

FY08 Policy & Procedure Manual

Clerk of the Circuit Court

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Additional Positions

Compensation Board Policy

The 2007 General Assembly funded 20 new positions for offices of Circuit Court Clerks in FY08 to address staffing standards.

For more information regarding additional positions, see the section entitled **Staffing Standards**. See also the section entitled **Position Reallocation** in the general section of this manual.

Appropriations for Clerks

Compensation Board Policy

Local governing bodies are required to appropriate funds for Clerks' offices in the same manner in which funds are appropriated for other Constitutional Officers.

City Managers and County Administrators should be aware that since July 1, 1992, the Compensation Board has been reimbursing Clerks offices 100% of the budgeted amounts approved by the Board, whether or not the Clerk's office is in excess or deficiency status. Therefore, the Compensation Board (in agreement with the Auditor of Public Amounts) is of the opinion, per § 15.2-520, Code of Virginia, that local governments must appropriate funds for Clerks' offices as they do for other Constitutional Officers.

Any questions regarding this issue can be directed to:

Marsha Tedesco
Audit Director
Auditor of Public Accounts
(804) 225-3350

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Executive Secretary
Compensation Board
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Code of Virginia § 15.2-520

No money shall be drawn from the treasury of the county, nor shall any obligation for the expenditure of money be incurred, except pursuant to appropriation resolutions. Funds appropriated for outstanding grants, however, may be carried over for one year without being reappropriated. Accounts shall be kept for each item of appropriation made by the board. Each such account shall show in detail the appropriations made thereto, the amount drawn thereon, the unpaid obligation charged against it, and the unencumbered balance in the appropriation account, properly chargeable, sufficient to meet the obligation entailed by contract, agreement or order.

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2007 Appropriation Act Item 64

1. 1. For audits of Clerks of the Circuit Court completed after July 1, 2004, the Auditor of Public Accounts shall report any internal control matter that could be reasonably expected to lead to the loss of revenues or assets, or otherwise compromise fiscal accountability. The Auditor of Public Accounts will also report on compliance with appropriate law and other financial matters of the Clerks' office.

2. For internal control matters that could be reasonably expected to lead to the loss of revenues or assets, or otherwise compromise fiscal accountability, the Clerk shall provide the Auditor of Public Accounts a written corrective action plan to any such audit findings within 10 business days of the audit exit conference, which will state what actions the clerk will take to remediate the finding. The Clerk's response may also address the other matters in the report. During the next audit, the Auditor of Public Accounts shall determine and report if the Clerk has corrected the finding related to internal control matters that could be reasonably expected to lead to the loss of revenues or assets, or otherwise compromise fiscal accountability.

3. Notwithstanding the provisions of Item 461, paragraph 1.1.a., the Compensation Board shall not provide any salary increase to any Circuit Court Clerk identified by the Auditor of Public Accounts who has not taken corrective action for the matters reported above.

Annual Audit

Compensation Board Policy

The Auditor of Public Accounts conducts an annual audit of the Clerks' offices. The Auditor of Public Accounts shall report any internal control matters that could be reasonably expected to lead to loss of revenues or assets, or otherwise compromise fiscal accountability.

The Clerk is required to provide the Auditor of Public Accounts (APA) a written corrective action plan to address any internal control matter identified in the audit report. The corrective action plan is due ten business days after the audit exit conference and must include actions the Clerk will take to remediate the findings. The APA shall determine and report if the Clerk has corrected the finding as part of the subsequent audit.

The Compensation Board will not fund a salary increase for a Circuit Court Clerk who does not correct an internal control matter identified by the APA as part of the subsequent audit.

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Career Development Program

2007 Appropriation Act
Item 64

J.1. Subject to appropriation by the General Assembly for this purpose, the Compensation Board may implement a Circuit Court Clerks' Career Development Program.

K.1. Subject to appropriation by the General Assembly for this purpose, the Compensation Board may implement a Deputy Clerks of the Circuit Courts' Career Development Program.

Compensation Board Policy

The Compensation Board has developed a Career Development Program for Clerks of the Circuit Court and Deputy Clerks.

