

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Senators Nofs, Kahn, Caswell and Jones

ENROLLED SENATE BILL No. 1043

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of the courts, and of the judges and other officers of the courts; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in the courts; pleading, evidence, practice, and procedure in civil and criminal actions and proceedings in the courts; to provide for the powers and duties of certain state governmental officers and entities; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending section 2559 (MCL 600.2559), as amended by 2003 PA 243.

The People of the State of Michigan enact:

Sec. 2559. (1) Except as provided in subsections (2) and (8), the following is the schedule of fees allowed for process or papers served out of a court in this state by a person authorized under this act or supreme court rule to serve process:

- (a) For personal service of a summons and complaint in a civil action, along with supporting documents, for each defendant, \$23.00 plus mileage.
- (b) For personal service of an affidavit and account, for each defendant, \$23.00 plus mileage.
- (c) For a request for and writ of garnishment, for each garnishee and defendant, \$20.00 plus mileage.
- (d) For personal service of an order to seize goods that are the subject of a claim and delivery action, \$37.00 plus mileage, plus the actual and reasonable expense of seizing, keeping, and delivering the goods.
- (e) For receiving and filing a bond from or on behalf of a defendant in a claim and delivery action, \$17.00.
- (f) For an order to show cause, for each person served, \$23.00 plus mileage.
- (g) For a subpoena on discovery, for each person served, \$23.00 plus mileage.
- (h) For levying under or serving an order for the seizure of property and any accompanying paper, \$37.00 plus mileage, plus the actual and reasonable expense of seizing and keeping the property under the order.
- (i) If the person has seized property under an order for the seizure of property issued in an action in which a judgment is entered against the owner of the property, regardless of whether the judgment is entered before or after the order is issued, and if the judgment is satisfied prior to sale of the seized property by full payment of the judgment or settlement between the parties, 7% of the first \$8,000.00 of the payment or settlement amount and 3% of the payment or settlement amount exceeding the first \$8,000.00.
- (j) For sale of property seized under an order for the seizure of property, 7% of the first \$8,000.00 in receipts and 3% of any receipts exceeding the first \$8,000.00.
- (k) For each notice of sale under an order for the seizure of property or construction lien posted in a public place in the city or township, \$23.00 plus mileage.

- (l) For an order of eviction or a writ for the restitution of premises, for each defendant, \$37.00 plus mileage, plus the actual and reasonable expense for the physical removal of property from the premises.
- (m) For a subpoena directed to a witness, including a judgment debtor, \$23.00 plus mileage.
- (n) For a civil bench warrant or body execution, \$37.00 plus mileage, plus a reasonable fee per hour for the amount of time involved in executing the warrant.
- (o) For service by mail, \$10.00 plus the actual cost of postage.
- (p) For each verification by a process server, \$10.00 plus mileage.
- (q) For each postal change of address verification requested by the plaintiff, \$10.00.
- (2) Each of the fees prescribed in subsection (1)(a) to (o) shall increase by \$1.00 on October 1, 2013, \$1.00 on October 1, 2014, and \$1.00 on October 1, 2015.
- (3) Upon submitting a sworn affidavit, a person authorized by this act or supreme court rule to serve process or papers out of a court in this state is entitled to receive a \$10.00 fee plus mileage for each process that has an incorrect address. This fee is in addition to any fee the person is entitled to receive under subsection (1).
- (4) Mileage allowed under subsection (1) shall be 1-1/2 times the rate allowed by the state civil service commission for employees in the state classified civil service. Mileage shall be computed, each way, using the shortest reasonable route from the place where the court that issued or filed the process or paper is located to the place of service.
- (5) The fees and expenses allowed under subsection (1)(h) to (k) shall be collected in the same manner as the sum directed to be levied or collected under the order for the seizure of property. If at the time of advertising property for sale a sheriff or other officer has several orders for the seizure of property against the same defendant, only 1 advertising fee shall be charged on the whole, and the sheriff or other officer shall elect upon which order he or she will receive that fee.
- (6) A person authorized by this act or supreme court rule to serve process or papers out of a court in this state who demands and receives a greater fee or compensation for performing a service mentioned in this section than allowed by this section is, in addition to all other liability provided by law, liable to the party injured by paying the illegal fees for 3 times the amount of illegal fees actually paid and all costs of the action.
- (7) A sheriff or other officer who, after the fees specified by this section have been tendered, neglects or refuses a service required by law is liable to the party injured for all damages that the party sustains as a result of that neglect or refusal.
- (8) A person authorized under this act or supreme court rule to serve process may charge a fee for service of process that exceeds the fee prescribed under this section or other law if the fee is agreed to in advance in writing by the person serving process and the person requesting the service.
- (9) Regardless of whether a fee charged or paid for service of process exceeds the fee prescribed by this section or other law, including a fee allowed under subsection (8), a person entitled to tax costs shall not attempt to tax and is not entitled to recover a fee for service of process that exceeds the fee prescribed by this section or other law.
- (10) As used in this section, "order for the seizure of property" includes a writ of attachment and a writ of execution, including, but not limited to, execution in a claim and delivery action on property other than the property that is the subject of the claim and delivery action.

Carol Morey Viventi

Secretary of the Senate

Ray E. Randall

Clerk of the House of Representatives

Approved

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Governor