
HOUSE BILL No. 1502

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-29-11-1; IC 32-29-7-3; IC 33-37; IC 36-2-16-4.

Synopsis: Sheriff fees. Increases fees a county sheriff may charge for reports issued by the sheriff's office, service of process in mortgage foreclosure proceedings, and service of process for civil actions. Increases the amount that a county fiscal body must appropriate to a sheriff for each verified claim filed by the sheriff for service of writs, orders, process, notices, tax warrants, or other paper completed by the sheriff. Adds county sheriffs to the list of county officers entitled to appoint a chief deputy and other deputies and employees.

Effective: July 1, 2005.

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January 18, 2005, read first time and referred to Committee on Local Government.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

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HOUSE BILL No. 1502



A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-29-11-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The main
3 department, office, agency, or other person under whose supervision a
4 law enforcement officer carries on the law enforcement officer's duties
5 may charge a fee that is fixed by ordinance of the fiscal body in an
6 amount not less than **three ten** dollars (~~\$3~~) (**\$10**) for each report.
7 (b) The fee collected under subsection (a) shall be deposited in the
8 following manner:
9 (1) If the department supplying a copy of the accident report is the
10 state police department, in a separate account known as the
11 "accident report account". The account may be expended at the
12 discretion of the state police superintendent for a purpose
13 reasonably related to the keeping of accident reports and records
14 or the prevention of street and highway accidents.
15 (2) If the department supplying a copy of the accident report is the
16 sheriff, county police, or county coroner, in a separate account
17 known as the "accident report account". The account may be



1 expended at the discretion of the chief administrative officer of
2 the entity that charged the fee for any purpose reasonably related
3 to the keeping of accident reports and records or the prevention
4 of street and highway accidents.

5 (3) If the department supplying a copy of the accident report is a
6 city or town police department, in the local law enforcement
7 continuing education fund established by IC 5-2-8-2.

8 SECTION 2. IC 32-29-7-3 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) In a proceeding
10 for the foreclosure of a mortgage executed on real estate, process may
11 not issue for the execution of a judgment or decree of sale for a period
12 of three (3) months after the filing of a complaint in the proceeding.
13 However:

- 14 (1) the period shall be:
 - 15 (A) twelve (12) months in a proceeding for the foreclosure of
 - 16 a mortgage executed before January 1, 1958; and
 - 17 (B) six (6) months in a proceeding for the foreclosure of a
 - 18 mortgage executed after December 31, 1957, but before July
 - 19 1, 1975; and

20 (2) if the court finds that the mortgaged real estate is residential
21 real estate and has been abandoned, a judgment or decree of sale
22 may be executed on the date the judgment of foreclosure or
23 decree of sale is entered, regardless of the date the mortgage is
24 executed.

25 (b) A judgment and decree in a proceeding to foreclose a mortgage
26 that is entered by a court having jurisdiction may be filed with the clerk
27 in any county as provided in IC 33-32-3-2. After the period set forth in
28 subsection (a) expires, a person who may enforce the judgment and
29 decree may file a praecipe with the clerk in any county where the
30 judgment and decree is filed, and the clerk shall promptly issue and
31 certify to the sheriff of that county a copy of the judgment and decree
32 under the seal of the court.

33 (c) Upon receiving a certified judgment under subsection (b), the
34 sheriff shall, subject to section 4 of this chapter, sell the mortgaged
35 premises or as much of the mortgaged premises as necessary to satisfy
36 the judgment, interest, and costs at public auction at the office of the
37 sheriff or at another location that is reasonably likely to attract higher
38 competitive bids. The sheriff shall schedule the date and time of the
39 sheriff's sale for a time certain between the hours of 10 a.m. and 4 p.m.
40 on any day of the week except Sunday.

