

DISPUTED CORNERS AND BOUNDARIES

650.1 When allowed.

When one or more owners of land, the corners and boundaries of which are lost, destroyed, or in dispute, desire to have the same established, they may bring an action in the district court of the county where such lost, destroyed, or disputed corners or boundaries, or part thereof, are situated, against the owners of the other tracts which will be affected by the determination or establishment thereof, to have such corners or boundaries ascertained and permanently established.

[C97, § 4228; C24, 27, 31, 35, 39, § **12293**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 650.1]

650.2 County as party.

If any public road is likely to be affected thereby, the proper county shall be made defendant.

[C97, § 4228; C24, 27, 31, 35, 39, § **12294**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 650.2]

650.3 Notice.

Notice of such action shall be given as in other cases, and if the defendants or any of them are nonresidents of the state, or unknown, they may be served by publication as is provided by law.

[C97, § 4229; C24, 27, 31, 35, 39, § **12295**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 650.3]

650.4 Nature of action.

The action shall be a special one.

[C97, § 4230; C24, 27, 31, 35, 39, § **12296**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 650.4]

650.5 Petition.

The only necessary pleading therein shall be the petition of plaintiff describing the land involved, and, so far as may be, the interest of the respective parties, and asking that certain corners and boundaries therein described, as accurately as may be, shall be established.

[C97, § 4230; C24, 27, 31, 35, 39, § **12297**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 650.5]

650.6 Specific issues acquiescence.

Either the plaintiff or defendant may, by proper plea, put in issue the fact that certain alleged boundaries or corners are the true ones, or that such have been recognized and acquiesced in by the parties or their grantors for a period of ten consecutive years, which issue may be tried before commission is appointed, in the discretion of the court.

[C97, § 4230; C24, 27, 31, 35, 39, § **12298**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 650.6]

650.7 Commission.

The court in which said action is brought shall appoint a commission of one or more disinterested surveyors, who shall, at a date and place fixed by the court in the order of appointment, proceed to locate the lost,

destroyed, or disputed corners and boundaries.

[C97, § 4231; C24, 27, 31, 35, 39, § 12299; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 650.7]

650.8 Oath assistants.

The commissioners so appointed shall subscribe and file with the clerk, within ten days from the date of their appointment, an oath for the faithful and impartial discharge of their duties, and shall have the power to appoint necessary assistants.

[C97, § 4232; C24, 27, 31, 35, 39, § 12300; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 650.8]

650.9 Hearing.

At the time and in the manner specified in the order of court, the commission shall proceed to locate said boundaries and corners, and for that purpose may take the testimony of witnesses as to where the true boundaries and corners are located.

[C97, § 4233; C24, 27, 31, 35, 39, § 12301; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 650.9]

650.10 Finding as to acquiescence.

If that issue is presented, the commission shall also take testimony as to whether the boundaries and corners alleged to have been recognized and acquiesced in for ten years or more have in fact been recognized and acquiesced in, and, if it finds affirmatively on such issue, shall incorporate the same into the report to the court.

[C97, § 4233; C24, 27, 31, 35, 39, § 12302; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 650.10]

650.11 Adjournments report.

The proceedings may be adjourned by the commission from time to time as may be necessary, but the survey and location of the corners and boundaries must be completed and the report thereof filed with the clerk of the court within sixty days after its appointment, unless there are good and sufficient reasons for delay.

[C97, § 4234; C24, 27, 31, 35, 39, § 12303; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 650.11]

650.12 Exceptions hearing in court.

Within twenty days after such report is filed, any party interested may file exceptions thereto and the court shall hear and determine them, hearing evidence in addition to that reported by the commission, if necessary, and may approve or modify such report, or again refer the matter to the same or another commission for further report.

[C97, § 4235; C24, 27, 31, 35, 39, § 12304; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 650.12]

650.13 Decree conclusive.

The corners and boundaries finally established by the court in such proceeding, or on appeal therefrom, shall be binding upon the parties as the corners or boundaries which had been lost, destroyed, or in dispute.

[C97, § 4236; C24, 27, 31, 35, 39, § 12305; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 650.13]

650.14 Boundaries by acquiescence established.

If it is found that the boundaries and corners alleged to have been recognized and acquiesced in for ten years have been so recognized and acquiesced in, such recognized boundaries and corners shall be permanently established.

[C97, § 4236; C24, 27, 31, 35, 39, § **12306**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 650.14]

650.15 Appeal.

There shall be no appeal in such proceeding, except from final judgment of the court, taken in the time and manner that other appeals are, and heard as in an action by ordinary proceedings.

[C97, § 4237; C24, 27, 31, 35, 39, § **12307**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 650.15]

650.16 Costs.

The costs in the proceeding shall be assessed as the court deems just, and shall be a lien on the land or interest therein owned by the party or parties against whom they are assessed, so far as such land is involved in the proceeding.

[C97, § 4238; C24, 27, 31, 35, 39, § **12308**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 650.16]

86 Acts, ch 1237, § 38

650.17 Boundaries by agreement.

Any lost or disputed corner or boundary may be determined by written agreement of all parties thereby affected, signed and acknowledged by each as required for conveyances of real estate, clearly designating the same, and accompanied by a plat thereof, which shall be recorded as an instrument affecting real estate, and shall be binding upon their heirs, successors, and assigns.

[C97, § 4239; C24, 27, 31, 35, 39, § **12309**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 650.17]

Footnotes

Acknowledgment, § 558.20 et seq.