Language in the 2007 Appropriation Act provides for the implementation of career development programs (CDP) for Circuit Court Clerks and Deputy Circuit Court Clerks. However, at the request of the Virginia Court Clerk's Association (VCCA), the General Assembly provided no funding in FY08 for career development programs for Clerks and Deputy Clerks.

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Duties

Code of Virginia § 15.2-1634

The voters in every county and in each city which has a circuit court, shall elect for a term of eight years, a clerk of such court unless otherwise provided by general law or special act. He shall be clerk of the circuit court and may also be the clerk of the governing body if the governing body so designates. He shall exercise all the powers conferred and perform all the duties imposed upon such officers by general law and may perform such other duties, not inconsistent with his office, as may be requested of him by the governing body.

§ 17.1-242

The circuit court clerks shall have custody of and shall keep all books, records, maps and papers deposited in their offices as well as records stored in electronic format whether the storage media for such electronic records are on premises or elsewhere.

Compensation Board Policy

The Clerk provides a variety of services for the Circuit Court of the locality.

The local governing body may request performance of other duties consistent with that of a Circuit Court Clerk.

Unlike other Constitutional Officers, the Circuit Court Clerk is elected for a term of eight years. The office of the Clerk of the Circuit Court dates from 1619. From those early days until the present, the Clerk's duties have changed significantly. In § 17.1-275, Code of Virginia, the duty of a Clerk involves a variety of services, including, but not limited to, the:

- Recording and indexing of books, maps, and plats;
- Appointing of a trustee or guardian and qualifying of a notary public;
- Issuing of a marriage license and other licenses;
- Making out of a bond, a garnishment or attachment proceeding;
- Annexing of the seal of the court on a certificate;
- Disposition for a felony or misdemeanor conviction;
- Certificate of completion for traffic school or driver improvement school;
- Filing of a plaintiff counterclaim, petition, confession, summons for interrogation, subpoena, or habeas corpus proceeding;
- Docketing and indexing of a judgment from any other court;
- Filing of a change of name, adoption, chancery causes, separation or divorce decree;
- Issuing of a duplicate driver's license;
- Registration of resident and nonresident property owner;
- Indexing of a will, financing and termination statements, security interest, and execution; and
- Courthouse construction or renovation, nonprofit legal aid program for the poor, and public law libraries.

The Code of Virginia, § 17.1-242, requires the Circuit Court Clerk be responsible for all books, records, maps, and papers deposited in their offices as well as records stored in electronic format whether the storage media is on the premises or elsewhere.

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Electronic Filing of Real Property

Code of Virginia § 17.1-258.3

A clerk of circuit court may establish a system for electronic filing or recordation of documents pursuant to the Uniform Electronic Transactions Act (§ [59.1-479](#) et seq.). Once established, any person, as defined in subdivision 11 of § [59.1-480](#), may electronically file land records, instruments, judgments, and UCC financing statements. Electronic filing of papers in civil or criminal actions shall be governed by Rule 1:17 of the Rules of Supreme Court of Virginia. The circuit court clerk shall enter into an agreement with each person whom the clerk authorizes to file documents electronically, specifying the electronic filing procedures to be followed, including, but not limited to, security procedures, as defined in the Uniform Electronic Transactions Act, for transmitting notarized documents.

Compensation Board Policy

The Uniform Real Property Electronic Recording Act allows Clerks of the Circuit Court to accept land records filed electronically.

The Uniform Real Property Electronic Recording Act, §§ 55-142.10 - 55-142.15, Code of Virginia, defines land records documents as any writing authorized by law to be recorded, whether made on paper or in electronic format, which the clerk records affecting title to real property. Electronically filed and recorded land records and electronic signatures and notarizations are as valid as the paper version. Any Clerk who implements an eRecording system must be in compliance with standards established by the Virginia Information Technologies Agency (VITA). Any Clerk of the Circuit Court who accepts electronic land records for recording shall continue to accept paper land records and will place entries for both types of land records in the same index. The Clerk may convert paper records into electronic form. Any fee or tax that a Clerk is authorized to collect may be collected electronically.

