

By: Estes
(Hardcastle)

S.B. No. 1357

A BILL TO BE ENTITLED

AN ACT

relating to the redemption and impoundment of estrays.

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

SECTION 1. Section 142.004, Agriculture Code, is amended to read as follows:

Sec. 142.004. REDEMPTION. (a) The owner of the estray may redeem the estray from the owner or occupant of public or private property if:

(1) 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

(2) 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 [~~by the payment of fees and damages as provided by this chapter~~].

(b) If the owner of the estray does not redeem the estray not later than the fifth day [~~within a reasonable time~~] after the date of notification, the sheriff or the sheriff's designee shall [~~at the request of the property owner,~~] proceed immediately with the impoundment process prescribed by Section 142.009 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) [~~of this code~~]. During the impoundment process [~~that~~] period, the

1 estray may not be used for any purpose by the owner or occupant of
2 the property.

3 SECTION 2. Section 142.006, Agriculture Code, is amended by
4 amending Subsections (a) and (b) and adding Subsection (b-1) to
5 read as follows:

6 (a) The owner or occupant of [~~A person on whose~~] property on
7 which an estray is found, held, or impounded is entitled to receive
8 from the owner of the estray the payment of a reasonable amount for
9 maintenance and damages, if the original notice of the discovery of
10 the estray was given to the sheriff not later than the fifth day
11 after the date of discovery.

12 (b) The owner or occupant of the property may[+
13 [~~(1)~~] accept payment in an agreed amount from the
14 owner of the estray.

15 (b-1) If the owner of the estray and the owner or occupant of
16 the property are unable to agree to a redemption payment, either
17 party may[+~~or~~

18 [~~(2)~~] file a petition under Section 142.007 [~~of this~~
19 ~~code~~] in the justice court having jurisdiction and have the amount
20 of the payment determined by the justice of the peace. The justice
21 of the peace shall determine the redemption payment amount and give
22 the owner of the estray written authority to redeem the estray on
23 payment of that amount to the owner or occupant of the property.

24 SECTION 3. Section 142.007, Agriculture Code, is amended to
25 read as follows:

26 Sec. 142.007. JUSTICE COURT PETITION. A petition seeking a
27 justice court determination of the amount of a redemption payment

1 or the amount of a collection fee must contain the following
2 information:

- 3 (1) the name of the owner of the estray;
- 4 (2) a description of the estray;
- 5 (3) the number of days the estray was trespassing;
- 6 (4) the name of the owner or occupant of the property;
- 7 (5) the purpose for which the land on which the
8 trespass occurred is used; and

9 (6) a statement that the estray owner and the owner or
10 occupant of the property [~~owner~~] are unable to agree on the amount
11 of the payment.

12 SECTION 4. Subsection (a), Section 142.008, Agriculture
13 Code, is amended to read as follows:

14 (a) If either the owner of the estray or the owner or
15 occupant of the public or private property disagrees with a
16 justice's assessment of the payment amount under [~~Subdivision (2)~~
17 ~~of Subsection (b) of~~] Section 142.005(b) or 142.006(b-1) [~~142.006~~
18 ~~of this code or the payment amount under Subsection (b) of Section~~
19 ~~142.005 of this code~~], the amount in question shall be finally
20 determined according to the procedure prescribed by this section.

21 SECTION 5. Subsection (a), Section 142.009, Agriculture
22 Code, is amended to read as follows:

23 (a) The sheriff or the sheriff's designee shall impound an
24 estray and hold it for disposition as provided by this chapter if:

- 25 (1) the owner of the estray is unknown;
- 26 (2) the sheriff or the sheriff's designee is unable to
27 notify the owner;

1 (3) the estray is dangerous to the public;

2 (4) the estray is located on public property and after
3 notification is not immediately removed by the owner; or

4 (5) the estray is located on public or private
5 property and is not redeemed not later than the fifth day [~~within a~~
6 ~~reasonable time~~] after the date of notification, unless the sheriff
7 or the sheriff's designee determines that the owner of the estray is
8 making a good faith effort to comply with Section 142.004(a).

9 SECTION 6. Section 142.014, Agriculture Code, is amended to
10 read as follows:

11 Sec. 142.014. RECOVERY BY OWNER OF PROCEEDS OF SALE. Not
12 later than the 180th day [~~Within one year~~] after the date of sale of
13 an estray under this chapter, the original owner of the estray may
14 recover the net proceeds of the sale if:

15 (1) the owner has provided the sheriff with an
16 affidavit of ownership containing the information prescribed by
17 [~~Subsection (b) of~~] Section 142.010(b) [~~142.010 of this code~~];

18 (2) the sheriff has approved the affidavit;

19 (3) the approved affidavit has been filed in the
20 estray records of the county clerk; and

21 (4) the sheriff has signed a county voucher directing
22 the payment.

23 SECTION 7. Subsection (c), Section 142.006, Agriculture
24 Code, is repealed.

25 SECTION 8. The change in law made by Section 142.014,
26 Agriculture Code, as amended by this Act, applies only to a sale of
27 an estray occurring on or after the effective date of this Act. A

1 sale of an estray occurring before the effective date of this Act is
2 subject to the law in effect on the date of the sale, and that law is
3 continued in effect for that purpose.

4 SECTION 9. This Act takes effect September 1, 2011.