

BILL ANALYSIS

Senate Research Center

S.B. 1357
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Agriculture & Rural Affairs
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

If stray livestock, stray exotic livestock, or stray exotic fowl wander onto another owner's property, those estrays are subject to Chapter 142 (Estrays), Agriculture Code, which includes, but is not limited to, provisions for redemption, impoundment, and recovery.

S.B. 1357 clarifies the redemption process in Section 142.004, Agriculture Code, so that the owner of the estray and the owner of the public or private property both have a fair opportunity to recover the strayed livestock or expenses for holding the estray.

S.B. 1357 also establishes a time frame, five days after notification by the sheriff or the sheriff's designee, by which owners of an estray must redeem the estray or the sheriff or the sheriff's designee will impound the estray. This addresses a current problem where the owners of an estray are known, but do not redeem the estray.

S.B. 1357 amends current law relating to the redemption and impoundment of strays.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 142.004, Agriculture Code, as follows:

Sec. 142.004. REDEMPTION. (a) Authorizes the owner of the estray to redeem the estray from the owner or occupant of public or private property if the owner of the estray and the owner or occupant of the property agree to a redemption payment amount and the owner or occupant of the property receives the redemption payment from the owner of the estray, or a justice court having jurisdiction determines the redemption payment amount and gives the owner of the estray written authority to redeem the estray under Section 142.006 (Amount of Redemption Payment). Deletes existing text authorizing the owner of the estray to redeem the estray by the payment of fees and damages as provided by this chapter.

(b) Requires the sheriff or the sheriff's designee, if the owner of the estray does not redeem the estray not later than the fifth day, rather than within a reasonable time, after the date of notification, to proceed immediately with the impoundment process prescribed by Section 142.009 (Impoundment of Estray) unless the sheriff or the sheriff's designee determines that the owner of the estray is making a good faith effort to comply with Subsection (a). Prohibits the estray, during the impoundment period, from being used for any purpose by the owner or occupant of the property. Deletes existing text requiring the sheriff or sheriff's designee to proceed immediately at the impoundment process at the request of the property owner. Makes a nonsubstantive change.

SECTION 2. Amends Section 142.006, Agriculture Code, by amending Subsections (a) and (b) and adding Subsection (b-1), as follows:

(a) Entitles the owner or occupant of property on which an estray is found, held, or impounded, rather than a person on whose property an estray is found, to receive from the owner of the estray the payment of a reasonable amount for maintenance and damages, if the original notice of the discovery of the estray was given to the sheriff not later than the fifth day after the date of the discovery.

(b) Authorizes the owner or occupant of the property to accept payment in an agreed amount from the owner of the estray. Makes nonsubstantive changes.

(b-1) Authorizes either party, if the owner of the estray and the owner or occupant of the property are unable to agree to a redemption payment, to file a petition under Section 142.007 (Justice Code Petition) in the justice court having jurisdiction and have the amount of the payment determined by the justice of the peace. Requires the justice of the peace to determine the redemption payment amount and give the owner of the estray written authority to redeem the estray on payment of that amount to the owner or occupant of the property.

SECTION 3. Amends Section 142.007, Agriculture Code, to require that a petition seeking a justice court determination of the amount of a redemption payment or the amount of a collection fee contain the certain information, including the name of the owner or occupant of the property; and a statement that the estray owner and the owner or occupant of the property, rather than owner, are unable to agree on the amount of the payment.

SECTION 4. Amends Section 142.008(a), Agriculture Code, to require that the amount in question, if either the owner of the estray or the owner or occupant of the public or private property disagrees with a justice's assessment of the payment amount under Section 142.005(b) or 142.006(b-1), be finally determined according to the procedure described in this section, rather than the amount in question, if either the owner of the estray or the owner of the property disagrees with a justice's assessment of the payment amount under Section 142.006(b)(2) of this code or the payment amount under Section 142.005(b) of this code, to be finally determined according to the procedure described in this section.

SECTION 5. Amends Section 142.009(a), Agriculture Code, to require the sheriff or the sheriff's designee to impound an estray and hold it for disposition as provided by this chapter if certain conditions are met, including the estray is located on public or private property and is not redeemed not later than the fifth day, rather than within a reasonable time, after the date of notification, unless the sheriff or the sheriff's designee determines that the owner of the estray is making a good faith effort to comply with Section 142.004(a).

SECTION 6. Amends Section 142.014, Agriculture Code, to authorize the original owner of the estray, not later than the 180th day, rather than within one year, after the date of sale of an estray under this chapter, to recover the net proceeds of the sale if certain conditions are met, including the owner has provided the sheriff with an affidavit of ownership containing the information prescribed by Section 142.010(b) (relating to the requirements of an affidavit of ownership). Makes nonsubstantive changes.

SECTION 7. Repealer: Section 142.006(c) (relating to entitling the owner of an estray to remove the estray if the owner files the proper petition), Agriculture Code.

SECTION 8. Makes application of Section 142.014, Agriculture Code, as amended by this Act, prospective.

SECTION 9. Effective date: September 1, 2011.