S T A T E O F N E W Y O R K

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I N S E N A T E

May 18, 2010

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:

Section 1. Section 8011 of the civil practice law and rules, as amended by chapter 655 of the laws of 2002, subdivision (h) as amended by chapter 36 of the laws of 2007, is amended to read as follows:

S 8011. Fixed fees of sheriffs. For the services specified, a sheriff is entitled to the following fees and, where indicated, these shall be paid in advance.

(a) Order of attachment.

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

2. For levying upon real or personal property, [forty] FIFTY dollars, in advance.

3. For each additional levy upon real or personal property by virtue of an order of attachment, [forty] FIFTY dollars, in advance.

4. For serving a copy of an order of attachment on a defendant, and for serving a copy on each additional defendant, [fifteen] TWENTY dollars, in advance.

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

6. For making and filing a description of real property, or an inventory of personal property, levied upon by virtue of an order of attachment, or an estimate of the value thereof, [fifteen] TWENTY dollars.

7. Mileage for services covered in paragraphs two, three and four 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.

(b) Property execution.

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

LBD17294-01-0

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.

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

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

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

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

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

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

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

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

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

(v) Mileage for services covered in subparagraph (iv) of this paragraph, in advance.

(g) Sales.

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

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

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

4. For conducting a sale of real or personal property, [fifteen] TWENTY dollars.

5. Mileage for services covered in paragraphs three and four of this subdivision 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.

(h) Summons, subpoenas and other mandates.

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

2. For serving or executing an order of arrest, or any other mandate for the service or execution of which no other fee is specifically prescribed by law, [forty-five] FIFTY-FIVE dollars, in advance, except that when a court has directed the service of an order of protection, there shall be no fee for service of such order and of any related orders or papers to be served simultaneously.

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

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

(i) Undertakings; returns; copies.

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

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

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

(j) Prisoners.

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

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

(k) Jurors; view; constables' services.

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

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

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

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

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

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