

## **BILL ANALYSIS**

H.B. 2289  
By: King, Tracy  
Business & Industry  
Committee Report (Amended)

### **BACKGROUND AND PURPOSE**

Over the past several years, landowners with property adjacent to highways and county roads in Southwest Texas have had problems with motorists crashing through their fences and then abandoning the vehicle in the pasture. This occurs because the motorists are being pursued by the United States Border Patrol and other law enforcement agencies. The landowners are rarely reimbursed for the costs to repair the damage to the fences caused by these pursuits. There are usually additional expenses involved if there is any livestock, or other game animals, that escape through the damaged fence. House Bill No. 2289 allows the landowner to place a lien on the vehicle that is left in the pasture.

### **RULEMAKING AUTHORITY**

It is the opinion of the Committee on Business and Industry that this bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION-BY-SECTION ANALYSIS**

SECTION 1. Chapter 70, Property Code, is amended by adding a Subchapter F:

Section 70.501 adds language stipulating that a person who owns land enclosed by a fence may have a lien against a vehicle of another individual who damages the fence if the owner of the vehicle was driving it, or if the driver--other than the owner--had the consent of the owner of the vehicle to drive it.

Section 70.502 adds language stipulating that the amount of the landowner's lien is equal to the lesser of the (1) fair market of the vehicle on which the landowner's fence was damaged or (2) the actual cost of the damaged fence and the cost of recapturing animals if any escaped while the fence was damaged.

Section 70.503 adds language stipulating that the landowner's lien attaches only to a motor vehicle that causes the damage to the fence.

Section 70.504 adds language stipulating that a landowner may perfect a lien according to Subchapter F, Chapter 501, Transportation Code. This reference to code is the process by which a lien is placed upon a vehicle.

Section 70.505 adds language stipulating that a lien does not expire and is discharged only when the landowner receives payment of the lien.

SECTION 2. Chapter 370, Local Government Code, is amended by adding Section 370.004.

Section 370.004 adds language stipulating that a peace officer who responds to the report of the damaged fence shall (1) immediately determine the owner of the land on which the damaged fence is located and (2) notify the owner of the type and extent of the damage.

SECTION 3. Subchapter F, Chapter 70, Property Code, added by this Act, applies only to fences damaged after September 1, 2005, and all damages before that date be governed by the law in place at the time the fence was damaged.

### **EFFECTIVE DATE**

September 1, 2005

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## **IMPACT OF COMMITTEE AMENDMENTS NOS. 1 AND 2**

Committee Amendment No. 1 was added in Section 70.501 stipulating that the landowner must obtain a judgment from a court in order to file the lien.

Committee Amendment No. 2 simply strikes SECTION 3 of the bill, thereby eliminating the option to file a lien electronically.