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Fines & Fees

Code of Virginia § 19.2-349 (excerpt)

A. The clerk of the circuit court and district court of every county and city shall submit to the judge of his court, the Department of Taxation, the State Compensation Board and the attorney for the Commonwealth a monthly report of all fines, costs, forfeitures, and penalties which are delinquent more than 30 days, including court-ordered restitution, imposed in his court for violation of state law or local ordinance which remain unsatisfied, including those which are delinquent in installment payments. The monthly report shall include the social security number or driver's license number of the defendant, if known. The Executive Secretary shall make the report required by this subsection on behalf of those clerks who participate in the Supreme Court's automated information system.

C. The Department of Taxation and the State Compensation Board shall annually report to the Governor and the General Assembly the total of fines, costs, forfeitures and penalties assessed, collected, and unpaid.

Compensation Board Policy

The Clerk has 30 days to collect fines, costs, forfeitures, penalties, and restitution assessed within their court, after which time all delinquent accounts are transferred to the Commonwealth's Attorney.

As required by the General Assembly, the Compensation Board produces an annual report on the collection of fines, costs, forfeitures, penalties, and restitution.

The Circuit Court Clerk collects on fines, costs, forfeitures, penalties, and restitution assessed within their court. If payment or a payment arrangement has not been made in 30 days, the account becomes delinquent. The Clerk makes a monthly report of all fines and fees that are more than 30 days delinquent. The Clerk turns the delinquent accounts over to the Commonwealth's Attorney for collection who chooses between several collection options.

The purpose of annual fines and fees reporting is to allow the Governor, the General Assembly, and other interested parties to track collections and collection efforts by county or city. The Fines and Fees Report attempts to explain data collection issues, such as local collection efforts, prior and current-year assessments and collections, variances in gross amount assessments, collection rates in excess of 100% and changes in collection methods.

Actions and recommendations are offered in the Fines and Fees report in order to increase the overall collection of fines and fees. An executive summary highlights statewide assessments and collections for Clerks and Commonwealth's Attorneys.

Section A of the Fines and Fees Report is a city and county listing of assessments and collections by Clerks of the Court and Commonwealth's Attorneys. Section B is a comparison of current year and prior year collections. The appendix contains forms, policies and procedure documents used by Clerks and Commonwealth's Attorneys.

Annual Fines and Fees Reports are located on the Compensation Board web site at <http://www.scb.virginia.gov> under the Publications and Forms tab.

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Fringe Benefits

Code of Virginia § 51.1-706

C. In the case of special employees, the Commonwealth shall reimburse the employing political subdivision for the cost of the employer contribution to the extent the Commonwealth participates in paying the salary of the employee who is covered or to the extent it shares or would share in the excess receipts from such office.

2007 Appropriation Act
Item 66

D. 1. Compensation Board payments of, or reimbursements for, the employer paid contribution to the Virginia Retirement System, or any system offering like benefits, shall not exceed the Commonwealth's proportionate share of the following, whichever is less: (a) the actual retirement rate for the local constitutional officer's office or regional correctional facility as set by the Board of the Virginia Retirement System or (b) the employer rate established for the general classified workforce of the Commonwealth covered under the Virginia Retirement System.

Compensation Board Policy

The Compensation Board reimburses local governing bodies one-third of fringe benefits for Clerks and their Compensation Board-funded staff .

The Compensation Board reimburses one-third of fringe benefits based on approved salary amounts reimbursed. The rates for FY08 are:

- Virginia Retirement System (VRS) net contributions at the locality's employer share contribution rate, or 6.15%, whichever is less;
- FICA at 7.65% of the taxable portion of the salary for permanent positions and hourly wage employees; and
- VRS Group Life Insurance at 0.40%.

For more detailed information regarding benefits of Constitutional Officers, see the section entitled **Fringe Benefits** in the general section of this manual.

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Office Expenses

Code of Virginia § 15.2-1656

The governing body of each county and city shall, at the expense of the county or city, provide (i) suitable books and stationery, in addition to supplies furnished by the Commonwealth, for the use of clerks of all courts of record, together with appropriate cases and other furniture, for the safe and convenient keeping of all the books, documents and papers, in the custody of such officers; (ii) official seals for such officers; and (iii) such other office equipment and appliances as in their judgment may be reasonably necessary for the proper conduct of such offices.

