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States' Fence Statutes:

Arkansas



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States' Fence Statutes: Arkansas

A.C.A. §§ 2-38-101 to 2-38-408, §§14-387-101 to 14-387-706

The statutes are current through acts of the 2023 Regular Session of the 94th Arkansas General Assembly effective August 1, 2023.

§ 2-38-101. Impounding livestock--Definition

(a) As used in this chapter, "livestock" means cattle, bison, horses, sheep, goats, asses, mules, and swine.

(b) Every resident in any county in this state, on finding any livestock running at large, the owner of which is not known, may impound the livestock by taking it into his or her custody.

§ 2-38-103. Site of impounding

A person shall not impound any stray livestock, except on his or her own farm or in his or her immediate vicinity.

§ 2-38-104. Duty and rights of impounder

(a)

(1) Every person impounding any stray livestock shall immediately notify the Department of Agriculture in writing through procedure established by the department.

(2) If it is found that the owner of the livestock may be determined by any mark, tag, or brand upon the livestock, the impounder of the livestock shall at once notify the owner of his or her having impounded the livestock, giving an exact description of the livestock.

(3) The impounder of livestock shall receive reasonable compensation for feeding the livestock.

(b) No person shall use, work, or exercise any acts of ownership over any livestock impounded by him or her until he or she shall have given notice thereof to the Department of Agriculture.



§ 2-38-105. Confirmation of notification

Upon providing notice to the Department of Agriculture as prescribed in § 2-38-104, the department shall provide to the impounder confirmation of the notification having been made, setting out in the confirmation the description of the livestock and the marks and brands, or either thereof.

§ 2-38-106. Livestock description notification

(a) Upon failure to find any record of the mark, tag, or brand of the impounded livestock or when the person in whose name the mark or brand is found recorded proves not to be the owner of the livestock, the impounder of the livestock shall give notice of the impounding of the livestock by providing a full detailed description of the livestock to the Department of Agriculture to be published in a publicly accessible record.

(b) In addition to the description required under subsection (a) of this section, the notice shall also state:

- (1) The place where the livestock was found running at large; and
- (2) The date and time of the livestock being impounded.

§ 2-38-110. Records

It is the duty of the Department of Agriculture to maintain a publicly accessible record of all livestock currently in the custody of impounders within the state that shall include full details and at least one (1) photo provided by the impounder.

§ 2-38-115. Reclamation by owner

(a) Within three (3) months from the time of notification required by law, if the owner of any stray livestock shall appear and claim it, he or she shall notify the impounder; and the owner shall establish his or her claim to the livestock before a court of competent jurisdiction.

(b) Upon the court being satisfied of the ownership of the impounded livestock, he or she shall make an order in writing requiring the impounder to release it to the owner when he or she pays the legal costs that have accrued thereon.

(c) The impounder of the livestock shall release it to the owner on receiving the amount of cost legally due.

§ 2-38-116. Refusal to deliver

If any person who has impounded any livestock shall refuse to release it to the owner on his or her having complied with the requirements of this subchapter,



as respects proving ownership of the livestock, the owner shall have a right of civil action. If the owner recovers in an action, he or she shall also recover double costs.

§ 2-38-117. Compensation for keeping strays

(a) No person shall charge anything for keeping any equine that is worked or ridden while in the possession of the impounder.

(b) For the keeping of other livestock, or any equine if not worked or ridden, the person impounding the livestock shall be entitled to a reasonable compensation to be adjudged by a court of competent jurisdiction before whom the owner proves his or her right of property.

§ 2-38-118. No premature disposition of strays

(a) A person impounding any livestock shall not sell, exchange, or dispose of it in any manner nor kill any domesticated cattle, hogs, or sheep until after the expiration of the time that the owner has the right to prove his or her property in them.

(b) Any person violating the provisions of subsection (a) of this section shall be fined in any sum not less than half nor more than double appraised value of the impounded livestock.

§ 2-38-119. Liability for death or escape of livestock

If any stray livestock die or escape from the possession of the impounder before the owner shall establish his or her right thereto, and if the death or escape is without the fault of the person having the lawful possession thereof, he or she shall not be liable for it.