41 (d) Before selling mortgaged property, the sheriff must advertise the
42 sale by publication once each week for three (3) successive weeks in

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1 a daily or weekly newspaper of general circulation. The sheriff shall
 2 publish the advertisement in at least one (1) newspaper published and
 3 circulated in each county where the real estate is situated. The first
 4 publication shall be made at least thirty (30) days before the date of
 5 sale. At the time of placing the first advertisement by publication, the
 6 sheriff shall also serve a copy of the written or printed notice of sale
 7 upon each owner of the real estate. Service of the written notice shall
 8 be made as provided in the Indiana Rules of Trial Procedure governing
 9 service of process upon a person. The sheriff shall charge a fee of ~~ten~~
 10 **one hundred** dollars ~~(\$10)~~ **(\$100)** to one (1) owner and ~~three~~ **twenty**
 11 dollars ~~(\$3)~~ **(\$20)** to each additional owner for service of written notice
 12 under this subsection. The fee is:

- 13 (1) a cost of the proceeding;
- 14 (2) to be collected as other costs of the proceeding are collected;
- 15 and
- 16 (3) to be deposited in the county general fund for appropriation
 17 for operating expenses of the sheriff's department.

18 (e) The sheriff also shall post written or printed notices of the sale
 19 in at least three (3) public places in each township in which the real
 20 estate is situated and at the door of the courthouse of each county in
 21 which the real estate is located.

22 (f) If the sheriff is unable to procure the publication of a notice
 23 within the county, the sheriff may dispense with publication. However,
 24 the sheriff shall state that the sheriff was not able to procure the
 25 publication and explain the reason why publication was not possible.

26 (g) Notices under subsections (d) and (e) must contain a statement,
 27 for informational purposes only, of the location of each property by
 28 street address, if any, or other common description of the property other
 29 than legal description. A misstatement in the informational statement
 30 under this subsection does not invalidate an otherwise valid sale.

31 SECTION 3. IC 33-37-5-15 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) The sheriff shall
 33 collect from the person who filed the civil action a service of process
 34 fee of ~~forty eight~~ **eighty** dollars ~~(\$40)~~ **(\$80)**, in addition to any other fee for
 35 service of process, if:

- 36 (1) a person files a civil action outside Indiana; and
- 37 (2) a sheriff in Indiana is requested to perform a service of
 38 process associated with the civil action in Indiana.

39 (b) A sheriff shall transfer fees collected under this section to the
 40 county auditor of the county in which the sheriff has jurisdiction.

41 (c) The county auditor shall deposit fees collected under this
 42 section:

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- 1 (1) in the pension trust established by the county under
- 2 IC 36-8-10-12; or
- 3 (2) if the county has not established a pension trust under
- 4 IC 36-8-10-12, in the county general fund.

5 SECTION 4. IC 33-37-7-11 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) This section
 7 applies to a county in which there is established a pension trust under
 8 IC 36-8-10-12.

9 (b) For each service of a writ, an order, a process, a notice, a tax
 10 warrant, or other paper completed by the sheriff of a county described
 11 in subsection (a), the sheriff shall submit to the county fiscal body a
 12 verified claim of service.

13 (c) From the county share distributed under section 3 or 4 of this
 14 chapter and deposited into the county general fund, the county fiscal
 15 body shall appropriate ~~twelve~~ **twenty-four** dollars (~~\$12~~) (**\$24**) for each
 16 verified claim submitted by the sheriff under subsection (b). Amounts
 17 appropriated under this subsection shall be deposited by the county
 18 auditor into the pension trust established under IC 36-8-10-12.

19 SECTION 5. IC 36-2-16-4 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. Each of the
 21 following county officers is entitled to appoint one (1) first or chief
 22 deputy, and also may appoint the number of other full-time or part-time
 23 deputies and employees authorized by the county fiscal body:

- 24 (1) The county auditor.
- 25 (2) The county treasurer.
- 26 (3) The county recorder.
- 27 (4) The county superintendent of schools.
- 28 **(5) The county sheriff.**

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