§ 17.1-246

The cost incurred shall be certified by the court or, if so designated by the judge, the clerk, to the governing body of the county or city in whose clerk's office the books or records so bound, rebound, microfilmed, transcribed or digitally reproduced are on file, to be paid by such county or city.

Compensation Board Policy

The Compensation Board reimburses 100% of the budgeted amount for office expenses of Circuit Court Clerks.

The local governing body is also responsible for office expenses of the Clerk.

Base budgets for office expenses are set at the same level as approved in the previous fiscal year (as adjusted though any base budget transfer requests during the fiscal year).

The Compensation Board reimburses for:

- Dues (VCCA, LGOC, and VALECO, for principal officer only);
- Internet access costs (line charges, ISP costs or locality service charges);
- Postage and mail box rental;
- Copy machine rental;
- Microfilming expense; and
- Meetings / mileage (maximum reimbursement of \$100 for VCCA, LGOC, and VALECO).

The local governing body is responsible for:

- Books and stationary used by Clerks of courts of record;
- Cases and other furniture for storage of books, documents, and court papers;
- Official seals for Clerks; and
- Office equipment and appliances reasonably necessary for the duties of Clerks.

The Compensation Board does not reimburse for:

- Notary Seal, fees or application fee;
- Office space rent;
- Office supplies;
- Telephone equipment installation costs;
- Subscription to periodicals, newspapers, or Code of Virginia;
- Name tags, desk signs, or business cards;
- Cameras or office equipment;
- Chair mats or calculator maintenance contracts; and
- PC software.

Offices that may have base funding for office expenses have these funds as a result of an approved base budget transfer from another category within their existing budget. For offices that do have office expense funding, those funds may be used to pay all or part of microfilming or indexing labor or product. The Compensation Board will reimburse expenses for indexing under the Supreme Court system or optical disk systems. Expenses incurred in microfilming previously bound record books are not reimbursable under this allowance.

For more information regarding office expenses, see the section entitled **Professional Associations**. See also **Office Expenses** in the general section of this manual.

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Professional Associations

Compensation Board Policy

Reimbursement for attendance at non-Compensation Board-sponsored training events, professional association meetings, or membership dues will not be provided as additional allowances, but are reimbursed through available office expense funds.

The Compensation Board reimburses for:

- Virginia Court Clerks' Association (VCCA);
- Local Government Officials' Conference (LGOC); and
- Virginia Association of Local Elected Constitutional Officers (VALECO).

Only one Compensation Board-funded permanent employee per office may receive a maximum reimbursement of \$100 for VCCA, LGOC, and VALECO. VALECO dues are reimbursed for the principal officer only.

For more information regarding office expenses, see the section entitled **Office Expenses**. See also the sections entitled **Office Expenses** and **Professional Associations** in the general section of this manual.

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Reimbursement Policy

Code of Virginia
§ 15.2-827

No money shall be drawn from the county treasury, nor shall any obligation for the expenditure of money be incurred, except in pursuance of a legally enacted appropriation resolution, or legally enacted supplement thereto passed by the board. Accounts shall be kept for each item of appropriation made by the board. Each such account shall show in detail the appropriation made thereto, the amount drawn thereon, the unpaid obligations charged against it, and the unencumbered balance in the appropriation account, properly chargeable, sufficient to meet the obligation entailed by contract, agreement or order.

Compensation Board Policy

The Compensation Board reimburses approved Clerks' expenditures to the Treasurer or Director of Finance for their respective locality.

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Salary

2007 Appropriation Act
Item 64 (excerpt)

A. 1. The annual salaries of clerks of circuit courts shall be as hereinafter prescribed.

2. Whenever a clerk of a circuit court is such for a county and a city for two or more counties or cities, the aggregate population shall be the population for the purpose of arriving at the salary of the circuit court clerk.

Item 461 (excerpt)

I.1. The base salary of the following employees shall be increased by four percent on December 1, 2007:

- a. Locally elected constitutional officers;
- c. Full-time employees of locally elected constitutional officers.

