

By: King of Zavala

H.B. No. 2289

A BILL TO BE ENTITLED

AN ACT

relating to required notice of and a lien resulting from damage to a fence.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 70, Property Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. LIEN RELATED TO DAMAGED FENCE

Sec. 70.501. LANDOWNER'S LIEN. A person who owns real property in this state that is enclosed by a fence or other structure obviously designed to exclude intruders or to contain livestock or other animals has a lien against the motor vehicle of a person who damages the landowner's fence with the motor vehicle if the person who damages the landowner's fence:

(1) owns the motor vehicle; or

(2) has the consent of the owner of the motor vehicle to drive the vehicle at the time the person damages the landowner's fence.

Sec. 70.502. AMOUNT OF LIEN. The amount of a landowner's lien under this subchapter is equal to the lesser of:

(1) the fair market value of the motor vehicle on the date the landowner's fence is damaged; or

(2) the actual cost incurred by the landowner to repair the fence and, if any livestock or other animals escaped as a direct result of the damage to the fence, to recapture the escaped

1 livestock or other animals.

2 Sec. 70.503. PROPERTY TO WHICH LIEN ATTACHES. A
3 landowner's lien under this chapter attaches only to a motor
4 vehicle that causes damage to a fence as described by Section
5 70.501.

6 Sec. 70.504. PERFECTING LIEN. A landowner may perfect a
7 lien under this subchapter in the manner provided by Subchapter F,
8 Chapter 501, Transportation Code.

9 Sec. 70.505. EXPIRATION AND DISCHARGE OF LIEN. A lien under
10 this subchapter does not expire and is discharged only when the
11 landowner receives payment of the lien.

12 SECTION 2. Chapter 370, Local Government Code, is amended
13 by adding Section 370.004 to read as follows:

14 Sec. 370.004. NOTICE OF DAMAGED FENCE. A peace officer
15 employed by a political subdivision of this state who investigates
16 or responds to an incident in which a motor vehicle damages a fence
17 shall, if the peace officer reasonably believes that the fence is
18 intended to contain livestock or other animals:

19 (1) immediately determine the owner of the land on
20 which the damaged fence is located; and

21 (2) notify the owner of the type and extent of the
22 damage.

23 SECTION 3. Section 501.117, Transportation Code, is amended
24 by adding Subsection (d) to read as follows:

25 (d) The system developed under this section must provide for
26 the perfection, assignment, discharge, and cancellation of a lien
27 created under Subchapter F, Chapter 70, Property Code.

1 SECTION 4. Subchapter F, Chapter 70, Property Code, as
2 added by this Act, applies only to damage to a fence or other
3 enclosure that is caused on or after the effective date of this Act.
4 Damage to a fence or other enclosure that is caused before the
5 effective date of this Act is governed by the law in effect at the
6 time the fence or other enclosure was damaged, and that law is
7 continued in effect for that purpose.

8 SECTION 5. This Act takes effect September 1, 2005.