§ 2-38-120. Forfeiture of right to livestock

If the owner of any stray livestock does not appear and prove his or her property therein within three (3) months after the public notification required by this subchapter, he or she shall forfeit his or her right to the livestock and the property shall be vested in the impounder.

§ 2-38-301. Running at large unlawful when prohibited

(a) It shall be unlawful for any livestock to run at large.

(b)

(1) In every case of trespass by livestock, the owner shall be liable to the person injured for all damages, to which shall be added all costs of



impounding, feeding, and caring for the animal.

(2) The person damaged shall be entitled to a lien on the livestock for the amount of the damages upon the lien's filing with any court having jurisdiction.

§ 2-38-302. Penalty for failing to retrieve trespassing livestock

(a)

(1) Any owner of livestock upon receiving notice either verbal or otherwise that the livestock is at large and trespassing upon the land, premises, and crops of another person shall immediately retrieve the livestock and thereafter confine it so that further depredations and damages shall be avoided.

(2)

(A)

(i) If for twenty-four (24) hours after notification being given to him or her, the owner shall fail, neglect, or refuse to retrieve the trespassing livestock, the owner shall be guilty of a violation.

(ii) The Arkansas Livestock and Poultry Commission may impose a civil penalty not to exceed five thousand dollars (\$5,000) per violation of this chapter or violation of any rules promulgated under this chapter.

(B) Each day the livestock continues to run at large shall constitute a separate violation.

(b) When any initiated act duly adopted by the electors as provided prescribes penalties, the penalties of this section shall be cumulative and in addition to the penalties prescribed by the initiated act.

§ 2-38-303. Notice to owners of hogs and goats

Within twenty-four (24) hours of receiving actual notice to the owners of hogs and goats running at large, or to his or her agents, the owners or agents shall retrieve and confine the hogs and goats. If these hogs or goats are not taken up and confined, any person interested in the preservation of the property may destroy any offending hogs or goats and shall not be liable in damages for, or for the value of, the destroyed hogs or goats to any person because of having done so.

§ 2-38-401. Purpose

It is the purpose of this subchapter to provide for more effective enforcement of the prohibition against livestock being allowed to run at large along or on any public highway in the State of Arkansas in violation of § 5-62-122.



§ 2-38-402. Duty to impound

It is the duty of the Division of Arkansas State Police and the sheriffs of the respective counties to ensure the restraint and impounding of any livestock found running at large along or on any public highway in the State of Arkansas.

§ 2-38-403. Enclosures

(a) It is the duty of the county judge of each county to provide an appropriate enclosure within the county for the impounding of cattle, horses, mules, hogs, sheep, or goats found running at large along or on any public highway in this state.

(b) If no enclosure may be practically maintained in the county, any county judge may enter into a contract with bordering counties or private landowners to provide appropriate shelter and care for livestock found running at large.

§ 2-38-404. Delivery to enclosure

(a) Any member of the Division of Arkansas State Police or any sheriff or deputy sheriff of any county who discovers or is advised of livestock running at large along or on any public highway shall arrange for the livestock to be taken up and delivered to the enclosure provided by the county judge.

(b) The cost of taking up and delivering the livestock shall be borne by the county in which the livestock is found running at large.

§ 2-38-405. Notice of impounding

When livestock found running at large along or on any public highway is delivered to the enclosure provided by the county judge, the sheriff shall give notice of the impounding of the livestock by submitting a description to the Department of Agriculture for public posting. In addition to a description of the livestock, the published notice shall also state the place where the livestock was found running at large and the date and time of its being taken up.

§ 2-38-406. Reclaiming by owner

(a) The owner of any livestock impounded under the provisions of this subchapter shall be permitted at any time within three (3) months from the date of first publication of notice of the impounding of the livestock to reclaim the livestock upon the payment of all costs incurred by the county in connection with the restraint, delivery, feeding, and care of the livestock while impounded, and the cost of publication of notice.



