

Circuit Court and Records

LOB #176:

PUBLIC SERVICES DIVISION

Purpose

Because all functions of the Clerk's Office are mandated by the Code of Virginia, the primary purpose is to observe all Code-mandated duties related to marriage, licensure, trade names and notaries. Title 47.1 of the Code of Virginia, titled "The Virginia Notary Act," sets out the legal framework for notary publics commissioned in Virginia. Title 20, Chapter 2 of the Code of Virginia establishes the requirements of the licensure of marriages conducted in the Commonwealth of Virginia, the recognition of lawful marriage, as well as establishing the qualifications of ministers/celebrants who are empowered by the Circuit Court to solemnize marriages. Title 59, Chapter 5 of the Code of Virginia establishes the lawful means for a corporation or partnership to do business under a name other than the one filed with the State Corporation Commission. All such "fictitious/assumed names" must be filed with the Clerk of Court, so that the consumers of Fairfax know the accurate ownership of all businesses in their community.

Description

Upon the application of a notary public, and through the notary's commission from the Secretary of the Commonwealth, the Clerk's Office administers all notary oaths for the 19th Judicial Circuit and issues *jurats*, which serve as official verifications that a Virginia Notary is in good standing with the Commonwealth.

The Code of Virginia establishes the eligibility standards for applicants for a marriage license, and the Office of the Clerk issues marriage licenses, applying Code of Virginia eligibility to all applications for licensure. After the couple completes a marriage license application, the Clerk administers the oath, and the couple affirms the contents of the application, which then becomes the official license to marry. The Circuit Court also authorizes all marriage celebrants, who meet Code of Virginia authorization standards for either Religious Celebrant status, or for Civil Celebrant status. The Clerk's Office takes surety or other bonding for one-time marriage celebrants, pursuant to Court Orders and the Code of Virginia.

While all corporations must register with the State Corporation Commission in Richmond, all businesses that use an "assumed or fictitious name" or who are "doing business as" another entity, must also file with the Clerk of the Circuit Court. This procedural requirement allows small business owners the flexibility to market their company locally, while still retaining their legal ownership compliance with Virginia Business registration law. At the same time, it gives the citizens of Fairfax a searchable database and public records on all corporate actors in their community, putting the public on notice of all business ownership stakes. Upon the application of a notary public, and through the notary's commission from the Secretary of the Commonwealth, the Clerk's Office administers all notary oaths for the 19th Judicial Circuit and issues *jurats*, which serve as official verifications that a Virginia Notary is in good standing with the Commonwealth.

Benefits

As a Constitutional Officer, the Clerk of Court is mandated to perform its court administrative duties under §47.1 of the Code of Virginia (Notaries) in order to protect the Constitutional rights of the citizens of Fairfax and to provide the statutory authority to all Virginia Notaries Public, under their commission by the Secretary of the Commonwealth. Through a strict observance of the law of Virginia (state-mandates) the Court swears-in all Notaries triggering immediate authority under their Commission, allowing the citizens of Fairfax more transactional affirmation services, throughout the region. The Clerk's Office also conducts Notary authentication, by issuing *jurats*, which give the citizens of Fairfax the confidence of knowing their Notary is actually commissioned by Virginia to affirm their transactional documents.

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The Constitutional right to marry begins with the right to receive a marriage license from the Clerk of the Circuit Court under §20-14 of the Code of Virginia. Swift, efficient issuance of marriage licenses, protects that important Constitutional right and benefits couples with a streamlined process, as they plan their weddings. As public records that are placed into our CPAN imaging system, marriage licenses are a benefit to community because they are available as digitized images, online, providing easy access to vital records. Marriage Celebrants are only legally empowered to solemnize marriages pursuant to a Court-Ordered authorization, so continued efficiency in judicial administration helps Fairfax have meaningful access to marriage solemnization, and protects Fairfax couples from marriage fraud.

Virginia corporation law governs the registering of all businesses with the Commonwealth, and the filing of “assumed/fictitious names” or “trade names” with the Clerk of the Circuit Court. This is an important procedural protection for both the small business owner, and the residents of Fairfax, putting all parties on notice of corporate ownership. It is also an important resource that supports a full and fair court system, where litigation parties can work out commercial disputes with the correct corporate entities.

Mandates

As mentioned above, Title 47.1 of the Code of Virginia, titled “The Virginia Notary Act,” sets out the legal framework for notary publics commissioned in Virginia. Title 20, Chapter 2 of the Code of Virginia establishes the requirements of the licensure of marriages conducted in the Commonwealth of Virginia, the recognition of lawful marriage, as well as establishing the qualifications of ministers/celebrants who are empowered by the Circuit Court to solemnize marriages. Title 59, Chapter 5 of the Code of Virginia establishes the lawful means for a corporation or partnership to do business under a name other than the one filed with the State Corporation Commission. All such “fictitious/assumed names” must be filed with the Clerk of Court, so that the consumers of Fairfax know the accurate ownership of all businesses in their community.

Trends and Challenges

The expectation among all Fairfax residents, particularly emerging generation-members, is toward more E-Adjudication, with 24-hour, online access to all licensure, so the Court’s Marriage License Pre-App is, and will be, an important part of the Court’s ability to manage marriage applicant volume. In judicial administration, the overwhelming trend is toward streamlined correspondence; the Clerk’s Office now emails Marriage Celebrants their Court Orders, which immediately empowers the Celebrant to officiate weddings.

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Resources

Category	FY 2014 Actual	FY 2015 Actual	FY 2016 Adopted
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FUNDING			
<u>Expenditures:</u>			
Compensation	\$368,728	\$360,223	\$380,135
Operating Expenses	215,595	242,552	220,647
Total Expenditures	\$584,323	\$602,775	\$600,782
General Fund Revenue	\$167,070	\$193,675	\$157,754
Net Cost/(Savings) to General Fund	\$417,253	\$409,100	\$443,028
POSITIONS			
Authorized Positions/Full-Time Equivalents (FTEs)			
<u>Positions:</u>			
Regular	717	717	717
Total Positions	717	717	717

Metrics

Metric Indicator	FY 2013 Actual	FY 2014 Actual	FY 2015 Actual	FY 2016 Estimate	FY 2017 Estimate
Number of Marriage Licenses Issued	5,409	5,616	6,051	6,100	6,200

In FY 2015, Virginia marriage license eligibility changed, allowing same-sex couples to receive a license. The Clerk's Office has seen an 8% increase in marriage licenses this past year, issuing 6,051 in FY 2015, compared to 2014's 5,616 applications.