

359A.2A Fence viewers — township trustees — authority — conflict of interest.

1. The trustees of the township where a controversy arises under [this chapter](#) shall serve as fence viewers. The fence viewers shall have authority to hear and decide all questions related to matters that are part of the controversy as provided in [this chapter](#).

2. *a.* A fence viewer who may have a conflict of interest in deciding a question related to a matter that is part of the controversy must disclose the possible conflict of interest to the parties and the other fence viewers prior to the fence viewers participating in the matter by conducting a hearing or making a decision under [section 359A.4](#).

b. A fence viewer who has a conflict of interest in deciding a question related to a matter that is part of the controversy is disqualified from participating in the matter. The disqualification shall be made by the election of the fence viewer or unanimous vote of the fence viewers who do not have a conflict of interest in the matter. However, if three or more fence viewers do not have a conflict of interest in the matter, the disqualification shall be made by a majority vote of those fence viewers.

3. A conflict of interest exists when a fence viewer is presented with a question to determine any matter affecting a tract of land in which the fence viewer or a person related to the fence viewer has an ownership or leasehold interest in that tract of land. That person is related to the fence viewer by being any of the following:

a. An immediate family member who is limited to any of the following:

(1) A spouse.

(2) A child, stepchild, grandchild, parent, stepparent, grandparent, sibling, stepsibling, half sibling, aunt, uncle, niece, or nephew.

(3) The spouse of any individual described in subparagraph (2).

b. A business associate who is limited to a person holding an interest in the same business entity as the fence viewer, so long as the person and the fence viewer each have a twenty-five percent or greater interest in that business entity. As used in this paragraph, “*business entity*” means a person organized or formed under Iowa statute or a foreign statute, and is authorized under Iowa statute to transact business in this state, either on a profit or nonprofit basis.

4. Upon the disqualification of the fence viewer, the remaining trustees shall appoint a qualified substitute fence viewer to decide each question related to a matter in controversy. If a trustee is not remaining, the township clerk shall appoint three qualified substitute fence viewers to decide each question related to a matter in controversy. However, [this subsection](#) does not apply if the township clerk selects a fence viewer as provided in [section 359A.14](#).

5. Notwithstanding other provisions in the section to the contrary, a fence viewer who may or does have a conflict of interest in a matter that is part of the controversy may participate in the matter, including by hearing and deciding all questions related to the matter, if each party to the controversy signs a waiver. The waiver shall state that the party has been notified of the fence viewer’s conflict of interest and agrees to the fence viewer’s participation in the matter. The waiver shall be attached to the order issued pursuant to [section 359A.4](#).

[2018 Acts, ch 1081, §2](#)

Referred to in [§359A.3](#), [359A.4](#)