

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

429N0104

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 82** - 02/05/2007

Introduced by: Senators Dempster, Albers, Gray, Hanson (Gary), Heidepriem, Hunhoff, and McCracken and Representatives Hargens, Gillespie, Howie, Moore, Rave, Rhoden, and Rounds

1 FOR AN ACT ENTITLED, An Act to revise certain fees charged by sheriffs.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 7-12-18 be amended to read as follows:

4 7-12-18. The sheriff shall charge and remit the following:

5 (1) For serving an order of arrest with commitment or bail bond and return, ~~ten~~ twenty-
6 five dollars;

7 (2) ~~For each search on a search warrant, four dollars;~~

8 ~~—(3) For arresting under search warrant, each defendant, six dollars;~~

9 ~~—(4) For serving summons, complaint, warrant of attachment, affidavit, notice and~~
10 ~~undertaking in claim and delivery, or injunction, order to show cause, citation, or~~
11 ~~other process, and return thereof, sixteen dollars and fifty cents~~ of the instrument,

12 twenty-five dollars for all such process or instruments served at the same time upon
13 the same person regardless of the capacities in which such person is served, ~~but,~~

14 However, for all such process or instruments served upon another such person at



- 1 approximately the same time at the same place, five dollars;
- 2 ~~(5)~~(3) For serving subpoena for witness, each person, ~~seven dollars and fifty cents~~ ten
- 3 dollars;
- 4 ~~(6)~~ For taking and filing undertaking in claim and delivery or other indemnification to
- 5 ~~be furnished to and approved by the sheriff, six dollars;~~
- 6 ~~(7)~~(4) For traveling expenses in cars or planes owned by the sheriff, or necessary emergency
- 7 ~~vehicles~~ a motor vehicle, a minimum mileage allowance of at least three cents over
- 8 and above the rate set for state employees by the State Board of Finance but not more
- 9 than six cents above the rate set for state employees by the State Board of Finance,
- 10 as determined by the board of county commissioners, for each mile actually and
- 11 necessarily traveled by ~~car~~, motor vehicle. For traveling expenses in a private plane,
- 12 a mileage allowance of ten cents above the rate set for state employees by the State
- 13 Board of Finance for each mile actually and necessarily traveled by private plane;
- 14 ~~except. However,~~ actual cost may be paid for travel by train, bus, plane, or other
- 15 commercial vehicle;
- 16 ~~(8)~~(5) For serving writ of execution and return ~~thereof of the instrument~~, whether satisfied
- 17 or unsatisfied, ~~sixteen~~ thirty-five dollars;
- 18 ~~(9)~~(6) For levying writ of possession, ~~eleven~~ twenty-five dollars. However, if the sale of the
- 19 property levied upon is not subsequently held, the actual costs or expenses associated
- 20 with levying writ of possession shall be paid;
- 21 ~~(10)~~ For serving notice upon each juror who refuses or neglects to accept service of
- 22 summons mailed by the clerk, four dollars, and twenty cents for each mile actually
- 23 and necessarily traveled;
- 24 ~~(11)~~ For each person not on the regular panel called as a juror during any term of court by

1 order of the court, two dollars, and fifteen cents for each mile actually and necessarily
2 traveled;

3 ~~—(12) For summoning special jury, for each person impaneled, two dollars;~~

4 ~~—(13) For serving notice of motion or other notice or order of court, two dollars;~~

5 ~~—(14) For executing writ of habeas corpus and return, three dollars and twenty-five cents;~~

6 ~~—(15) For serving writ of restitution and return, eight dollars;~~

7 ~~—(16) For calling inquest to appraise any goods and chattels which the sheriff may be
8 required to have appraised, four dollars; and to each appraiser to be taxed as cost, ten
9 dollars;~~

10 ~~(17)~~(7) For advertisement of sale in newspaper, in addition to printing, ~~seven~~ twenty-
11 five dollars;

12 ~~(18)~~(8) For posting notices of sale of real property, ~~five~~ twenty-five dollars, and
13 mileage;

14 ~~(19)~~(9) For executing writ or order of partition, ~~thirteen~~ twenty-five dollars;

15 ~~(20)~~(10) For making deed for land sold on execution or order of sale, ~~twenty-six~~ fifty
16 dollars except no fee is charged when the deed only requires the sheriff's
17 signature;

18 ~~(21)~~(11) In addition to the applicable fees and expenses, a commission on all money
19 received and disbursed by the sheriff on execution or order of sale, order of
20 attachment, decree or on sale of real property or personal property, for each
21 dollar not exceeding four hundred dollars, ~~nine~~ eleven cents; for each dollar
22 above four hundred dollars, and not exceeding one thousand dollars, ~~five~~
23 seven cents; for each dollar above one thousand dollars, ~~not to exceed and not~~
24 exceeding fifteen thousand dollars, five cents; for each dollar above fifteen

1 thousand dollars, and not exceeding twenty-five thousand dollars, three cents;
 2 but. However, in no case may the commission be less than ~~fifteen~~ twenty-five
 3 dollars. The commissions shall be included as a part of the cost of execution,
 4 order of sale, order of attachment, decree, or on sale of real or personal
 5 property, which shall be paid by the debtor out of the proceeds. However, in
 6 all cases of redemption prior to the sale, the sheriff is entitled to the
 7 commission as stated above, to be paid by the redemptioner as a cost of the
 8 redemption;

9 ~~(22)~~(12) For cases in the circuit court, if persons, in whose favor an execution or order
 10 of sale is issued, bid in the property sold on execution or decree, the sheriff or
 11 officer making the sale shall receive the following compensation: If the
 12 amount for which the property is bid in is one thousand dollars or less, the sum
 13 of twenty dollars; ~~if.~~ If the amount for which the property is bid in is more
 14 than one thousand dollars, the sum of ~~forty~~ fifty dollars;

15 ~~(23)~~(13) For making a sale of real property under a foreclosure of mortgage by
 16 advertisement, the same fees as for the sale of real property under a judgment
 17 of foreclosure and sale of real property; and

18 ~~(24)~~(14) If personal property is taken by the sheriff on execution or warrant of
 19 attachment and applied in the satisfaction of the debt without sale, the same
 20 percentage on the appraised value of the property as in the case of a sale and
 21 all additional reasonable and necessary costs and expenses incurred in
 22 executing the duties of sheriff ~~under this chapter to the extent that such costs~~
 23 ~~and expenses are not otherwise reimbursed~~ including expenses associated with
 24 the removal of property from the premises.

- 1 No fee may be charged in any action under § 25-10-3, 25-10-6, 22-19A-8, or 22-19A-12.
- 2 The fees established pursuant to this section shall be used for law enforcement purposes.