

House Bill 1004 (AS PASSED HOUSE AND SENATE)

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 and certifications for maps, plats, and
3 plans to be filed for record; to provide for filing of electronic images of maps, plats, and
4 plans; to provide for electronic processing by clerks of superior court; to provide a criminal
5 penalty; to provide for public computer terminal access to electronic filing portal; to provide
6 for rules and regulations; to change certain provisions relating to the indexing of maps or
7 plots; to provide for recordation of real estate instruments; to provide for incorporation by
8 reference to instruments recorded in the office of the clerk of superior court; to provide for
9 recordation of plats in land registration proceedings; to provide for methods of filing
10 condominium instruments with the clerk of superior court; to provide for delivery of plats
11 to the clerk of superior court; to change certain provisions relating to recordation and
12 notations of plats; to provide an effective date; 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 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, plat, or plan page image shall have a caption which
31 shall 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; and~~

57 (L) ~~If the map, plat, or plan has multiple pages, the page number for each applicable~~
58 ~~page;~~

59 (2) **Surveyor certification box.** Each map, plat, or plan shall provide a box which
60 contains the following language and the applicable certifications of the registered land
61 surveyor required pursuant to subsection (c) of this Code section:

62 SURVEYOR CERTIFICATIONS

63 As required by subsection (c) of O.C.G.A. Section 15-6-67, the Registered Land
 64 Surveyor hereby certifies that this map, plat, or plan has been approved for filing in
 65 writing by any and all applicable municipal, county, or municipal-county planning
 66 commissions or municipal or county governing authorities or that such governmental
 67 bodies have affirmed in writing that approval is not required.

68 The following governmental bodies have approved this map, plat, or plan for filing:

69 _____ Name and date (mm/dd/yyyy)

70 _____ Name and date (mm/dd/yyyy)

71 The following governmental bodies have affirmed that approval is not required:

72 _____ Name and date (mm/dd/yyyy)

73 _____ Name and date (mm/dd/yyyy)

74 Such approvals or affirmations should be confirmed with the appropriate governmental
 75 bodies by any purchaser as to intended use of any parcel.

76 The Registered Land Surveyor further certifies that this map, plat, or plan complies with
 77 the minimum standards and specifications of the State Board of Registration for
 78 Professional Engineers and Land Surveyors and the Georgia Superior Court Clerks'
 79 Cooperative Authority.

80 _____

81 Facsimile Signature

82 ~~(2)(3) **Filing information box.** Each image of a map, plat, or plan shall provide a box~~
 83 ~~of not less than three inches square, if at full size, in the upper left-hand corner which~~
 84 ~~shall be reserved for the clerk to append filing information; and **Caption.** Maps or plats~~
 85 ~~shall have a title or name which shall be contained in the caption, and the caption shall~~
 86 ~~also provide the following information:~~

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

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

90 ~~(C) The scale, stated and shown graphically;~~

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

94 ~~(E) All reproductions of original maps or plats shall bear the original signature, in a~~
 95 ~~contrasting color of ink, of the registrant placed across the registration seal in order to~~
 96 ~~be a valid or recordable map or plat. The provisions of this subparagraph shall apply~~
 97 ~~to all maps or plats that are sealed by a land surveyor which depict and describe real~~

98 ~~property boundaries. Maps and plats which do not meet the requirements of this~~
99 ~~subparagraph shall not be sealed nor recorded;~~

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

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

111 (4) Format. All images of maps, plats, or plans submitted for filing shall:

112 (A) Comply with the minimum standards and specifications adopted in the rules and
113 regulations of the State Board of Registration for Professional Engineers and Land
114 Surveyors; and

115 (B) Be an electronic image of a single page certified and presented to the clerk
116 electronically in conformance with all specifications set forth in any rules and
117 regulations promulgated by the Georgia Superior Court Clerks' Cooperative Authority.

118 ~~(d)(c)(1)~~ Whenever the municipal planning commission, the county planning
119 commission, the municipal-county planning commission, or, if no such planning
120 commission exists, the appropriate municipal or county governing authority prepares and
121 adopts subdivision regulations, and upon receiving approval thereon by the appropriate
122 governing authority, then no map, plat, or plan of subdivision of land within the
123 municipality or the county shall be filed or recorded in the office of clerk of superior
124 court of a county without;

125 (A) Without the approval thereon of the municipal or planning commission, county
126 planning commission, municipal-county planning commission, or appropriate
127 municipal or county governing authority; and

128 (B) Unless the registered land surveyor who prepares any such map, plat, or plan for
129 filing certifies thereon that such map, plat, or plan has been approved for filing by all
130 applicable governmental bodies. Such certification shall specifically state by name the
131 governmental bodies that approved the filings and the dates such actions were taken,
132 without such approval having been entered in writing on the plat by the secretary or
133 other designated person of the municipal or county planning commission or governing
134 authority. The clerk of superior court shall not file or record a plat of subdivision which

