

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 and  
3 to enact R.S. 13:2590(D), relative to collection of costs or fees; to provide relative  
4 to processing fees prior to payment to a creditor; to provide relative to fees collected  
5 by constables of justice of the peace courts; to provide for the use of such fees; to  
6 provide with respect to the seizure of creditor; and to 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 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.(1) Fifty percent of such court costs collected pursuant to Subsection A of  
15 this Section shall be retained by the justice of the peace for compensation and  
16 operational expenses of the office and court, and fifty percent of such court costs  
17 shall be used for compensation and operational expenses of the ward constable's  
18 office.

19 (2) Notwithstanding Paragraph (1) of this Subsection, in cases with  
20 out-of-constable jurisdiction, the justice of the peace and his ward constable's office

1 may enter into an agreement whereby the justice of the peace shall pay any  
2 applicable fees directly to the out-of-jurisdiction server. The justice of the peace shall  
3 pay such fees from his ward constable office's portion of the court costs.

4 C. The constable of a justice of the peace court shall be entitled to a fee of  
5 six percent for collecting money for execution of a writ of fieri facias, without either  
6 seizure or sale. The collected money shall be used for compensation and operational  
7 expenses of the ward constable's office.

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 B. Prior to releasing or terminating any garnishment under this Part because  
27 of amounts due under the garnishment have been paid or because the amount due as  
28 reflected in the statement furnished pursuant to R.S. 13:3923 has been reached, the

1           garnishee or the sheriff, marshal, or constable shall make a reasonable effort to  
2           contact the seizing creditor, and obtain the current balance due.

3                    ~~B.C.~~ The court shall also provide in the judgment for a processing fee of  
4           three dollars to be deducted by the employer from the nonexempt income of the  
5           employee for each pay period during which the judgment of garnishment is in effect.  
6           The processing fee shall be for the costs of the employer in complying with the  
7           judgment of garnishment.

8                    ~~C.D.~~ In garnishment proceedings in which the employee is a state officer or  
9           employee, the processing fee provided by Subsection B shall be paid into the state  
10           treasury and, in accordance with Article VII, Section 9 of the Constitution of  
11           Louisiana, shall be credited to the Bond Security and Redemption Fund.

12                                           \*           \*           \*

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 Engrossed

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. The collected money shall be used for compensation and operational expenses of the ward constable's office.

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.

Proposed law requires the garnishee, sheriff, marshal, or constable to make a reasonable effort to contact the creditor and obtain a current balance prior to releasing or terminating any garnishment.

(Amends R.S. 13:2590(A)(intro. para.), (B) and (C) and 3921; 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. Authorize the constable to use collected money for compensation and operational expenses of the ward constable's office.
2. Require the garnishee, sheriff, marshal, or constable to make a reasonable effort to contact the seizing creditor and obtain a current balance prior to the termination of any garnishment proceeding.