

2015 Regular Session

HOUSE BILL NO. 305

BY REPRESENTATIVE HARRISON

COURTS/COURT COSTS: Provides for an increase in fees that the office of marshal of Houma may charge in civil matters

1 AN ACT

2 To amend and reenact R.S. 13:5807.1(A) and 5807.5, relative to the collection of fees by
3 city marshals; to increase the fees that the Houma City Marshal's Office is entitled
4 to charge for services provided for in civil matters; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 13:5807.1(A) and 5807.5 are hereby amended and reenacted to read
7 as follows:

8 5807.1. Fees and costs; particular city marshals

9 A. Notwithstanding the provisions of R.S. 13:5807, the marshal of the city
10 of Natchitoches, ~~the marshal of the city of Houma~~, the marshal of the city of Minden,
11 the marshal of the city of Springhill, the marshal of the city of Franklin, and the
12 marshal of the city of Winnfield shall each be entitled to the following fees of office
13 and no more in civil matters:

14 (1) For making service and return of citation with or without petition on each
15 defendant, seven dollars.

16 (2) For making service and return of supplemental or amended petition with
17 or without accompanying citation, seven dollars.

18 (3) For making service and return of interrogatories and notice of cross
19 interrogatories, six dollars.

20 (4) For making service and return of garnishment under writ of fieri facias,
21 nine dollars and fifty cents.

22 (5) For making service and return of writ of attachment on each witness, six
23 dollars.

1 (6) For making service and return of writ of sequestration, eight dollars.

2 (7) For taking bond authorized by law, six dollars.

3 (8) For making service and return of notice of judgment, six dollars and fifty
4 cents.

5 (9) For making service and return of citation and petition for appeal and
6 order, seven dollars.

7 (10) For return on writ of fieri facias, seven dollars and fifty cents.

8 (11) For making service and return of citations requiring personal service,
9 seven dollars, to-wit: rule nisi, subpoena, subpoena duces tecum, judgment debtor.

10 (12) For keeping property under seizure by any writ or process, fees to be
11 fixed by the court after service of notice to the parties or their attorneys of record in
12 the suit.

13 (13) For collecting money pursuant to an execution of an order of seizure
14 and sale or a writ, without either seizure or sale, six percent, with a minimum of ten
15 dollars for each execution or order of seizure and sale.

16 (14)(a) For serving each order of court not otherwise herein specially
17 provided for, six dollars.

18 (b) For serving each order of court not otherwise herein specially provided
19 for, the marshal of the city of Minden and the marshal of the city of Springhill shall
20 each receive ten dollars.

21 (15)(a) For each mile or fraction thereof actually and necessarily traveled in
22 going to and returning from the service of any process of court, sixteen cents.

23 (b) For each mile or fraction thereof actually and necessarily traveled in
24 going to and returning from the service of any process of court, ~~the marshal of the~~
25 ~~city of Houma shall receive sixteen cents and~~ the marshal of the city of Natchitoches
26 shall be reimbursed at a rate equal to that rate established for state employees by the
27 Division of Administration.

28 (c) For each mile or fraction thereof actually and necessarily traveled in
29 going to and returning from service of any process of court, the marshal of the city

1 of Minden and the marshal of the city of Springhill shall each receive twenty-one
2 cents.

3 * * *

4 §5807.5. Fees and costs

5 Notwithstanding the provisions of R.S. 13:5807, the marshal of the City
6 Court of Ruston and the marshal of the city of Houma shall be entitled to the
7 following fees of office and no more in civil matters:

8 (1) For making service or attempted service and return of citation with or
9 without petition on each defendant, fifteen dollars.

10 (2) For making service or attempted service and return of supplemental or
11 amended petition with or without accompanying citation, fifteen dollars.

12 (3) For making service or attempted service and return of interrogatories and
13 notice of cross interrogatories, fifteen dollars.

14 (4) For making service or attempted service and return of garnishment under
15 writ of fieri facias, thirty dollars.

16 (5) For making service or attempted service and return of writ of attachment
17 on each witness, fifteen dollars.

18 (6) For executing writ of sequestration, provisional seizures, or distringas
19 and for service of each notice to defendant and return in connection with execution
20 of any of the writs, fifteen dollars for each.

21 (7) For taking bond authorized by law, fifteen dollars.

22 (8) For making service or attempted service and return of notice of judgment,
23 fifteen dollars.

24 (9) For making service or attempted service and return of citation and
25 petition for appeal and order, fifteen dollars.

26 (10) For return on writ of fieri facias, fifteen dollars.

27 (11) For making service or attempted service and return of citations requiring
28 personal service, fifteen dollars, to wit: rule nisi, subpoena, subpoena duces tecum,
29 judgment debtor.

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

7 (13) For collecting money pursuant to an execution of an order of seizure
8 and sale or a writ, without either seizure or sale, six percent, with a minimum of
9 fifteen dollars for each execution or order of seizure and sale.

