

2018 Regular Session

HOUSE BILL NO. 315

BY REPRESENTATIVE CARPENTER AND SENATOR BARROW

1 AN ACT

2 To amend and reenact R.S. 13:5807 and to repeal R.S. 13:5807.2, relative to fees and costs;
3 to provide relative to city marshal and constable services; to increase fees and costs;
4 to provide for the use of such fees and costs; to provide relative to effectiveness; and
5 to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 13:5807 is hereby amended and reenacted to read as follows:

8 §5807. Fees and costs

9 A. Constables and marshals, except in Orleans Parish and as provided by
10 R.S. 13:5807.1, 5807.3, 5807.4, and 5807.5, shall be entitled to the following fees
11 of office, and no more, in civil matters:

12 (1) For making service or attempted service and return of citation with or
13 without petition on each defendant, ~~ten~~ thirty dollars.

14 (2) For making service or attempted service and return of supplemental or
15 amended petition with or without accompanying citation, ~~ten~~ thirty dollars.

16 (3) For making service or attempted service of interrogatories and notice of
17 cross interrogatories, ~~ten~~ thirty dollars.

18 (4) For making service or attempted service and return of garnishment under
19 writ of fieri facias, ~~twenty-eight dollars and fifty cents~~ thirty dollars.

20 (5) For making service or attempted service and return of writ of attachment
21 on each witness, ~~nine dollars and fifty cents~~ thirty dollars.

1 (6) For executing writ of sequestration, provisional seizures, or distringas,
2 in each case, ~~twelve dollars and fifty cents~~ thirty dollars. For service of each notice
3 to defendant and return thereon in connection with execution of any of the writs
4 covered by this Paragraph, ~~ten~~ thirty dollars.

5 (7) For taking bond authorized by law, thirteen dollars and fifty cents.

6 (8) For making service or attempted service and return of notice of judgment,
7 ~~ten~~ thirty dollars.

8 (9) For making service or attempted service and return of citation and
9 petition of appeal and order, ~~ten~~ thirty dollars.

10 (10) For return of fieri facias, ~~ten~~ thirty dollars.

11 (11) For making service or attempted service and return of citations requiring
12 personal service, ~~eleven dollars and fifty cents~~ thirty dollars, ~~to-wit:~~ specifically rule
13 nisi, subpoena, subpoena duces tecum, judgment debtor.

14 (12) For keeping property when a keeper or guardian is required, the marshal
15 or constable shall be allowed the actual amount paid the keeper appointed by him,
16 but not to exceed sixty dollars for each eight hours of keeping; and in all cases in
17 which property under seizure is of a nature requiring the constant attention of the
18 marshal or constable, he may appoint one or more additional keepers for which
19 allowance shall be made on the basis set forth above.

20 (13) For collecting money for execution of order of seizure and sale, six
21 percent, with a minimum of twelve dollars and fifty cents on each execution of order
22 of seizure and sale.

23 (14) For collecting money for execution of a writ, without either seizure or
24 sale, six percent, with a minimum of twelve dollars and fifty cents on each execution
25 or order of writ.

26 (15) For any services rendered or duties performed by the marshals or
27 constables not otherwise herein specially provided for, they shall be entitled to a fee
28 or commission to be determined by agreement with the parties in interest or fixed by
29 the court by rule tried in a summary manner in term time or in vacation.

1 (16) For service and making return of any rule, order of court, or notice on
2 any party to a suit or other proceeding, or after judgment rendered, where return of
3 service is made by the constable or marshal, including service or notice of release of
4 seizure, and other than those herein otherwise provided for, ~~ten dollars and fifty cents~~
5 thirty dollars for each service; for service of a judgment debtor rule, a fee of ~~eleven~~
6 ~~dollars and fifty cents~~ thirty dollars.

7 (17) For service of subpoena on each witness and making return thereof, ~~ten~~
8 thirty dollars.

9 (18) For service of attachment on a witness or for service on any person for
10 contempt of court to be brought into court and for return thereon, ~~eleven dollars and~~
11 ~~fifty cents~~ thirty dollars.

12 (19) For service of citation and petition of appeal for each party on whom
13 service is directed to be made and for making return thereof, ~~ten~~ thirty dollars.

14 (20) For making seizure under writ of fieri facias, making and serving notice
15 of seizure on one party, and making a copy for recordation in the mortgage records
16 when necessary or required and for returns thereon, for all, fourteen dollars and fifty
17 cents. For service of each notice of seizure and return thereon in connection with
18 execution of writ of fieri facias, ten dollars.

19 (21) For executing writ of arrest and making return thereon, ~~eleven dollars~~
20 ~~and fifty cents~~ thirty dollars.

