

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 may obtain from a court in this state a judgment entitling the person to 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:

(A) repair the fence;

1                   (B) recapture any livestock or other animals that  
2 escaped as a direct result of the damage to the fence; and

3                   (C) have the vehicle towed from the property and  
4 stored.

5           Sec. 70.503. PROPERTY TO WHICH LIEN ATTACHES. A  
6 landowner's lien under this chapter attaches only to a motor  
7 vehicle that causes damage to a fence as described by Section  
8 70.501.

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

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

15           Sec. 70.506. REMOVAL OF VEHICLE FROM LANDOWNER'S PROPERTY.  
16 A landowner whose fence is damaged by a motor vehicle that is then  
17 abandoned on the owner's property, or the landowner's agent, may:

18                   (1) select a towing service to remove the vehicle from  
19 the landowner's property; and

20                   (2) designate the time at which the towing service may  
21 enter the property to remove the vehicle.

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

24           Sec. 370.004. NOTICE OF DAMAGED FENCE. (a) A peace officer  
25 employed by a political subdivision of this state who investigates  
26 or responds to an incident in which a motor vehicle damages a fence  
27 shall, if the peace officer reasonably believes that the fence is

1 intended to contain livestock or other animals:

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

4 (2) notify the owner of the type and extent of the  
5 damage, if the owner has registered with the political subdivision  
6 in accordance with Subsection (c).

7 (b) A peace officer is not liable to an owner of land or any  
8 other person for damage resulting from the peace officer's failure  
9 to notify the owner under Subsection (a).

10 (c) A landowner must provide an agency or department of a  
11 political subdivision that employs peace officers with the  
12 following information if the landowner would like a peace officer  
13 of that agency or department to notify the landowner of damage under  
14 Subsection (a):

15 (1) the landowner's name, address, and telephone  
16 number; and

17 (2) the location and a description of the landowner's  
18 property.

19 SECTION 3. Subchapter F, Chapter 70, Property Code, as  
20 added by this Act, applies only to damage to a fence or other  
21 enclosure that is caused on or after the effective date of this Act.  
22 Damage to a fence or other enclosure that is caused before the  
23 effective date of this Act is governed by the law in effect at the  
24 time the fence or other enclosure was damaged, and that law is  
25 continued in effect for that purpose.

26 SECTION 4. This Act takes effect September 1, 2007.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2931 was passed by the House on April 19, 2007, by the following vote: Yeas 142, Nays 0, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 2931 was passed by the Senate on May 17, 2007, by the following vote: Yeas 30, Nays 1.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor