

3304

2011-2012 Regular Sessions

I N   S E N A T E

February 15, 2011

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Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to increasing the fixed fees for services provided by sheriffs

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1     Section 1. Section 8011 of the civil practice law and rules, as  
2     amended by chapter 655 of the laws of 2002, subdivision (h) as amended  
3     by chapter 36 of the laws of 2007, is amended to read as follows:  
4     S 8011. Fixed fees of sheriffs. For the services specified, a sheriff  
5     is entitled to the following fees and, where indicated, these shall be  
6     paid in advance.  
7     (a) Order of attachment.  
8     1. For receiving an order of attachment, entering it in the appropri-  
9     ate books, and return when required, [fifteen] TWENTY dollars, in  
10    advance.  
11    2. For levying upon real or personal property, [forty] FIFTY dollars,  
12    in advance.  
13    3. For each additional levy upon real or personal property by virtue  
14    of an order of attachment, [forty] FIFTY dollars, in advance.  
15    4. For serving a copy of an order of attachment on a defendant, and  
16    for serving a copy on each additional defendant, [fifteen] TWENTY  
17    dollars, in advance.  
18    5. For serving a summons with or without a complaint, [fifteen] TWENTY  
19    dollars, in advance.  
20    6. For making and filing a description of real property, or an inven-  
21    tory of personal property, levied upon by virtue of an order of attach-  
22    ment, or an estimate of the value thereof, [fifteen] TWENTY dollars.  
23    7. Mileage for services covered in paragraphs two, three and four of  
24    this subdivision, in advance, provided, however, that where the services

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [ ] is old law to be omitted.

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covered in such paragraphs are performed at the same time and place, there shall be only one mileage fee.

(b) Property execution.

1. For receiving an execution against property, entering it in the appropriate books, and return when required, [fifteen] TWENTY dollars, in advance, except that in an execution which arises out of an action brought pursuant to article eighteen of the uniform district court act, article eighteen of the uniform city court act, article eighteen of the New York city civil court act or article eighteen of the uniform justice court act, the fees provided in this subdivision shall not be collected in advance.

2. For levying upon property by virtue of an execution, [fifteen] TWENTY dollars.

3. For making an inventory of property levied upon by virtue of an execution, [fifteen] TWENTY dollars.

4. Mileage for services covered in paragraphs two and three of this subdivision, in advance, provided however, that where the services covered in such paragraphs are performed at the same time, there shall be only one mileage fee.

(c) Income execution; service upon judgment debtor.

1. For receiving an income execution, entering it in appropriate books, and return when required, [fifteen] TWENTY dollars, in advance.

2. For serving the income execution upon the judgment debtor, [fifteen] TWENTY dollars, in advance.

3. Mileage for service covered in paragraph two of this subdivision, unless such execution is served by mail.

(d) Income execution; levy upon default or failure to serve judgment debtor.

1. For serving an income execution, entering it in the appropriate books, and return when required, [fifteen] TWENTY dollars, in advance.

2. For levying upon the money that the judgment debtor is receiving or will receive, [fifteen] TWENTY dollars, in advance.

3. Mileage for services covered in paragraph two of this subdivision unless such levy is made by mail.

(e) Recovery of chattel.

1. For receiving an order to recover chattel, entering it in the appropriate books, and return when required, [fifteen] TWENTY dollars, in advance.

2. For executing the order of seizure against the defendant's chattel or chattels, [seventy-five] ONE HUNDRED dollars, in advance.

3. For executing the order of seizure against the chattel or chattels of an additional defendant or any other person in whose possession said chattel or chattels may be found, [forty] FIFTY dollars, in advance.

4. For serving an additional copy of the required papers, [fifteen] TWENTY dollars, in advance.

5. For serving the summons with or without a complaint, [fifteen] TWENTY dollars, in advance.

6. Mileage for services covered in paragraphs two, three, four and five of this subdivision, in advance, provided however, that where the services covered in such paragraphs are performed at the same time and place, there shall be only one mileage fee.

(f) Summary proceeding.

1. Notice of petition and petition.

(i) For receiving a notice of petition and petition, obtaining an index number when required, entering it in the appropriate books, and return, [fifteen] TWENTY dollars, in advance.

1 (ii) For serving the notice of petition on a tenant or other person in  
2 possession, [fifteen] TWENTY dollars, in advance.

3 (iii) For serving the notice of petition on each additional tenant,  
4 undertenant, subtenant, person or persons in possession, or person or  
5 persons not in possession to be served, [fifteen] TWENTY dollars, in  
6 advance.

7 (iv) For making an affidavit of military or nonmilitary service,  
8 [fifteen] TWENTY dollars for each affidavit, in advance.

9 (v) Mileage for services covered in subparagraph (ii) of this para-  
10 graph, and where person or persons named in the petition are to be  
11 served at an address or addresses other than the premises described in  
12 the petition, additional mileage shall be paid, in advance, except where  
13 two or more notices of petition are to be served at the same time, with-  
14 in the same site or location, there shall be only one mileage fee.

15 2. Warrant of eviction or any mandate requiring delivery of possession  
16 of real property and removal of person or persons in possession.

