

Clerks of Superior Court Created State Authority to Benefit Citizens

Georgia's Uniform Commercial Code (UCC) provides process for lenders to secure loans on personal property (i.e., non-real-estate property) by filing with the clerk of the superior court a document called a "financing statement" or a "UCC". Prior to 1993, clerks of superior court of Georgia learned that members of the state's banking industry were working with state legislators to create a central filing system for UCCs because, throughout the state, banks were losing money due to the state's outmoded method for filing financing statements to secure property pledged as collateral for loans.

A UCC then had to be filed in the clerk's office of the county where personal property, crops, or fixtures pledged as collateral for a loan were physically located. The lender loaning money secured by fixtures and other personal property in multiple counties of the state had to file a financing statement in every county where such property was located. The practice was very expensive and labor intensive, and, yet, did not provide sufficient notice to the world of the existence of a UCC. There was no system for filing a UCC statement in a central location or for statewide applicability once the UCC was filed.

Initially, members of the Georgia Bankers' Association, the Community Bankers' Association of Georgia, and the Georgia Bar Association proposed that the state's Secretary of State create and operate a central filing system for this purpose. Clerks of superior court opposed the idea because we believed filing of these important security instruments should continue be a function of our offices for many reasons, particularly the convenience of local citizens. More importantly, a few of us had a unique vision for creating a statewide filing system at no cost to taxpayers while concurrently providing a vehicle that, once established, would benefit citizens of our counties by helping to improve all superior court clerks' offices. We met with then Secretary of State Max Cleland (who later was elected to the U.S. Senate), who estimated his office would need \$6 million from state coffers to create a UCC filing system, and inveigled him to support our efforts.

Gary Yates, former Clerk of the Superior Court of Gwinnett County, Woodson Daniel, former Clerk of the Superior Court of Pulaski County, and I collaborated to create a core technological framework for a statewide system that we envisioned. I subsequently drafted language for a bill for consideration by lawmakers to legally establish a new statewide UCC filing system under our auspices. In the bill, I proposed creation of a new independent state authority to create and oversee operations of the system—which I aptly christened the "Georgia Superior Court Clerks' Cooperative Authority" (Authority). Rep. Jimmy Floyd (deceased), from Hinesville, a member of the House's banking committee, was a sponsor of the bill and helped usher it through the legislative process.

In 1993, the General Assembly established the Authority, providing for a board of directors, drastically revising UCC laws, and authorizing the Authority to create, operate, and promulgate rules and regulations for the new system.

Three years prior, legislators created the Council of Superior Court Clerks of Georgia, a state agency which primary purpose is to assist clerks of superior court in the execution of our statutory duties while also providing us a seat at the table when decision are being made affecting our offices and the citizens we serve. Clerks of superior court elected me as the inaugural chairperson of the Council, a position I held for five years. As chairperson of the Council, I was required by law to serve as the inaugural director of the Authority until funding was available to hire a permanent director. A year later, I served again as director when the fulltime director resigned for another job opportunity.

The Authority has grown in in purpose since 1993. Legislators in 1996 required it to develop and implement a uniform statewide real estate and personal property system. It now provides online access to deeds, liens and plats filed in the 159 superior court clerks' offices of the state. In 1997, the Secretary of State relinquished to the Authority its role to for notary public commissions and, now, the Authority is the official state agency responsible for issuing apostilles and maintaining commission data for notaries public appointed by superior court clerks. The Authority implemented a statewide microfilm project in 1999, a free service provided to clerks of superior court for archiving and preserving real estate documents.

In 2000, the Authority implemented a statewide database for civil case initiation and disposition information; in 2001, it established the Georgia Protective Order Registry, providing law enforcement and judicial agencies around-the-clock access to orders protecting individuals from family violence and stalking; in 2003, it established and offender-base tracking system for electronic transmission of criminal case disposition data from clerks of superior court to the Georgia Crime Information Center; in 2004, it developed an online notary application process and an online PT-61 form to provide a more efficient process for filing real estate transfer tax forms; in 2007, it created a Carbon Sequestration registry, became the official oversight agency for policing collection of fines and fees in Georgia's 1,100-plus courts, and began offering a digital archive service to protect public court and land records in superior court clerks' offices in the event of computer failure or any other catastrophic event; in 2010, it launched e-filing services for UCCs (and now deeds, liens, and plats); and, in 2012, it began providing "map search" application that facilitates access to real estate records on an iPhone and iPad.

The Authority has become a paradigm of how government can and should work for the good of the citizens of Georgia.

For more information about the Authority and services it provides, visit www.gsccca.org. To learn more about F. Barry Wilkes, visit <http://www.libertyco.com/info/BWilkes.html>.

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