135 ~~does not have the approval of the municipal or county planning commission or~~
136 ~~governing authority as required by this subsection:~~

137 (2) Notwithstanding any other provision of this subsection to the contrary, no approval
138 of the municipal or planning commission, county planning commission,
139 municipal-county planning commission, or, if no such planning commission exists, the
140 appropriate municipal or county governing authority shall be required if no new streets
141 or roads are created or no new utility improvements are required or no new sanitary sewer
142 or approval of a septic tank is required. Any map, plat, or plan of survey containing
143 thereon a certification from a licensed registered land surveyor that the provisions relative
144 to this subsection do not require approval of the municipal, county, or municipal-county
145 or county planning commission or appropriate municipal or county governing authority
146 has affirmed in writing that approval is not required shall entitle said map, plat, or plan
147 to record. Any licensed surveyor who fraudulently certifies that a plat of survey does not
148 require the approval specified in this subsection shall be guilty of a misdemeanor be
149 recorded, provided that such certification includes the name of the governmental bodies
150 that affirmed that such approval is not necessary and the dates of such actions.

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

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

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

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

161 **SECTION 2.**

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

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

169 (b) The clerk of superior court shall provide an electronic, computer-based indexing
170 system in which shall be indexed all maps, subdivision plats, condominium plats, and other

171 plats, condominium site plans, condominium plot plans, and condominium floor plans or
172 plats under the caption or name of the subdivision, if any, under the name of the owner or
173 owners of the property mapped or platted, and also under the land lot number and district
174 number if the land lies in that portion of the state which has been surveyed into land lots
175 and districts.

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

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

184 SECTION 3.

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

189 "(4) When indexing maps or plats relating to real estate in the county, the clerk of
190 superior court shall index the names or titles provided in the caption of the plat, as
191 required by paragraph (2) of subsection (b) of Code Section 15-6-67, as both the grantor
192 and grantee."

193 SECTION 4.

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

196 "44-2-25.

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

205 **SECTION 5.**

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

208 "44-2-26.

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

215 **SECTION 6.**

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

218 "44-2-27.

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

223 **SECTION 7.**

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

226 "44-2-28.

227 When any deed, mortgage, or other instrument conveying an interest in or creating a lien
228 on real property refers to the boundaries, metes, courses, or distances of the real estate
229 delineated or shown on any plat of the property or on any blueprint, tracing, photostatic or
230 digital copy, or other copy of the plat which has been recorded as authorized in Code
231 Section 44-2-26 and when the deed, mortgage, or other instrument states the office, book,
232 and page of recordation of the plat or of the blueprint, tracing, photostatic or digital copy,
233 or other copy of the plat, the reference shall be equivalent to setting forth in the deed,
234 mortgage, or other instrument the boundaries, metes, courses, or distances of the real estate
235 as may be delineated or shown on the plat or on the blueprint, tracing, photostatic or digital
236 copy, or other copy thereof."

237 **SECTION 8.**

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

240 "44-2-237.

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

250 **SECTION 9.**

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

253 "44-3-74.

254 (a) The declaration and any amendments thereto shall be entitled to recordation if executed
255 in the manner required for recording deeds to real property. All condominium instruments
256 and any amendments and certifications thereto shall set forth the name of the
257 condominium; the name of the county or counties in which the condominium is located;
258 and, except for the declaration itself, the deed book and page number where the first page
259 of the declaration is recorded or the document number assigned to the declaration upon its
260 recordation. All condominium instruments and all amendments and certifications thereto
261 shall be recorded in every county where any portion of the condominium is located. The
262 recordation shall not require the approval of any county or municipal authority or official
263 except as to the manner of execution prescribed by this Code section.

264 (b) ~~In addition to the records and indexes required to be maintained by the~~ The clerk of the
265 superior court, ~~such clerk shall~~ continue to maintain ~~one or more separate plat books;~~
266 ~~entitled 'Condominium Plat Book,' in which shall be recorded all plats required to be filed~~
267 ~~pursuant to this article. In addition to such plats, there shall also be entitled to be recorded~~
268 ~~in such plat books other plats, including site plans and plot plans, prepared by a registered~~
269 ~~land surveyor and affecting any condominium; but the same shall not constitute the~~
270 ~~recording of a plat pursuant to Code Section 44-3-83 unless they comply with all~~
271 ~~requirements thereof. The record of the declaration and of any amendment thereto shall~~
272 ~~contain a reference to the plat book and page number of the plat or plats recorded in~~

273 ~~connection therewith any legacy condominium plats books, condominium site plan books,~~
274 ~~condominium plot plan books, or condominium floor plan books that currently exist either~~
275 ~~in their current form or in electronic format.~~

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

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

288 SECTION 10.

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

292 "44-13-13.

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

305 SECTION 11.

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

307

SECTION 12.

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