

Senate File 2102 - Introduced

SENATE FILE 2102

BY JOCHUM

A BILL FOR

1 An Act providing for partition fences, and including effective
2 date provisions.

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

1 Section 1. Section 359A.1, Code 2011, is amended to read as
2 follows:

3 **359A.1 Definitions.**

4 As used in this chapter, unless the context otherwise
5 requires, ~~"book",~~ "book",

6 1. "Book", "list", "record", or "schedule" kept by a county
7 auditor, assessor, treasurer, recorder, sheriff, or other
8 county officer means the county system as defined in section
9 445.1.

10 2. "Livestock" means the same as defined in section 169C.1.

11 Sec. 2. Section 359A.1A, Code 2011, is amended to read as
12 follows:

13 **359A.1A Partition fences.**

14 1. ~~The respective owners~~ Either owner of adjoining tracts of
15 land ~~shall upon~~ may provide a written request of either demand
16 notice to the other owner ~~be compelled to erect and maintain~~
17 to participate in providing for a partition fences, fence.
18 Each owner shall then participate by erecting or maintaining
19 the partition fence or contribute thereto contributing to the
20 erection or maintenance of the partition fence, and keep the
21 same including by keeping the partition fence in good repair
22 throughout the year.

23 2. Notwithstanding subsection 1, if the owner of the
24 adjoining land has not kept livestock on that owner's adjoining
25 land for five years prior to receiving a demand notice to
26 participate in providing for a partition fence, that owner is
27 not required to participate in providing for a partition fence
28 as otherwise provided in that subsection. However, after such
29 a partition fence is erected and maintained, if the owner of
30 the adjoining land begins to keep livestock on the land, that
31 owner becomes responsible for participation as provided in this
32 subsection.

33 a. The owner of land responsible for erecting and
34 maintaining the partition fence must first provide a demand
35 notice to the owner of the adjoining land in the same manner as

1 provided in subsection 1 after the owner of the adjoining land
2 begins keeping livestock on the adjoining land.

3 b. The owner of the adjoining land, after receiving a demand
4 notice as provided in paragraph "a", shall contribute to the
5 erection of the partition fence by paying the owner of land
6 responsible for erecting and maintaining the partition fence
7 fifty percent of the actual and reasonable costs incurred in
8 erecting the partition fence. In addition, the owner of the
9 adjoining land must maintain the partition fence, or contribute
10 to its maintenance as provided in subsection 1. However, the
11 owner of the adjoining land is not required to contribute to
12 the maintenance of the partition fence for the period prior to
13 keeping livestock on the adjoining land.

14 3. The respective owners of adjoining land shall
15 participate in providing for the partition fence by maintaining
16 the partition fence or contributing to its maintenance as
17 provided in subsections 1 and 2, for as long as livestock is
18 kept on each owner's land. If either owner no longer keeps
19 livestock on that owner's land for five years, that owner may
20 discontinue participation by delivering a written termination
21 notice to the other owner.

22 4. Nothing in this section restricts the right of respective
23 owners of adjoining land from executing an agreement which
24 supplements or departs from the requirements of this section.

25 Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
26 immediate importance, takes effect upon enactment.

27 EXPLANATION

28 This bill amends Iowa's fence law (Code chapter 359A) which
29 in part provides that the respective owners of adjoining tracts
30 of land must upon written "request" (i.e., demand) of either
31 owner erect and maintain a partition fence or contribute to its
32 erection and maintenance (Code section 359A.1A). The modern
33 version of the requirement can be traced to 1921 Iowa Acts, ch.
34 76. The provision does not distinguish between rural or urban
35 areas or refer to livestock.

1 The bill provides that if one owner keeps livestock on the
2 adjoining tract of land, that owner has the sole responsibility
3 to erect and maintain the partition fence upon the written
4 demand of the other owner. If an owner who did not contribute
5 to the erection and maintenance of a fence begins keeping
6 livestock on that owner's land after the fence is erected, that
7 owner must pay the adjoining owner 50 percent of the costs
8 incurred in erecting the partition fence. The respective
9 owners are both to be responsible for maintaining the partition
10 fence for as long as they both keep livestock on their
11 respective land. If either owner no longer keeps livestock
12 on that owner's land for five years, that owner may terminate
13 participation by delivering a written notice to the other
14 owner. The bill does not restrict the right of landowners
15 to execute agreements which supplement or depart from these
16 statutory requirements.

17 The bill takes effect upon enactment.