Compensation Board Policy

The Compensation Board reimburses 100% of the salaries of Clerks of the Circuit Court and their Compensation Board-funded staff.

The annual salaries of Clerks are determined according to population estimates of the city or county in which they serve. The Compensation Board uses the aggregate population estimate to determine the salary of the Circuit Court Clerk who serves two or more localities. Funding for salaries in the first half of FY08 will remain at current levels and at increased levels for the second half of the fiscal year. No funding is provided for performance-based pay increases for offices with performance evaluation plans in effect in their office.

In FY08, Circuit Court Clerks and their Compensation Board-funded permanent employees will receive a 4.0% salary increase, effective December 1, 2007. The following are the population-based salaries for Clerks in FY07 and FY08.

<i>Population</i>	<i>December 1, 2006 to November 30, 2007</i>	<i>December 1, 2007 to June 30, 2008</i>
Less than 10,000	\$70,485	\$73,304
10,000 to 19,999	\$86,852	\$90,326
20,000 to 39,999	\$99,441	\$103,419
40,000 to 69,999	\$104,475	\$108,654
70,000 to 99,999	\$113,283	\$117,814
100,000 to 174,999	\$123,354	\$128,288
175,000 to 249,999	\$127,183	\$132,270
250,000 or more	\$130,910	\$136,146

Salary scales of Circuit Court Clerks are located on the Compensation Board website under the Constitutional Officers Budgets and Salaries tab at <http://www.scb.virginia.gov/budgets.html>.

A history of the salary increases approved by the General Assembly is located on the Compensation Board website under the Constitutional Officers Budgets and Salaries tab at <http://www.scb.virginia.gov/budgets.html>.

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Sentencing Event Documents

2007 Appropriation Act
Item 64

L. Upon request of the Attorney for the Commonwealth, the Clerk of the Circuit Court shall contemporaneously provide the Attorney for the Commonwealth copies of all documents provided to the Virginia Criminal Sentencing Commission pursuant to § 19.2-298.01 (E), Code of Virginia.

Compensation Board Policy

Circuit Court Clerks must provide copies of all documents submitted to the Virginia Criminal Sentencing Commission to the Commonwealth's Attorney of the locality upon request.

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2007 Appropriation Act
Item 66 (excerpt)

F. Any new positions established in Item 66 of this act shall be allocated by the Compensation Board upon request of the constitutional officers in accordance with staffing standards and ranking methodologies approved by the Compensation Board.

Staffing Standards

Compensation Board Policy

The Compensation Board uses staffing standards and a staffing methodology for allocating new positions in Clerks' offices.

The workload elements included in these staffing standards were recommended by the Virginia Court Clerks' Association (VCCA) and approved by the Compensation Board and may not reflect all duties performed by the Clerk of the Circuit Court. Positions needed for each office are based only upon the duties and workload measure identified specifically in the staffing standards. Many Clerks of the Circuit Court perform additional duties at their discretion or provide other services not required by law. The number of Compensation Board-funded positions due in a specific office of the Clerk of the Circuit Court is based upon duties required by law to be performed by the Clerk of the Circuit Court, or duties that nearly all Clerks of the Circuit Court perform.

In determining the allocation of additional positions, the Compensation Board considers the following criteria:

1. The position (or positions) must be requested by the Clerk of the Circuit Court as part of the Compensation Board's annual budget request process.
2. The positions requested must perform only statutorily prescribed duties of the Clerk of the Circuit Court.
3. The Clerk's office must have an automated financial system and case management system online or have such systems scheduled for installation within the next 12 months.
4. Funds and positions must be appropriated by the General Assembly.
5. The Compensation Board will use the staffing methodology and weighted three-year average workload criteria, developed by the Staffing/Compensation Committee of the Virginia Court Clerks Association (VCCA), to determine the appropriate level of Compensation Board-funded staff support for each office requesting additional positions.
6. The Compensation Board shall determine the number of additional positions to be allocated to any one office based upon criteria 1-5, inclusive, and additional positions shall be allocated in the order of percentage of need. Offices with the highest percentage of need will receive positions first. The percentage of need is determined by calculating the percentage that the number of additional positions needed is to the total number of current positions.
7. Any office receiving a new position shall not have its hourly-wage funds reduced equivalent to the salary of the new position.