(b)

(1) The livestock shall be retrieved by the owner if reclaimed in accordance with the provisions of this subchapter at the enclosure provided by the county court.

(2) All costs in connection with the removal of the livestock from the enclosure shall be borne by the owner.

(c) The owner shall establish his or her claim to the livestock before the sheriff by evidence as shall be satisfactory to the sheriff.

§ 2-38-407. Sale of unclaimed livestock

If, at the expiration of three (3) months after notice was first posted, livestock found running at large along or on any public highway has not been claimed by its true owner, then it shall be the duty of the sheriff to sell the livestock at public sale to the highest bidder after posting notice of sale in the courthouse for five (5) days.

§ 2-38-408. Disposition of funds

(a)

(1) The county shall be entitled to ten dollars (\$10.00) per day for each livestock found running at large along or on any public highway and impounded.

(2) The sum shall be paid by the claimant-owner, as provided in § 2-38-406, or from the proceeds of the sale of the livestock.

(b)

(1) If there is a balance remaining after the expenses are deducted from the proceeds of the sale, the balance shall be deposited into a special fund in the name of the sheriff.

(2) If the proceeds are not sufficient to pay the expenses incurred as provided in this section, the balance may be withdrawn from the fund provided for in subdivision (b)(1) of this section.

(3) At the end of each calendar year, any balance in this fund shall be deposited with the county treasurer to the credit of the county road fund.

§ 14-387-101. Petitioners to pay expenses.

(a) In no case shall the county be liable for any costs by reason of any county or subdivision availing or attempting to avail itself of this subchapter and subchapter 2 of this chapter.



(b) In all cases the whole expense shall be paid by the petitioners.

§ 14-387-102. Lawful fence specifications.

Whenever this subchapter and subchapter 2 of this chapter become operative in any county or subdivision, any fence within the county or subdivision shall be deemed a lawful fence that is made of post and wire or plank, where the top wire or plank shall be five feet (5') from the ground and the wire or plank sufficiently close to keep in the class of stock embraced within this subchapter or the order of the court made in pursuance of it.

§ 14-387-103. Unlawful stock running.

(a) If any stock forbidden to run at large under the provisions of this subchapter and subchapter 2 of this chapter shall enter the cultivated lands of another, without his consent, in any county or subdivision in which the provisions of this subchapter and subchapter 2 of this chapter have become operative, the owner, lessee, or person in lawful possession of the lands may impound the stock and detain them until his fees and all damages occasioned by the stock are paid.

(b) Whenever any stock is impounded under the provisions of this section, notice shall be given to the owner, if known, and the owner shall be entitled to their possession upon payment of fees and damages.

§ 14-387-104. Impounding charges.

Any person impounding stock under the provisions of this subchapter and subchapter 2 of this chapter shall be entitled to the following fees:

- (1) Ten cents (10¢) per day per head for hogs;
- (2) Ten cents (10¢) per day per head for goats; and
- (3) Five cents (5¢) per day per head for sheep.

§ 14-387-105. Assessing damage.

(a) The damages done by impounded stock may be assessed by any three (3) disinterested householders of the county or subdivision, who shall first take an oath before some officer of the county authorized to administer oaths to view and assess the damages fairly and honestly.

(b) The assessment by the householders shall be final.



§ 14-387-106. Public auction.

(a) If the owner of impounded stock or his agent, after being notified of the impoundment, shall neglect to pay the fees and damages, the taker-up of the stock may sell them at public auction for cash, after first giving five (5) days' notice of the time, place, and terms of the sale, by:

- (1) One (1) posted handbill on the courthouse door of the county; and
- (2) A copy of the notice delivered to the owner of the stock, if known.

(b) The taker-up shall:

- (1) Apply the proceeds, after deducting expenses of sale, to the satisfaction of his fees and damages; and
- (2) Pay the balance to the owner of the stock.

§ 14-387-107. Owner not found.

(a) If no owner of impounded stock can be found, the taker-up may, after the expiration of five (5) days, make an affidavit before a justice of the peace describing the stock and that the owner is unknown to the affiant, which affidavit shall be delivered immediately by the justice to the clerk of the county court, to be kept in his office for inspection.

