

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

652N0464

SENATE BILL NO. 123

Introduced by: Senators Albers, Abdallah, Apa, Bartling, Gant, Gray, Nesselhuf, and Olson (Ed) and Representatives Hargens, Cutler, Deadrick, Dykstra, Gillespie, Lust, Moore, Pederson (Gordon), Rave, Weems, and Willadsen

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

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

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

5 15-18-32. The party for whom the execution was issued or ~~his~~ the party's attorney of record,
6 or otherwise authorized, may abandon proceedings under any execution at any time by filing
7 with the court from which issued a written statement of such abandonment, or by causing the
8 writ to be returned and filed with an endorsement to the effect that it had been so abandoned,
9 and by paying the costs of such execution and proceedings thereunder, including any actual out-
10 of-pocket expenses and costs incurred by the sheriff, and by discharging of record any notice
11 of levy which has been filed in any recording or registry office, and by releasing any property
12 seized thereunder. All proceedings, notices, levies, and liens taken pursuant to such execution
13 shall be deemed abandoned, discharged, and released upon the filing of such statement or
14 endorsement. The abandonment of an execution as herein permitted shall be without prejudice
15 to the issue of subsequent executions.



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

2 15-19-35. ~~It shall be the duty of every~~ Every officer or person who conducts an execution
3 sale ~~to~~ shall apply the proceeds of such sale:

4 (1) To the payment of the costs and expenses of the sale, including any actual out-of-
5 pocket expenses and costs incurred by a sheriff;

6 (2) To the satisfaction of the execution under which the sale is made;

7 (3) To the satisfaction of any other execution in ~~his~~ the officer's or person's hands, to
8 which such proceeds may be lawfully applied;

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