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Staffing Standards, continued

Calendar year transaction data for each workload element is supplied by each of the Clerks' offices during the annual budget request process. To determine the hours worked, a three-year average of transactions is multiplied by the following weights developed in conjunction with the VCCA, which represent the median time per transaction reported to perform each type of workload transaction.

<i>Workload Elements</i>	<i>Weights</i>
Criminal cases	8.59
Law cases	2.31
Chancery cases	2.31
Wills and Estates	1.62
Deeds	0.61
Marriage Licenses	0.66
Concealed handgun purchases	0.64
Judgments	0.44
Financing Statements	0.35
Game Licenses	.20
Fictitious Names	0.38
Notary qualified	0.39
Restitution	0.46

After determining the total weighted workload for each office, staff need is calculated by the following formula:

$$\text{Staff Need} = \text{Fixed Staff} + \frac{\text{Total Weighted Workload}}{\text{Variable Workload Factor}}$$

Office Size based on Weighted Workload Hours			Fixed Staff	Variable Workload Factor
Small	0	11,999	2.50	3,500
Medium	12,000	59,999	3.00	
Large	60,000	229,999	5.00	
Super	230,000	+	7.00	

The allocation of additional hourly-wage (part-time) funds is made using the same methodology.

Staffing standards for Circuit Court Clerks are located on the Compensation Board web site under the Constitutional Officers Budgets and Salaries tab at <http://www.scb.virginia.gov/budgets.html>.

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Technology Trust Fund (TTF)

Code of Virginia § 17.1-279 (excerpt)

A. In addition to the fees otherwise authorized by this chapter, the clerk of each circuit court shall assess a \$5 fee, known as the "Technology Trust Fund Fee," in each civil action, upon each instrument to be recorded in the deed books, and upon each judgment to be docketed in the judgment lien docket book. Such fee shall be deposited by the State Treasurer into a trust fund. The State Treasurer shall maintain a record of such deposits.

I. Effective July 1, 2006, except for transfers pursuant to this section, there shall be no transfers out of the fund, including transfers to the general fund.

Compensation Board Policy

A primary purpose of the TTF fee is to generate funds for Clerks to automate land records and provide secure remote access to land records' images on or before July 1, 2008.

In August of every year, Clerks request to budget TTF monies in the current fiscal year or carryover TTF funds to a subsequent year.

Effective July 1, 2006, except for transfers pursuant to § 17.1-279, there will be no transfers out of the Technology Trust Fund, including transfers to the General Fund.

The Compensation Board provides to Clerks a TTF revenue estimate for the upcoming fiscal year as part of the estimated budget allocation packages. The FY08 TTF Revenue Estimates by locality is located on the Compensation Board website at <http://www.scb.virginia.gov> under Constitutional Officers Budgets and Salaries, current year budget estimates. Choose your locality and then select "Clerks Technology Trust Fund Revenue Estimate".

In August, Clerks have two options when budgeting from TTF: 1) budget some or all of their TTF \$4 available balance for equipment and/or services, or 2) carryover TTF \$4 monies to a subsequent fiscal year. Budget requests from TTF cannot exceed deposits into the trust fund credited to that locality. Clerks may also request additional TTF \$4 monies mid-year (not to exceed their \$4 available balance).

Instructions for TTF budgeting or carryover and reimbursement procedures are located in the FY08 TTF Budget Request Manual, available in late July 2007 and located at <http://www.scb.virginia.gov> under Land Records Technology.

FY08 TTF budgeting information as well as the FY07 financial statement, FY07 progress survey, and FY08 certification for secure remote access may be found in the FY07 TTF Progress Report, available in the fall of 2007 and located the Compensation Board website at <http://www.scb.virginia.gov> under Land Records Technology.