(b)

- (1) After the filing of the affidavit, the taker-up may sell the stock as in cases where the owner is known, except that a copy of the notice posted is not to be delivered.
- (2) If any sum remains after satisfying his fees and damages, the taker-up shall report it, under oath, to the clerk and pay the money over to the county treasurer to be paid, received, and disbursed as in the case of strays.

§ 14-387-201. Running at large prohibition.

Upon the written petition of a majority of the qualified electors of any county bordering upon a navigable stream and having territory in cultivation subject to overflow, or any subdivision of a county consisting of not less than thirty-six (36) square miles, where the subdivision borders upon a navigable stream and contains territory in cultivation subject to overflow, being filed in the county court of the county, requesting an order to prevent the running at large of hogs, sheep, and goats within the county or subdivision, as the case may be, it shall be the duty of the court to make such an order when the petitioners have complied with this subchapter and subchapter 1 of this chapter.



§ 14-387-202. Petitions.

(a) When the qualified electors of any county, or subdivision of a county consisting of not less than thirty-six (36) square miles, desire to avail themselves of the benefits of this subchapter and subchapter 1 of this chapter, they shall file their petition, signed by a majority of the qualified electors of the county or subdivision, in the county court of the county at a regular term of the court.

(b)

- (1) The petition shall set forth, clearly, whether it is their intention to prevent the running at large of all animals mentioned in § 14-387-201 or only one (1) or more classes of them.
- (2) If the petition is from the qualified electors of a subdivision, the subdivision shall be particularly described and its boundaries clearly designated.

§ 14-387-203. Depositing money with court.

(a) The county court, after the filing of a petition pursuant to § 14-387-202 shall proceed no further with the matter until the petitioners, or some of them, deposit with the clerk of the court a sufficient amount of money to pay all the costs, fees, and expenses that may arise in making the order.

(b) Under the provisions of this subchapter, the amount so deposited shall be determined by the court, and the clerk's receipt for it shall be filed with the petition.

§ 14-387-204. Petition notice.

(a)

(1) After the filing of the petition as provided in § 14-387-202, the county court shall make an order directing the clerk to cause notice to be given immediately of the filing of the petition.

(2) The notice shall specify:

(A) The class of animals it is proposed shall not run at large; and

(B) If, for a subdivision of a county, the territory described in the petition.

(b)

(1) The notice shall be published in some newspaper published in the county, if there is one.



(2)

(A) If no newspaper is published in the county, the notice shall be posted at the courthouse door and at each voting precinct in the county, if the petition is for a county.

(B) If the petition is for a subdivision, then the notice shall be posted at three (3) of the most public places in the subdivision.

§ 14-387-205. Court order procedure.

(a)

(1) At the next regular term of the county court after the filing of a petition under this subchapter, the court shall investigate the matter.

(2) If, on investigation, it appears that a majority of the qualified electors of the county or subdivision, as the case may be, signed the petition and that the notice provided for in § 14-387-204 was given, the court shall make an order prohibiting the running at large of such stock as may be described in the petition in the territory described or in the county, as the case may be, after January 1 after the order is made.

(b)

(1)

(A) Immediately after the making of the order, the clerk shall cause copies of it to be posted at every voting precinct in the county, if the order is made for the county.

(B) If the order is for a subdivision, then a copy of the order shall be posted in three (3) of the most public places in the subdivision.

(2) After January 1, it shall be unlawful to permit to run at large, within the limits designated, any animal of the class mentioned in the order.

§ 14-387-206. Setting court order aside.

(a)

(1) Whenever any county or subdivision has availed itself of this subchapter and subchapter 1 of this chapter, it shall be lawful for a majority of the qualified electors of the county or district, as the case may be, to petition the county



court to set aside the order prohibiting the stock mentioned from running at large.

(2) The same notice shall be given and proceedings had as provided in this subchapter for obtaining the order.

