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Senate File 401
Agriculture
Priebe, Chairman
Heying
Tieden

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Tieden, Chairperson
Heying
Priebe

FILED APR 2 1975

SENATE FILE 401

By WINKELMAN

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to partition fences.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section one hundred thirteen point one (113.1),
2 Code 1975, is amended by striking the section and inserting
3 in lieu thereof the following:

4 113.1 PARTITION FENCES. When land owned by different
5 persons is contiguous, the owners of the tracts of land shall
6 each be responsible for the erection, maintenance, and repair
7 of one half of a partition fence which is erected along the
8 points where the land is contiguous.

9 1. The adjoining landowners shall be responsible for the
10 one half of the partition fence which would lie to the right
11 when an owner stands on his tract of the land and faces the
12 adjoining tract of land. This division of responsibility
13 shall not apply where the adjoining landowners have agreed
14 in writing upon a different division and have filed the writ-
15 ing with the county recorder of deeds of the county in which
16 the land is located.

17 2. A landowner, upon being requested in writing by an
18 adjoining landowner shall:

19 a. Erect, maintain, or repair the portion of a partition
20 fence he is responsible for, or

21 b. Contribute to the adjoining landowner the cost of
22 erecting, maintaining, or repairing his portion of the par-
23 tition fence.

24 3. If one tract of land is contiguous to three or more
25 tracts of land along one boundary line, the owners of the
26 several tracts of land shall not be required to erect, main-
27 tain, or repair a partition fence; they shall however, be
28 liable for contribution for the erection, maintenance, and
29 repair of a partition fence.

30 4. The written request provided in this section shall
31 be by means of registered or certified mail.

32 Sec. 2. Chapter one hundred thirteen (113), Code 1975,
33 is amended by adding the following new section:

34 NEW SECTION. The division of responsibility for partition
35 fences provided in section one hundred thirteen point one

1 (113.1) of the Code, shall attach to the land. If a tract
2 of land is divided and ownership vests in another person,
3 he shall take the land subject to the division of respon-
4 sibility for the partition fence that existed prior to his
5 acquiring title.

6 Sec. 3. Section one hundred thirteen point four (113.4),
7 Code 1975, is amended to read as follows:

8 113.4 DECISION--DEPOSIT. At said time and place the fence
9 viewers shall meet and determine by written order the obliga-
10 tions, rights, and duties of the respective parties in such
11 matter, and ~~assign to~~ order each owner ~~the part which he shall~~
12 to erect, maintain, rebuild, trim or cut back, or pay for
13 the portion of the fence he is responsible for under the
14 provisions of this chapter or by written agreement, and fix
15 the value thereof, and prescribe the time within which the
16 same shall be completed or paid for, and, in case of repair,
17 may specify the kind of repairs to be made. If the fence
18 is not erected, rebuilt, or repaired within the time prescribed
19 in the order, the fence viewers shall require the complaining
20 landowner to deposit with the fence viewers a sum of money
21 sufficient to pay for the erecting, rebuilding, trimming,
22 cutting back or repairing such fence together with the fees
23 of the fence viewers and costs. Such complaining landowner
24 shall be reimbursed as soon as the taxes are collected as
25 provided in section 113.6.

26 Sec. 4. NEW SECTION. The division of responsibility for
27 partition fences provided in section one (1) of this Act shall
28 not affect a division of responsibility made prior to the
29 effective date of this Act by written agreement, decision
30 of the fence viewers, or by court decree.

31 EXPLANATION

32 This bill provides that adjoining landowners are each
33 responsible for 1/2 of a partition fence unless otherwise
34 agreed in writing. This division of responsibility does not
35 affect divisions of responsibility made prior to the effec-

1 tive date of the Act, by the fence viewers, court decree,
2 or by written agreement.

3 If one tract of land is bordered by three or more tracts
4 of land along one boundary line, the owners of the several
5 tracts of land are not required to each erect and maintain
6 1/2 of a fence, but they are jointly liable for contribution.

7 The division of responsibility made at the effective date
8 of this bill attaches to the land. Subsequent purchases will
9 take the land subject to the division of responsibility for
10 the partition fence. Depending on where their land is located
11 along the fence line, owners may be responsible for all the
12 fence on their property or none of it and in a few instances
13 part of it. The responsibility or lack of it should be
14 reflected in the purchase price.

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