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TTF: \$4 Budgeting

Code of Virginia § 17.1-279 (excerpt)

B. Four dollars of every \$5 fee shall be allocated by the Compensation Board from the trust fund for the purposes of: (i) developing and updating individual land records automation plans for individual circuit court clerks' offices; (ii) implementing automation plans to modernize land records in individual circuit court clerks' offices and provide secure remote access to land records throughout the Commonwealth pursuant to § 17.1-294; (iii) obtaining and updating office automation and information technology equipment including software and conversion services; (iv) preserving, maintaining and enhancing court records, including, but not limited to, the costs of repairs, maintenance, land records consulting services, service contracts, redaction of social security numbers from land records, and system replacements or upgrades and (v) improving public access to court records. The Compensation Board in consultation with circuit court clerks and other users of court records shall develop and update policies governing the allocation of funds for these purposes. However, such funds shall not be used for personnel costs within the circuit court clerks' offices.

Compensation Board Policy

The State Treasurer holds in trust TTF revenues, collected and deposited by each Clerk's office. The Compensation Board is responsible for allocation of TTF monies. Clerks make annual budget requests to the Compensation Board for technology equipment and/or services out of their TTF \$4 available balance.

The \$4 portion of TTF collections are reserved for the purchase of equipment and services to modernize land records and provide secure remote access in respective Clerks' offices. The Code of Virginia provides six purposes for use of TTF moneys in § 17.1-279. When the Clerk is budgeting for TTF, one of the six purpose codes must accompany each budgeted item. The purpose codes are:

- Bi Developing and updating individual land records automation plans for individual Circuit Court Clerks' offices;
- Bii Implementing automation plans to modernize land records in individual Circuit Court Clerks' offices and provide secure remote access to land records throughout the Commonwealth;
- Biii Obtaining and updating office automation and information technology equipment including software and conversion services;
- Biv Preserving, maintaining, and enhancing court records, including but not limited to, the costs of repairs, maintenance, land records consulting services, service contracts, redaction of social security numbers from land records, and system replacements or upgrades;
- Bv Improving public access to court records; and
- F Automation and technology improvements in his/her office that are not related to land records.

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TTF: \$1 Fund

**Code of Virginia
§ 17.1-279 (excerpt)**

C. The remaining \$1 of each such fee may be allocated by the Compensation Board from the trust fund (i) for the purposes of funding studies to develop and update individual land-records automation plans, and (ii) for the purposes enumerated in subsection B.

Compensation Board Policy

The State Treasurer holds in trust TTF revenues, collected and deposited by each Clerk's office. The Compensation Board is responsible for allocation of TTF monies. Clerks whose deposits into the trust fund would not be sufficient to implement technology automation are given priority by the Compensation Board in \$1 funding approvals.

The Code of Virginia allows priority for allocation of \$1 funds to individual Clerks' offices whose deposits into the TTF (available balance) are not sufficient to implement its modernization plan.

In FY08, requests from the \$1 Fund may be made by Clerks for the following items:

1. Annual secure remote access internet hosting fee;
2. Land records system development and maintenance;
3. Equipment and maintenance costs;
4. Redaction services; and
5. Back scanning conversion services.

In order to request \$1 Fund monies, the Clerk must submit to the Compensation Board a written certification that the proposed technology improvements of his/her land records will provide secure remote access to land records on or before July 1, 2008. This certification is built into the TTF COIN budgeting process.

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TTF: Certifications

Compensation Board Policy

Every Clerk must certify to whether or not they are currently providing secure remote access to land records and compliance with VITA's security standard to land records.

Code of Virginia § 17.1-279 (excerpt)

B. The Compensation Board policies governing the allocation of funds shall require that a clerk submit to the Compensation Board a written certification that the clerk's proposed technology improvements of his land records will provide secure remote access to those land records on or before July 1, 2008.

D. 1. Secure remote access to land records shall be by paid subscription service through individual circuit court clerk's offices pursuant to § [17.1-276](#), or through designated application service providers. Compliance with secure remote access standards developed by the Virginia Information Technologies Agency pursuant to § [17.1-294](#) shall be certified by the individual circuit court clerks' offices to the Compensation Board. Nothing in this section shall prohibit the Compensation Board from allocating trust fund money to individual circuit court clerks' offices for the purpose of complying with such secure remote access standards or redaction of social security numbers from land records.

Every Clerk must submit to the Compensation Board a written certification that the technology improvements proposed in his/her TTF budget will provide secure remote access to land records on or before July 1, 2008. This certification is built into the TTF COIN budgeting process.