10 (14) For collecting money for execution of a writ, without either seizure or
11 sale, six percent, with a minimum of fifteen dollars on each execution or order of
12 writ.

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

17 (16) For traveling each mile necessary in going to make and returning from
18 service of any process of court, a mileage allowance based upon the mileage rate
19 established by the division of administration for the use of state-owned vehicles and
20 all actual expenses incurred in the service of the process, but such mileage shall not
21 be charged for a greater distance than that of the residence or domicile of the party
22 on whom service is made, and service is made upon different parties in the same case
23 by the same office of the same day or official tour, only one mileage shall be
24 charged. This Paragraph shall not be construed to prevent the officer from charging
25 mileage as provided for in this Paragraph in each separate suit.

26 (17) For service and making return of any rule, order of court, or notice on
27 any party to a suit or other proceeding, or after judgment rendered, where return of
28 service is made by the marshal or constable, including service or notice of release of

1 seizure, and other than those herein otherwise provided for, fifteen dollars for each
2 service; for service of a judgment debtor rule, a fee of fifteen dollars.

3 (18) For service of subpoena on each witness and making return thereof,
4 fifteen dollars.

5 (19) For service of attachment on a witness or for service on any person for
6 contempt of court to be brought into court and for return thereon, fifteen dollars.

7 (20) For service of citation and petition of appeal for each party on whom
8 service is directed to be made and for making return thereof, fifteen dollars.

9 (21) For making seizure under writ of fieri facias, making and serving notice
10 of seizure on one party, and making a copy for recordation in the mortgage records
11 when necessary or required and for returns thereon, for all, fifteen dollars on each
12 fee. For service of each notice of seizure and return thereon in connection with
13 execution of writ of fieri facias, fifteen dollars on each fee.

14 (22) For executing writ of arrest and making return thereon, fifteen dollars.

15 (23) For serving writ of injunction, certiorari, mandamus, prohibition, or
16 notice of demand and making return thereon, in each case fifteen dollars.

17 (24) For executing writ of habeas corpus and making return thereon, to be
18 charged in civil cases only, fifteen dollars.

19 (25) For serving notice of seizure and sale on one party and making a copy
20 for recordation in the mortgage records, when necessary or required, and for making
21 return for all, fifteen dollars on each fee. For service of each additional notice of
22 seizure and return, fifteen dollars on each fee.

23 (26) For advertising sale under writ of fieri facias, seizure and sale, or other
24 order of court, the rates established by the newspaper.

25 (27) For preparing advertisement for newspapers, for each one hundred
26 words or part thereof, fifteen dollars.

27 (28) For each deed of conveyance of immovable property, thirty-five dollars,
28 in addition to the cost of registering the deed in the conveyance office and of
29 recording it in the office of the clerk of the district court.

1 (29) For each process verbal of the sale of movable or immovable property,
2 twenty dollars.

3 (30)(a) For executing writ of possession and writ of ejectment, fifteen
4 dollars.

5 (b)(i) For service of each notice to vacate on defendant or occupants, fifteen
6 dollars.

7 (ii) If the defendant or occupants do not vacate the premises named in the
8 writ upon service of notice to vacate and the marshal or constable is required to do
9 anything further to obtain possession, he shall be entitled to an additional fee of
10 fifteen dollars.

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

15 (31)(a) In the following cases where the marshals or constables have in their
16 possession for execution a writ of fieri facias, a writ of seizure and sale, or any
17 conservatory or other writ, under which property is or may be seized, the marshals
18 or constables shall be entitled to receive a fee or commission as in the case of a sale:

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

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

24 (iii) When the suit in which the writ issued is discontinued by the plaintiff
25 in writ.

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

1 (v) When the parties in interest make an amicable settlement or compromise,
2 or enter into any other agreement, under the terms of which the writ is recalled or
3 dissolved or its further execution discontinued.

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

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

13 (d) In the event a defendant in seizure files for bankruptcy before a marshal's
14 sale and a stay order is issued canceling the sale, the plaintiff in the suit shall be
15 liable for all costs, other than commissions, incurred while the property was under
16 seizure.

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 305 Engrossed

2015 Regular Session

Harrison

Abstract: Authorizes an increase in fees collected in civil matters by the marshal for the city of Houma.

Present law provides for a list of enumerated fees in civil matters to be collected by the marshal for the cities of Natchitoches, Houma, Minden, Springhill, Franklin, and Winnfield.

Proposed law retains present law, except that it removes the marshal for the city of Houma from the authorized list of cities authorized to collect such fees.

Present law authorizes the marshal for the city of Ruston to collect certain fees in civil matters.

Proposed law retains present law and extends the authorization to collect fees to the marshal for the city of Houma.

(Amends R.S. 13:5807.1(A) and 5807.5)