  
 167 representation to which he or she is appointed shall be in writing and filed with the clerk

168 of court and copies shall be provided to the presiding judge and the Prosecuting Attorneys'  
 169 Council of the State of Georgia.

170 ~~(b)~~(c) Nothing in this Code section shall be construed as prohibiting or otherwise  
 171 restricting the Attorney General or a district attorney from appointing special assistants or  
 172 other attorneys to assist in the prosecution of any action brought pursuant to this title."

173 **PART III**

174 **SECTION 3-1.**

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

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

182 ~~(4)~~(5) If electronic service of a pleading is made upon a person to be served, and such  
 183 person certifies to the court under oath that he or she did not receive such pleading, it  
 184 shall be presumed that such pleading was not received unless the serving party disputes  
 185 the assertion of nonservice, in which case the court shall decide the issue of service of  
 186 such pleading."

187 **SECTION 3-2.**

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

190 "15-1-22.

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

195 **PART IV**

196 **SECTION 4-1.**

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