Each Clerk must also certify compliance with the security standards developed by the Virginia Information Technologies Agency (VITA) to the Compensation Board. The "Security Standards for Restricted Remote Access to Documents on Court-Controlled Web sites" (COV ITRM Standard SEC503-02. March 28, 2005) is located on the VITA web site at http://www.vita.virginia.gov/docs/psg/Rem_Accs_Docs_on_Crt-Contrd_Webs-revision1.pdf.

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Code of Virginia § 17.1-279 (excerpt)

F. If a circuit court clerk provides secure remote access to land records on or before July 1, 2008, then that clerk may apply to the Compensation Board for an allocation from the Technology Trust Fund for automation and technology improvements in his office that are not related to land records. Such request shall not exceed the deposits into the trust fund credited to that locality.

TTF: Other \$4 Requests

Compensation Board Policy

If a Clerk has provided secure remote access to land records, that Clerk may use TTF moneys for automation and technology improvements in his/her office that are not related to land records.

If a Clerk has certified to currently providing secure remote access, that Clerk may make an equipment and/or services request from TTF for automation and technology improvements in his office that are not related to land records.

These other \$4 requests may not exceed the deposits into the fund credited to that locality.

TTF: Equipment Surplus

Compensation Board Policy

Any proceeds derived from the sale of surplus equipment purchased by Technology Trust Fund (TTF) funds are kept locally, but must be used to offset any reimbursement request for TTF expenditures.

When new or replacement equipment is purchased using TTF funding, the Clerk may only request reimbursement from the Compensation Board for the net amount (cost of new equipment minus proceeds of the surplus equipment).

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TTF: Secure Remote Access

Code of Virginia § 17.1-279 (excerpt)

D.3. Every circuit court clerk shall provide secure remote access to land records pursuant to § 17.1-294 on or before July 1, 2008.

B. and C. The Compensation Board policies governing the allocation of funds shall require that a clerk submit to the Compensation Board a written certification that the clerk's proposed technology improvements of his land records will provide secure remote access to those land records on or before July 1, 2008.

§ 17.1-294 (excerpt)

A. No circuit court clerk shall provide secure remote access to any land record that does not comply with the provisions of this section and the secure remote access standards developed by the Virginia Information Technologies Agency in consultation with the circuit court clerks, the Executive Secretary of the Supreme Court, the Compensation Board, and user of land and other court records.

D. The circuit court clerk shall be immune from suit arising from any acts or omissions relating to providing secure remote access to land records unless the clerk was grossly negligent or engaged in willful misconduct.

Compensation Board Policy

The 2007 General Assembly set the deadline for Circuit Court Clerks to provide secure remote access to land records on or before July 1, 2008.

Clerks must submit to the Compensation Board a written certification that the Clerk's proposed technology improvements of his land records will provide secure remote access to those land records on or before July 1, 2008.

Definitions:

- **Land records** - The Code of Virginia, § 17.1-292, defines "land records" as any writing authorized by law to be recorded on paper or in electronic format that the clerk records affecting title to real property, including but not limited to instruments, orders, or any other writings recorded under this title.
- **Public** means any non-governmental individual or entity.
- **Public access** means that the public can review and obtain a copy of a land record maintained by the Clerk of the Circuit Court.
- **Secure remote access** means public access to electronic land records' images by pre-registered subscribers on a website or system in compliance with security standards from the Virginia Information Technologies Agency (VITA).
- **Subscriber** means any individual or entity that the Clerk of the Circuit Court authorizes to have secure remote access to land records through paid subscription.

The Code of Virginia, § 20-121.03, gives authority to the Clerk to reject any petition, pleading, motion, agreement, order, or decree for recordation as a land record that does not comply with the provisions of this section.

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Temporary (Hourly-Wage) Employees

Compensation Board Policy

The Compensation Board reimburses 100% of the budgeted amount for salaries of temporary (hourly-wage) employees of Circuit Court Clerks.

Base budgets for temporary (hourly-wage) employee salaries are set at the same level as approved in the previous fiscal year (as adjusted through any base budget transfer requests during the fiscal year).