

AN ACT

ENTITLED, An Act to provide that sheriffs receive payment for marshaling assets for an execution of judgment or execution sale even if no sale occurs.

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

Section 1. That § 15-18-32 be amended to read as follows:

15-18-32. The party for whom the execution was issued or the party's attorney of record, or otherwise authorized, may abandon proceedings under any execution at any time by filing with the court from which issued a written statement of such abandonment, or by causing the writ to be returned and filed with an endorsement to the effect that it had been so abandoned, and by paying the costs of such execution and proceedings thereunder, including any actual out-of-pocket expenses and reasonable costs incurred by the sheriff, and by discharging of record any notice of levy which has been filed in any recording or registry office, and by releasing any property seized thereunder. All proceedings, notices, levies, and liens taken pursuant to such execution shall be deemed abandoned, discharged, and released upon the filing of such statement or endorsement. The abandonment of an execution as herein permitted shall be without prejudice to the issue of subsequent executions.

Section 2. That § 15-19-35 be amended to read as follows:

15-19-35. Every officer or person who conducts an execution sale shall apply the proceeds of such sale:

- (1) To the payment of the costs and expenses of the sale, including any actual out-of-pocket expenses and reasonable costs incurred by a sheriff;
- (2) To the satisfaction of the execution under which the sale is made;
- (3) To the satisfaction of any other execution in the officer's or person's hands, to which such proceeds may be lawfully applied;

- (4) To pay the surplus, if any, to the defendant, or into court for the use of the defendant or the person entitled thereto, subject to the order of the court. If such surplus or any part thereof remains in the court for the term of three months without being applied for, the court may direct the same to be put out at interest for the benefit of the defendant, the defendant's representatives, or assigns, subject to the order of the court.

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I certify that the attached Act
originated in the

SENATE as Bill No. 123

Secretary of the Senate

President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 123
File No. _____
Chapter No. _____

Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State