(b) The court shall set aside the former order if, on investigation, it finds that:

(1) A majority of the qualified electors have petitioned for it; and

(2) The proper notice has been given.

(c) The petitioners shall pay all costs for having the order set aside.

§ 14-387-301. Order for election.

(a) Whenever twenty-five percent (25%) of the qualified electors of three (3) or more townships in any county in this state, as shown by the election returns for Governor at the last general election preceding the date of the petition, shall petition the county court for the privilege of voting on the question of restraining horses, mules, asses, cattle, goats, swine, and sheep, or any two (2) or more of these animals or the male species of them, from running at large, the court shall make an order for an election in the townships to be held at any general or special election for state or county officers.

(b) If petitioners file with their petition proper bond to be approved by the court conditioned to pay all the cost and expense of a special election, the court may call an election in accordance with § 7-11-201 et seq. at any time upon the filing of the petition by giving notice of it as provided by law for general elections if the petition contains twenty-five percent (25%) of the qualified electors residing within each township mentioned in the petition.

§ 14-387-302. Ballot form.

There shall be written or printed on each ballot voted at an election under this subchapter the following sentences:

“FOR restraining (insert the names of the animals mentioned in petition) from running at large .

“AGAINST restraining (insert the names of the animals named in the petition) from running at large .



§ 14-387-303. Election results.

If a majority of the legal voters voting for and against the provisions of this subchapter at the election, whether general or special, shall vote to restrain the running at large of the animals named in the petition, the clerk of the county court shall:

- (1) Enter on the record the result of the election;
- (2) File the papers and terms of it in his or her office; and
- (3)
 - (A) Immediately give notice of the result by publication in some newspaper published in the county and by causing notices to be posted in three (3) public places in each township affected by the election.
 - (B) If the vote shall be against restraining, publication and notice will not be required.

§ 14-387-304. Vote favoring animal restraint.

When the required percent of the qualified electors and the required number of townships shall have petitioned the county court for the privilege of voting on the question of restraining the animals named in the petition from running at large, when the court shall have called an election as provided by this subchapter, when the majority of the legal electors in the townships shall have voted for enforcing the law restraining such animals from running at large, and when the provisions of this subchapter shall have been adopted as prescribed in it, then it shall be unlawful for any of the animals to be found running at large outside of the enclosure of the owner or keeper of it.

§ 14-387-305. Stray animals.

(a) Whenever the provisions of this subchapter shall have been adopted as provided in this subchapter, six (6) months thereafter it shall be unlawful for the owners of any of the animals named in the petition that has been submitted, voted upon, and adopted to permit them to run at large outside of the enclosure of the owner or keeper.

(b)

(1)

(A) If any of the animals shall be found running at large outside the enclosure of the owner or keeper, it shall be lawful for any person to restrain them immediately.



(B) The person shall, within three (3) days, notify the owner or keeper of the animals, in writing, if known, stating the amount of compensation for feeding and keeping the animals and the damage, if any, claimed, whereupon the owner or keeper of the animals shall pay to the taker-up of the animals a reasonable compensation for taking up, feeding, and caring for them and the actual damages sustained of him or her by them.

(2) If the owner or keeper of the animals is not known, they shall be deemed to be strays and shall be dealt with as provided by law with respect to taking up such property under the stray laws of this state.

§ 14-387-306. Township not included.

(a) A majority of the legal electors residing within the territory of any one (1) township included in the adoption shall have the right to file their petition with the court within sixty (60) days after the election showing cause why the township should not be included with the other townships where the adoption has been made.

(b)

(1) If the petitioners and qualified electors shall show good and valid reason why the territory of the townships should not be governed by the order and shall, before the filing of the petition, give fifteen (15) days' notice, by publication, of their intention of filing and presenting the petition, and shall set forth in the notice their reasons why the township and petitioners should be exempt from the order adopting the act, then the court shall hear the petition, together with any remonstrance to it.

(2) If the court should find that the township and the citizens of it should be exempt from the provisions of the adoption, and that no injury will be done to citizens residing within adjoining townships, then the court shall make an order exempting the township from the adoption.

