

2018 Regular Session

HOUSE BILL NO. 73

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 collection of costs or fees; to provide
4 relative to processing fees prior to payment to a creditor; to provide relative to fees
5 collected by constables of justice of the peace courts; and to provide for related
6 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

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
15 six percent for collecting money for execution of a writ of fieri facias, without either
16 seizure or sale.

17 ~~B.C.~~(1) Fifty percent of such court costs collected pursuant to Subsection A
18 of this Section shall be retained by the justice of the peace for compensation and
19 operational expenses of the office and court, and fifty percent of such court costs

1 shall be used for compensation and operational expenses of the ward constable's
2 office.

3 (2) Notwithstanding Paragraph (1) of this Subsection, in cases with
4 out-of-constable jurisdiction, the justice of the peace and his ward constable's office
5 may enter into an agreement whereby the justice of the peace shall pay any
6 applicable fees directly to the out-of-jurisdiction server. The justice of the peace shall
7 pay such fees from his ward constable office's portion of the court costs.

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

12 * * *

13 §3921. Judgment fixing portion subject to seizure, payment to creditor and
14 processing fee

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

26 * * *

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 73 Original

2018 Regular Session

Bacala

Abstract: Requires the constable of a justice of the peace to collect a 6% fee for collecting money for execution of a writ of fieri facias, and provides for payment to the sheriff, marshal, or constable prior to payment to the seizing creditor.

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.

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))