

Regular Session, 2010

HOUSE BILL NO. 833

BY REPRESENTATIVE KLECKLEY

SEIZURES/SALES: Provides relative to security for costs of sheriff or marshal in certain proceedings

1 AN ACT

2 To amend and reenact R.S. 13:3883, relative to requiring security for costs; to authorize a
3 marshal to demand security in certain circumstances; and to provide for related
4 matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 13:3883 is hereby amended and reenacted to read as follows:

7 §3883. Sheriff entitled to security; refusal to act in absence of security or
8 advancement

9 A. The sheriff in the performance of official services pursuant to the
10 provisions of this ~~chapter~~ Chapter may demand security for his costs and actual
11 expenses, in ~~such an~~ an amount as may be fixed by the court, or he may demand a
12 deposit to cover his costs, but in all cases any party requiring the official services to
13 be performed by the sheriff may advance the fees for ~~such the~~ the services. The order
14 requiring ~~such the~~ the security for costs shall issue ex parte on the application of the
15 sheriff and the sheriff shall not be required to perform the services until ~~such the~~ the
16 security has been furnished. The court shall fix the delay within which ~~such the~~ the
17 security for costs shall be furnished, and the failure to furnish it, within ~~such the~~ the
18 delay, shall operate to relieve the sheriff of any liability for any damage that may
19 result to the party from the failure to perform the services. If the party interested in
20 having the official services performed contests the amount of the security as fixed

1 by the order, that party may rule the sheriff into court to show cause why the amount
2 of the security should not be reduced. On the trial of this rule, the court shall fix the
3 amount of security, and if reduced, the party bringing the rule shall be entitled to a
4 refund where the previous amount of security has been furnished. If no security has
5 been furnished, the amount shall be due forthwith and the sheriff shall not be
6 required to perform the services until ~~such~~ the security has been furnished.

7 B. Wherever the word "sheriff" appears in this Section, it shall be construed
8 to also mean "marshal".

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Kleckley

HB No. 833

Abstract: Provides marshals with the same authority as sheriffs to demand security in the performance of their duties relative to proceedings for the seizure of property.

Present law authorizes the sheriff, in the performance of his official services relative to the seizure of property, to demand security for his costs and actual expenses, in an amount to be fixed by the court.

Present law provides that the order requiring security for costs shall issue ex parte on the application of the sheriff, and the sheriff shall not be required to perform the services until such security has been furnished. The failure to furnish the security shall operate to relieve the sheriff of any liability for any damage that may result to the party from the failure to perform the services.

Present law authorizes a party to challenge the amount of security by filing a rule to show cause why the amount of the security should not be reduced.

Proposed law retains present law and provides marshals with the same authority to demand security as provided in present law for sheriffs.

(Amends R.S. 13:3883)