

2017 Regular Session

HOUSE BILL NO. 126

BY REPRESENTATIVE BACALA

CIVIL/GARNISHMENT: Provides relative to payment of processing fee for certain garnishment proceedings

1 AN ACT

2 To amend and reenact R.S. 13:2590(A)(introductory paragraph), (B), and (C) and 3921(A)
3 and to enact R.S. 13:2590(D), relative to garnishments; to provide relative to
4 processing fees prior to payment to a creditor; to provide relative to fees collected
5 by constables of justice of the peace courts from the garnishment process; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 13:2590(A)(introductory paragraph), (B), and (C) and 3921(A) are
9 hereby amended and reenacted and R.S. 13:2590(D) is hereby enacted to read as follows:

10 §2590. Security for costs; advanced costs deposit

11 A. A justice of the peace may demand and receive up to the following
12 amounts ~~and no others for filings and services in all~~ in all civil matters:

13 * * *

14 B. The constable of a justice of the peace court shall be entitled to a fee of six
15 percent for collecting money for execution of a writ of fieri facias, without either
16 seizure or sale.

17 ~~B~~ C. Fifty percent of each fee and deposit collected pursuant to Subsection
18 A of this Section shall be retained by the justice of the peace for fees and operational
19 expenses of the office and court, and fifty percent of the fees and deposits shall be
20 used for fees and operational expenses of the ward constable's office.

1 € D. Except when the plaintiff is relieved from the necessity of paying costs
 2 or furnishing security therefor, under ~~Articles 5181 through 5188 of the~~ Code of
 3 Civil Procedure Articles 5181 through 5188 or ~~under~~ R.S. 13:4521, a justice of the
 4 peace may demand that the plaintiff provide costs in advance.

5 * * *

6 §3921. Judgment fixing portion subject to seizure, payment to creditor and
 7 processing fee

8 A. In every case in which the wage or salary of a laborer, wage earner,
 9 artisan, mechanic, engineer, fireman, carpenter, bricklayer, secretary, bookkeeper,
 10 clerk, employee on a commission basis, or employee of any nature and kind
 11 whatever, whether skilled or unskilled, shall be garnished either under attachment
 12 or fieri facias or as otherwise provided by law, a judgment shall be rendered by the
 13 court of competent jurisdiction in which the garnishment proceedings may be
 14 pending fixing the portion of such wage, salary, commission, or other compensation
 15 as may be exempt, as provided by law, and providing for the payment to the sheriff,
 16 marshal, or constable for processing prior to payment to the seizing creditor of
 17 whatever sum for which judgment may be obtained, out of the portion of such
 18 compensation which is not exempt.

19 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 126 Engrossed	2017 Regular Session	Bacala
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Abstract: Requires that the payments from a judgment garnishing wages be processed first by the sheriff, marshal, or constable before going to the creditor and allows the justice of the peace to collect a 6% processing fee.

Present law requires that in specific garnishment proceedings, a judgment shall be rendered which provides for payment to seizing creditors.

Proposed law allows the constable of a justice of the peace to receive a 6% fee for collecting money for execution of a writ of fieri facias, without either seizure or sale.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

Proposed law amends present law to require that the sheriff, marshal, constable, or justice of the peace first receive the payment from certain garnishment proceedings for processing before the payment is made to the seizing creditor.

(Amends R.S. 13:2590(A)(intro. para.), (B), and (C) and 3921(A); Adds R.S. 13:2590(D))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the original bill:

1. Remove provision allowing a justice of the peace to collect a 6% commission for processing of a garnishment proceeding.
2. Add a provision allowing the constable of a justice of the peace to receive a 6% fee for collecting money for execution of a writ of fieri facias, without either seizure or sale.
3. Remove the language allowing a justice of the peace to be paid a fee prior to payment to the seizing creditor.
4. Make technical amendments.