21 (22) For serving writ of injunction, certiorari, mandamus, prohibition, or
22 notice of demand and making return thereon, in each case ~~ten~~ thirty dollars.

23 (23) For executing writ of habeas corpus and making return thereon, to be
24 charged in civil cases only, ~~eleven dollars and fifty cents~~ thirty dollars.

25 (24) For serving notice of seizure and sale on one party and making a copy
26 for recordation in the mortgage records, when necessary or required, and for making
27 return for all, ~~fourteen dollars and fifty cents~~ thirty dollars. For service of each
28 additional notice of seizure and return, ~~ten~~ thirty dollars.

29 (25) For advertising sale under writ of fieri facias, seizure and sale, or other
30 order of court, the rates established by the newspaper.

1 (26) For preparing advertisement for newspapers, for each one hundred
2 words or part thereof, ~~eleven dollars and fifty cents~~ thirty dollars.

3 (27) For each deed of conveyance of immovable property, thirty-three
4 dollars and fifty cents, in addition to the cost of registering the deed in the
5 conveyance office and of recording it in the office of the clerk of the district court.

6 (28) For each proces verbal of the sale of movable or immovable property,
7 sixteen dollars and fifty cents.

8 (29)(a) For executing writ of possession and writ of ejectment, ~~ten~~ thirty
9 dollars.

10 (b)(i) For service of each notice to vacate on defendant or occupants, ~~ten~~
11 thirty dollars.

12 (ii) If the defendant or occupants do not vacate the premises named in the
13 writ upon service of notice to vacate and the marshal or constable is required to do
14 anything further to obtain possession, he shall be entitled to an additional fee of ~~ten~~
15 dollars and fifty cents thirty dollars.

16 (c) Nothing herein shall be construed to bar the marshals or constables from
17 charging and collecting for the cost of labor and other costs and expenses actually
18 paid or incurred by them in order to obtain possession of the premises described in
19 the writ.

20 (30)(a) In all cases where the marshals or constables have in their possession
21 for execution a writ of fieri facias, a writ of seizure and sale, or any conservatory or
22 other writ, under which property is or may be seized:

23 (i) When there has been an adjudication ~~which~~ that is not completed as a
24 result of instructions given by the plaintiff in writ or for any other reason.

25 (ii) When the plaintiff in writ receives cash or other consideration, or both,
26 pursuant to judgment rendered in suit in which the writ issued, without the necessity
27 of judicial sale.

28 (iii) When the suit in which the writ issued is discontinued by the plaintiff
29 in writ.

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

1 (iv) When, at the request of the plaintiff in writ, the writ is recalled or
 2 dissolved or its further execution discontinued.

3 (v) When the parties in interest make an amicable settlement or compromise,
 4 or enter into any other agreement, under the terms of which the writ is recalled or
 5 dissolved or its further execution discontinued, the marshals or constables shall be
 6 entitled to receive a fee or commission as in the case of a sale.

7 (b) The fee or commission provided for in this Paragraph shall be due and
 8 payable under the circumstances above set forth even though there has only been a
 9 constructive seizure or where property seized under any of the writs ~~hereinabove~~
 10 enumerated in this Paragraph has been released on bond.

11 (c) In a case where there has been an amicable settlement by compromise or
 12 otherwise but no judgment rendered, the fee or commission shall be due and payable
 13 in solido by all parties to the compromise agreement or settlement who may be
 14 proceeded against by the marshals or constables by rule to be tried in a summary
 15 manner in term time or in vacation.

16 B. ~~The fees specified in Subsection A of this Section which are less than ten~~
 17 ~~dollars shall not apply to the marshal of the Pineville City Court, who shall be~~
 18 ~~entitled to a minimum fee of office of ten dollars for each service rendered in civil~~
 19 ~~matters.~~ Sixty percent of the funds collected pursuant to Paragraph(A)(1) through
 20 (A)(12) and Paragraphs (A)(15) through (A)(30) of this Section shall be used to
 21 assist in funding the purchase or updating of necessary equipment and officer
 22 training to carry out the efficient performance of all duties imposed by law on
 23 constables and marshals. These funds shall be deposited into an equipment and
 24 training fund which shall be subject to and included in the constables' and marshals'
 25 annual audit. A copy of the audit shall be filed with the legislative auditor who shall
 26 make it available to the public.

27 Section 2. R.S. 13:5807.2 is hereby repealed in its entirety.

28 Section 3. In accordance with the provisions of R.S. 13:62, the increase in court
 29 costs or fees as provided for in this Act shall become effective if and when the Judicial

1 Council provides a recommendation that such court costs or fees meet the applicable
2 guidelines in its 2019 Report to the Louisiana Legislature.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____