17 (i) For requisitioning, receiving, entering in the appropriate books,  
18 and for the return of a warrant of eviction or any other mandate,  
19 [fifteen] TWENTY dollars, in advance.

20 (ii) For service of notice of eviction on a person or persons to be  
21 served, [fifteen] TWENTY dollars for each person to be served, in  
22 advance.

23 (iii) Mileage of services covered in subparagraph (ii) of this para-  
24 graph, in advance, except where two or more notices of eviction are to  
25 be served at the same time, within the same site or location, there  
26 shall be only one mileage fee.

27 (iv) For executing a warrant of eviction or any mandate requiring him  
28 or her to put a person in possession of real property and removing  
29 person or persons in possession, [seventy-five] ONE HUNDRED dollars, in  
30 advance.

31 (v) Mileage for services covered in subparagraph (iv) of this para-  
32 graph, in advance.

33 (g) Sales.

34 1. For posting of notice, including advertising real or personal prop-  
35 erty for sale by virtue of an execution, order of attachment, or other  
36 mandate, or in pursuance of a direction contained in a judgment, or for  
37 a notice of postponement of a sale, [fifteen] TWENTY dollars.

38 2. For drawing and executing a conveyance upon a sale of real proper-  
39 ty, [twenty] TWENTY-FIVE dollars, to be paid by the grantee, in advance.

40 3. For attending a sale of real or personal property, [fifteen] TWENTY  
41 dollars.

42 4. For conducting a sale of real or personal property, [fifteen] TWEN-  
43 TY dollars.

44 5. Mileage for services covered in paragraphs three and four of this  
45 subdivision provided, however, that where the services covered in such  
46 paragraphs are performed at the same time and place, there shall be only  
47 one mileage fee.

48 (h) Summons, subpoenas and other mandates.

49 1. For serving a summons, with or without a complaint or notice, for  
50 serving a subpoena, or for serving civil process, [fifteen] TWENTY  
51 dollars, in advance.

52 2. For serving or executing an order of arrest, or any other mandate  
53 for the service or execution of which no other fee is specifically  
54 prescribed by law, [forty-five] FIFTY-FIVE dollars, in advance, except  
55 that when a court has directed the service of an order of protection,

1 there shall be no fee for service of such order and of any related  
2 orders or papers to be served simultaneously.

3 3. Mileage for services subject to fees under paragraphs one and two  
4 of this subdivision, in advance.

5 4. For receiving a precept issued by commissioners appointed to  
6 inquire concerning the incompetency of a person, the fee allowed the  
7 clerk by subdivision (a) of section eight thousand twenty of this arti-  
8 cle for placing a cause on the calendar, and for notifying a county  
9 clerk or commissioner of jurors pursuant to such a precept, the fee, if  
10 any, allowed the clerk by subdivision (c) of section eight thousand  
11 twenty of this article for filing a demand for jury trial.

12 (i) Undertakings; returns; copies.

13 1. For taking any undertaking which the sheriff is authorized to take  
14 [one dollar and fifty cents] TWO DOLLARS, and the notary's fees to any  
15 affidavit or acknowledgements.

16 2. For making a copy of a description or any inventory of property  
17 levied upon by virtue of an order of attachment, or of a summons or  
18 complaint, or other mandate, or an affidavit or any other paper served  
19 by him or her, [ten] FIFTEEN dollars, in advance.

20 3. For a certified copy of an execution, and of the return or satis-  
21 faction thereupon, or for a certified copy of any undertaking which he  
22 or she is authorized to take, [ten] FIFTEEN dollars.

23 (j) Prisoners.

24 1. For each person committed to or discharged from prison, [ten]  
25 FIFTEEN dollars, in advance, to be paid by the person at whose instance  
26 he or she is imprisoned.

27 2. For attending before an officer for the purpose of surrendering a  
28 prisoner, or receiving into custody a prisoner surrendered, in exonera-  
29 tion of his or her bail, [ten] FIFTEEN dollars, for all his or her  
30 services upon such a surrender or receipt.

31 (k) Jurors; view; constables' services.

32 1. For notifying jurors to attend upon a writ of inquiry, [two] THREE  
33 dollars [and fifty cents] for each juror notified, including the making  
34 and return of the inquisition, when required; and for attending a jury  
35 when required in such a case, [twenty-eight] THIRTY dollars.

36 2. For attending a view, [ten] FIFTEEN dollars for each day.

37 3. For any services which may be rendered by a constable, other than  
38 those specifically provided for in this section, section eight thousand  
39 twelve or eight thousand thirteen of this article, to the same fees as  
40 are allowed by law to a constable for those services.

41 S 2. Subdivision (d) of section 8012 of the civil practice law and  
42 rules, as amended by chapter 337 of the laws of 2000, is amended to read  
43 as follows:

44 (d) Mileage fees in the city of New York. For mileage travelled wholly  
45 within the city of New York the sheriff of the city of New York shall be  
46 entitled to [twenty-five] THIRTY-FIVE dollars payable in advance, as  
47 provided in section eight thousand eleven of this chapter.

48 S 3. This act shall take effect on the ninetieth day after it shall  
49 have become a law.