

SHERIFFS:  
COMPENSATION:  
FEES, COMPENSATION  
AND SALARIES:

The provisions of Senate Bill No. 165 of the 75th General Assembly (Sections 57.407 and 57.409, V.A.M.S.) providing that sheriffs of the third and fourth class counties must pay all fees collected by him in civil matters and which were previously retainable by him into the county treasury apply to commissions earned and received by said sheriffs pursuant to the provisions of Section 57.280 and Section 528.610, RSMo 1959, relating respectively to receiving and paying moneys on executions and to sale of real estate for partition purposes, and such commissions must be paid into the county treasury by such officers.

OPINION NO. 108

January 9, 1970

Honorable Haskell Holman  
State Auditor  
Capitol Building  
Jefferson City, Missouri 65101



Dear Mr. Holman:

This opinion is in response to your request which is stated as follows:

"1. Are the commissions earned and received by sheriffs for receiving and paying moneys on executions as provided in Section 57.280 RSMo., 1959 and commissions earned and received for sale of real estate for the purpose of partition as provided by Section 528.610 RSMo., 1959 deemed to be fees in civil matters and are to be paid into the county treasury by the sheriff under the requirements of paragraph 3 Section 1 and paragraph 3 Section 2 of Senate Bill No. 165 passed by the 75th General Assembly?

"2. In view of the requirements pertaining to fees collected in civil matters, contained in the paragraphs and Sections previously referred to, should the sheriffs charge to and collect from the county any fees in civil matters which are chargeable to and payable by the county?"

The provisions that you refer to are now contained in Sections 57.407 and 57.409 as numbered by the Revisor of Statutes. The third paragraph of each of these two sections refer to the

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disposition of civil fees.

Paragraph 3 of Section 57.407 states:

"3. In counties of the third class after October 13, 1969, the sheriff shall pay all fees collected by him in civil matters, and which were previously retainable by him, into the county treasury, except charges for each mile traveled, allowable to him, which he may retain, in serving civil process."

Paragraph 3 of Section 57.409 states:

"3. In counties of the fourth class after October 13, 1969, the sheriff shall pay all fees collected by him in civil matters, and which were previously retainable by him, into the county treasury, except charges for each mile traveled, allowable to him, which he may retain, in serving civil process."

As you have stated, the sheriffs under Section 57.280, RSMo 1959, are allowed commissions for receiving and paying moneys on execution or other process. Section 528.610, RSMo 1959, authorizes sheriffs to receive compensation for making a sale of real estate under the provisions of Chapter 528 relating to partition suits.

In our view, these commissions constitute fees collected by the sheriff in civil matters within the meaning of the third paragraphs of Sections 57.407 and 57.409, V.A.M.S., and as such, are not retainable by said sheriff, but must be paid into the county treasury.

#### CONCLUSION

It is therefore the opinion of this office that the provisions of Senate Bill No. 165 of the 75th General Assembly (Sections 57.407 and 57.409, V.A.M.S.) providing that sheriffs of the third and fourth class counties must pay all fees collected by him in civil matters and which were previously retainable by him into the county treasury apply to commissions earned and received by said sheriffs pursuant to the provisions of Section 57.280 and Section 528.610, RSMo 1959, relating respectively to receiving and paying moneys on executions and to sale of real estate for partition purposes, and such commissions must be paid into the county treasury by such officers.

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The foregoing opinion, which I hereby approve, was prepared by my assistant John C. Klaffenbach.

Yours very truly,

A handwritten signature in cursive script that reads "John C. Danforth". The signature is written in dark ink and is positioned above the typed name.

JOHN C. DANFORTH  
Attorney General