

HOUSE BILL No. 4681

May 31, 2017, Introduced by Reps. Alexander and Howrylak and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judiciary act of 1961,"
by amending section 2559 (MCL 600.2559), as amended by 2012 PA 558.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2559. (1) Except as provided in ~~subsections (2) and (8),~~
2 **SUBSECTION (7)**, the following is the schedule of fees allowed for
3 process or papers served out of a court in this state by a person
4 authorized under this act or supreme court rule to serve process:

5 (a) For personal service of a summons and complaint in a civil
6 action, along with supporting documents, for each defendant, ~~\$23.00~~
7 **\$26.00** plus mileage.

8 (b) For personal service of an affidavit and account, for each
9 defendant, ~~\$23.00~~ **\$26.00** plus mileage.

10 (c) For a request for and writ of garnishment, for each
11 garnishee and defendant, ~~\$20.00~~ **\$23.00** plus mileage.

1 (d) For personal service of an order to seize goods that are
2 the subject of a claim and delivery action, ~~\$37.00~~**\$40.00** plus
3 mileage, plus the actual and reasonable expense of seizing,
4 keeping, and delivering the goods.

5 (e) For receiving and filing a bond from or on behalf of a
6 defendant in a claim and delivery action, ~~\$17.00~~**\$20.00**.

7 (f) For an order to show cause, for each person served, ~~\$23.00~~
8 **\$26.00** plus mileage.

9 (g) For a subpoena on discovery, for each person served,
10 ~~\$23.00~~**\$26.00** plus mileage.

11 (h) For levying under or serving an order for the seizure of
12 property and any accompanying paper, ~~\$37.00~~**\$40.00** plus mileage,
13 plus the actual and reasonable expense of seizing and keeping the
14 property under the order.

15 (i) If the person has seized property under an order for the
16 seizure of property issued in an action in which a judgment is
17 entered against the owner of the property, regardless of whether
18 the judgment is entered before or after the order is issued, and if
19 the judgment is satisfied ~~prior to~~**BEFORE** sale of the seized
20 property by full payment of the judgment or settlement between the
21 parties, 7% of the first \$8,000.00 of the payment or settlement
22 amount and 3% of the payment or settlement amount exceeding the
23 first \$8,000.00.

24 (j) For sale of property seized under an order for the seizure
25 of property, 7% of the first \$8,000.00 in receipts and 3% of any
26 receipts exceeding the first \$8,000.00.

27 (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~~ **\$26.00** plus mileage.

(l) For an order of eviction or a writ for the restitution of premises, for each defendant, ~~\$37.00~~ **\$40.00** 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~~ **\$26.00** plus mileage.

(n) For a civil bench warrant or body execution, ~~\$37.00~~ **\$40.00** 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~~ **\$13.00** plus the actual cost of postage.

(p) For each verification by a process server, ~~\$10.00~~ **\$11.00** plus mileage.

(q) For each postal change of address verification requested by the plaintiff, ~~\$10.00~~ **\$11.00**.

(R) FOR EACH GLOBAL POSITIONING SERVICE VERIFICATION REQUESTED BY THE PLAINTIFF, \$11.00.

(S) FOR EACH PHOTO VERIFICATION REQUESTED BY THE PLAINTIFF, \$11.00.

~~— (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.~~

(2) ~~(3) Upon~~ **ON** 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~~

1 **\$15.00** fee plus mileage for each process that has an incorrect
2 address. This fee is in addition to any fee the person is entitled
3 to receive under subsection (1).

4 **(3)** ~~(4)~~ Mileage **IS** allowed under subsection (1) ~~shall be~~ **AT** 1-
5 1/2 times the rate allowed by the state civil service commission
6 for employees in the state classified civil service. Mileage ~~shall~~
7 ~~be~~ **IS** computed, each way, using the shortest reasonable route from
8 the place where the court that issued or filed the process or paper
9 is located to the place of service.

10 **(4)** ~~(5)~~ The fees and expenses allowed under subsection (1) (h)
11 to (k) ~~shall~~ **MUST** be collected in the same manner as the sum
12 directed to be levied or collected under the order for the seizure
13 of property. If at the time of advertising property for sale a
14 sheriff or other officer has several orders for the seizure of
15 property against the same defendant, **THE SHERIFF OR OFFICER SHALL**
16 **CHARGE** only 1 advertising fee ~~shall be charged~~ on the whole, and
17 ~~the sheriff or other officer shall elect upon~~ **ON** which order he or
18 she will receive ~~that~~ **THE** fee.

19 **(5)** ~~(6)~~ A person authorized by this act or supreme court rule
20 to serve process or papers out of a court in this state who demands
21 and receives a greater fee or compensation for performing a service
22 mentioned in this section than allowed by this section is, in
23 addition to all other liability provided by law, liable to the
24 party injured by paying the illegal fees for 3 times the amount of
25 illegal fees actually paid and all costs of the action.

26 **(6)** ~~(7)~~ A sheriff or other officer who, after the fees
27 specified by this section have been tendered, neglects or refuses a

1 service required by law is liable to the party injured for all
2 damages that the party sustains as a result of ~~that~~ **THE** neglect or
3 refusal.

4 (7) ~~(8)~~—A person authorized under this act or supreme court
5 rule to serve process may charge a fee for service of process that
6 exceeds the fee prescribed under this section or other law if the
7 fee is agreed to in advance in writing by the person serving
8 process and the person requesting the service.

9 (8) ~~(9)~~—Regardless of whether a fee charged or paid for
10 service of process exceeds the fee prescribed by this section or
11 other law, including a fee allowed under subsection ~~(8)~~, **(7)**, a
12 person entitled to tax costs shall not attempt to tax and is not
13 entitled to recover a fee for service of process that exceeds the
14 fee prescribed by this section or other law.

15 (9) ~~(10)~~—As used in this section, "order for the seizure of
16 property" includes a writ of attachment and a writ of execution,
17 including, but not limited to, execution in a claim and delivery
18 action on property other than the property that is the subject of
19 the claim and delivery action.

20 Enacting section 1. This amendatory act takes effect 90 days
21 after the date it is enacted into law.

22 Enacting section 2. This amendatory act does not take effect
23 unless all of the following bills of the 99th Legislature are
24 enacted into law:

25 (a) Senate Bill No. _____ or House Bill No. 4682 (request no.
26 00910'17).

27 (b) Senate Bill No. _____ or House Bill No. 4680 (request no.

1 00911'17).