

REAL ESTATE DUTIES OF THE CLERK OF SUPERIOR COURT

“Clerk” is a commonplace term used to describe a variety of vocations, referring to persons who sell goods, wait on customers, or engage in any type of clerical works such as bookkeeping, copying, and even running a cash-register in a check-out line. **Black’s Law Dictionary** defines “clerks” as the “officer of court who files pleadings, motions, judgments, etc., issues processes, and keeps records of court proceedings”, thus more aptly describing the functions of the 159 elected clerks of superior court of this state.

As discussed in previous articles, the clerk is a county constitutional officer, elected by the voters of his or her county, and is the chief administrator, chief accountant, chief information officer, chief information-technology officer, and chief human resources officer for the clerk’s office in which he or she serves and, in many counties, is also the sole court administrator. However, in Georgia, the clerk of superior court is not merely a clerk and his or her duties are not restricted to court clerical functions.

By law, the clerk’s duties are bifurcated, with the clerk also serving as the “registrar of deeds” (also called “the registrar” or “recorder” of deeds)—a title given to the officer “whose duty is to record deeds, mortgages, and other instruments affecting realty in the official books provided and kept for that purpose.”

In a previous article, I discussed the necessity and importance of having written land records, the most important reason being protection of individuals’ ownership and security rights. To protect and preserve such rights, the clerk of superior court is legally required to file and permanently archive all land and personal property records in a manner that facilitates public access. In other words, anyone can view and copy all deeds, liens, plats, and Uniform Commercial Code instruments recorded in the clerk’s office. Doing so provides ongoing notice to the world as to who owns specific parcels or tracts of land or other property.

Title 44 of the Official Code of Georgia provides rigid procedures that the clerk must follow to ensure real and personal property records, including instruments securing interests in property as the result of a loan made upon such property, are properly and legally filed, preserved, and protected in perpetuity. Additionally, legislators empowered the Georgia Superior Court Clerks’ Cooperative Authority (GSCCCA) in 1996 to promulgate rules and regulations necessary to ensure that property records, upon being filed, are uniformly indexed throughout the state so that, no matter in which county of the state an instrument is filed.

In 2002, I wrote HB 1582, which was enacted by the Georgia General Assembly, requiring automation of real estate records in every clerk of superior court’s office in the state. It was the first time in state history that there was any mandatory system required for processing instruments filed in clerk’s offices.

Superior court clerks are required by law to transmit all real estate and personal property records and images thereof to the Authority every day. After verifying the quality and accuracy of real estate and personal property records, the Authority publishes each record on its statewide automated information system (at www.gsccca.org), enabling anyone in the world to access and copy the index data and image of the instrument.

The Authority permanently archives for free all digital land and personal property records provided it to it by clerks of superior court, thus safeguarding against loss of automated data in the event that there is locally a catastrophic event or computer-related disaster.

Additionally, GSCCCA has invested millions of dollars in re-creation of land records of the state since 2002, enabling clerks of superior court working in partnership with vendors certified by the Authority to image and re-index deeds dating back to 1991. Re-created land records reside on clerks' office file servers, on the Authority's file servers, and are permanently archived on the Authority's multiple off-site archiving systems, thus further protecting such records from loss.

GSCCCA remits all revenues derived from copies made on its statewide real estate information system back to clerks of superior court for the benefit their offices and local taxpayers. It provides equipment, communications, support, and technical assistance to clerks of superior court to enable them to perform their functions as registrar of deeds. The Authority has provided since 1994, when it was created, more than \$1 million for the benefit of the Office of the Clerk of Courts of Liberty County and other local court officials and agencies.

Anyone may access real and personal property records of Liberty County in the real estate department of the Clerk's Office in the Liberty County Justice Center (at 201 South Main Street, Suite 1200), Monday through Friday, excluding holidays, between the hours of 8:30 a.m. and 5:00 p.m. Online, the records may be accessed at any time on the GSCCCA website at www.gsccca.org. By law, the fee for copying records is \$.50 per page, if no assistance is required, and \$1.00 per page, if assistance is required. Deputy clerks of the real estate division are regularly available to assist persons requiring assistance with accessing or retrieving specific land records.

For the past eight years, land records of Liberty County have being digitally re-created from 1789 through 1991. The laborious project is made possible through grant funds obtained by the clerk from various sources. Once completed, all land records for the county will reside on the Authority's website and will permanently archived for safekeeping, thus further protecting these invaluable records from theft and other potential types of loss. Currently, digital deed images and index data may be accessed in the clerk's office back to 1976.

I will soon begin accepting electronically filed (e-filed) deeds, liens, and plats, enabling persons to file such instruments from their computers anywhere in the world. I began accepting e-filed Uniform Commercial Code (UCC) filings in 2010.

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