

1-1 By: Estes S.B. No. 1357
1-2 (In the Senate - Filed March 9, 2011; March 22, 2011, read
1-3 first time and referred to Committee on Agriculture and Rural
1-4 Affairs; April 13, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 3, Nays 0;
1-6 April 13, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1357 By: Estes

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the redemption and impoundment of estrays.
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-12 SECTION 1. Section 142.004, Agriculture Code, is amended to
1-13 read as follows:

1-14 Sec. 142.004. REDEMPTION. (a) The owner of the estray may
1-15 redeem the estray from the owner or occupant of public or private
1-16 property if:

1-17 (1) the owner of the estray and the owner or occupant
1-18 of the property agree to a redemption payment amount and the owner
1-19 or occupant of the property receives the redemption payment from
1-20 the owner of the estray; or

1-21 (2) a justice court having jurisdiction determines the
1-22 redemption payment amount and gives the owner of the estray written
1-23 authority to redeem the estray under Section 142.006 [by the
1-24 payment of fees and damages as provided by this chapter].

1-25 (b) If the owner of the estray does not redeem the estray not
1-26 later than the fifth day [within a reasonable time] after the date
1-27 of notification, the sheriff or the sheriff's designee shall[, at
1-28 the request of the property owner,] proceed immediately with the
1-29 impoundment process prescribed by Section 142.009 unless the
1-30 sheriff or the sheriff's designee determines that the owner of the
1-31 estrays is making a good faith effort to comply with Subsection (a)
1-32 [of this code]. During the impoundment process [that] period, the
1-33 estrays may not be used for any purpose by the owner or occupant of
1-34 the property.

1-35 SECTION 2. Section 142.006, Agriculture Code, is amended by
1-36 amending Subsections (a) and (b) and adding Subsection (b-1) to
1-37 read as follows:

1-38 (a) The owner or occupant of [A person on whose] property on
1-39 which an estray is found, held, or impounded is entitled to receive
1-40 from the owner of the estray the payment of a reasonable amount for
1-41 maintenance and damages, if the original notice of the discovery of
1-42 the estray was given to the sheriff not later than the fifth day
1-43 after the date of discovery.

1-44 (b) The owner or occupant of the property may~~+~~
1-45 ~~[(1)]~~ accept payment in an agreed amount from the
1-46 owner of the estray.

1-47 (b-1) If the owner of the estray and the owner or occupant of
1-48 the property are unable to agree to a redemption payment, either
1-49 party may~~+~~ or

1-50 ~~[(2)]~~ file a petition under Section 142.007 ~~[of this~~
1-51 ~~code]~~ in the justice court having jurisdiction and have the amount
1-52 of the payment determined by the justice of the peace. The justice
1-53 of the peace shall determine the redemption payment amount and give
1-54 the owner of the estray written authority to redeem the estray on
1-55 payment of that amount to the owner or occupant of the property.

1-56 SECTION 3. Section 142.007, Agriculture Code, is amended to
1-57 read as follows:

1-58 Sec. 142.007. JUSTICE COURT PETITION. A petition seeking a
1-59 justice court determination of the amount of a redemption payment
1-60 or the amount of a collection fee must contain the following
1-61 information:

- 1-62 (1) the name of the owner of the estray;
1-63 (2) a description of the estray;

- 2-1 (3) the number of days the estray was trespassing;
- 2-2 (4) the name of the owner or occupant of the property;
- 2-3 (5) the purpose for which the land on which the
- 2-4 trespass occurred is used; and
- 2-5 (6) a statement that the estray owner and the owner or
- 2-6 occupant of the property [~~owner~~] are unable to agree on the amount
- 2-7 of the payment.

2-8 SECTION 4. Subsection (a), Section 142.008, Agriculture

2-9 Code, is amended to read as follows:
2-10 (a) If either the owner of the estray or the owner or
2-11 occupant of the public or private property disagrees with a
2-12 justice's assessment of the payment amount under [~~Subdivision (2)~~
2-13 ~~of Subsection (b) of~~] Section 142.005(b) or 142.006(b-1) [~~142.006~~
2-14 ~~of this code or the payment amount under Subsection (b) of Section~~
2-15 ~~142.005 of this code~~], the amount in question shall be finally
2-16 determined according to the procedure prescribed by this section.

2-17 SECTION 5. Subsection (a), Section 142.009, Agriculture

2-18 Code, is amended to read as follows:
2-19 (a) The sheriff or the sheriff's designee shall impound an

- 2-20 estray and hold it for disposition as provided by this chapter if:
- 2-21 (1) the owner of the estray is unknown;
- 2-22 (2) the sheriff or the sheriff's designee is unable to
- 2-23 notify the owner;
- 2-24 (3) the estray is dangerous to the public;
- 2-25 (4) the estray is located on public property and after
- 2-26 notification is not immediately removed by the owner; or
- 2-27 (5) the estray is located on public or private
- 2-28 property and is not redeemed not later than the fifth day [~~within a~~
2-29 ~~reasonable time~~] after the date of notification, unless the sheriff
2-30 or the sheriff's designee determines that the owner of the estray is
2-31 making a good faith effort to comply with Section 142.004(a).

2-32 SECTION 6. Section 142.014, Agriculture Code, is amended to

2-33 read as follows:
2-34 Sec. 142.014. RECOVERY BY OWNER OF PROCEEDS OF SALE. Not
2-35 later than the 180th day [~~Within one year~~] after the date of sale of
2-36 an estray under this chapter, the original owner of the estray may
2-37 recover the net proceeds of the sale if:

- 2-38 (1) the owner has provided the sheriff with an
- 2-39 affidavit of ownership containing the information prescribed by
- 2-40 [~~Subsection (b) of~~] Section 142.010(b) [~~142.010 of this code~~];
- 2-41 (2) the sheriff has approved the affidavit;
- 2-42 (3) the approved affidavit has been filed in the
- 2-43 estray records of the county clerk; and
- 2-44 (4) the sheriff has signed a county voucher directing
- 2-45 the payment.

2-46 SECTION 7. Subsection (c), Section 142.006, Agriculture

2-47 Code, is repealed.
2-48 SECTION 8. The change in law made by Section 142.014,
2-49 Agriculture Code, as amended by this Act, applies only to a sale of
2-50 an estray occurring on or after the effective date of this Act. A
2-51 sale of an estray occurring before the effective date of this Act is
2-52 subject to the law in effect on the date of the sale, and that law is
2-53 continued in effect for that purpose.

2-54 SECTION 9. This Act takes effect September 1, 2011.

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