§ 14-387-401. Lawful activity--Court order.

(a) In all counties in this state where a majority of the area of the county has been created into a stock law district, or where any portion of a county has been created into a stock law district, by an act of the General Assembly prohibiting the running at large of certain designated livestock within a prescribed area and providing penalties for it and the act provides that other townships may become attached to and made a part of the stock law district by a majority petition of qualified electors of their respective townships to the county judge, who shall declare the townships attached to the original territory described in the act, it shall be lawful for any township, or part of a township in the county, whether it is contiguous or adjoining the original stock law district or not, to be made a part of the stock law district and



subject to all provisions of the original act, as to the kind of stock running at large in it and the penalties for violations of the original act, upon a majority of the qualified electors residing in the territory to be affected, and named or described in the petition, filing with the county clerk a petition, describing the township, or parts of it, and requesting that the territory described in it be made a part of the original stock law district theretofore created by the General Assembly for parts of the county.

(b)

(1) The county court of any such county, upon finding that the petition correctly described the territory or names the townships to be affected and contains a majority of the qualified electors residing in the territory to be affected, shall make an order naming the township and describing the part of any township included, if only a part of a township is to be included, naming the kind of livestock prohibited from running at large in it and declaring the territory described in the order to be a part of the original stock law district of the county and subject to all the provisions and penalties of the original act as fully as though described in the original act of the General Assembly.

(2)

(A) The order shall be effective from and after the date of the order.

(B)

(i) Notice of the order shall be given by publication of it in some newspaper published in the county.

(ii) The costs of the order and publication shall be paid by petitioners.

§ 14-387-501. Petitions.

(a) In any county in this state where any law has been enacted to restrain the running at large of horses, mules, asses, cattle, hogs, sheep, and goats, or any three (3) of these animals, by initiated local act, or otherwise, which includes the entire county, any political township in which no national or state highway or railroad traverses, and in which not more than fifteen percent (15%) of the lands within the township are improved or enclosed, a majority of the qualified electors of the political township may file, with the county court of the county, a petition showing good cause why the provisions of the local act should not be enforced, and that it would cause the inhabitants of the township great loss on account of being deprived of their ability to raise such livestock on unenclosed lands and the public range.



(b) The electors shall, before presenting the petition to the court, give fifteen (15) days' notice, by publication in some newspaper published in the county, where the act has been adopted, of the date on which the petition will be filed and presented to the court, setting forth in the notice the reasons why the township and petitioners should be exempted from the act, then the court shall hear the petition and any remonstrance that may be filed against it.

(c) If the court shall find, upon the hearing, that the requests of the petitioners to be exempt is reasonable, that not more than fifteen percent (15%) of the lands in the township are improved or enclosed, that the political township is not traversed by any national or state highway or railroads, and that the enforcement of any such local act would cause hardship and loss to the inhabitants of the township, and that it would cause no injury or injustice to the citizens of adjoining townships, then the court is empowered to enter an order exempting the residents of the township from the requirements, provisions, and penalties of such local act.

§ 14-387-502. Exemptions.

(a) The livestock mentioned in § 14-387-501 shall be kept under such control and restraint as to prevent them from running at large in any other township in the county which has not been exempted as provided for in this subchapter.

(b) The owners or keepers of all such livestock as may be found running at large in any township not so exempted shall be subject to all the provisions of the act then in force in the county.

§ 14-387-601. Cumulative effect of subchapter.

This subchapter is cumulative of existing laws and shall not prevent any person from restraining the running at large of animals as provided by law.

§ 14-387-602. Stock marshal appointment.

The county judges of the respective counties, upon written petition signed by fifteen percent (15%) of the voters of the townships, are authorized and empowered to designate and appoint some competent person as stock marshal in any such townships within the county which have voted to restrain the running at large of livestock in them as provided in § 14-387-301 et seq.

§ 14-387-603. Authority of stock marshal.

(a)

(1) Any person appointed stock marshal shall have authority to restrain and impound any animals found running at large outside the enclosures



of the owner or keeper of it in any township which has voted to restrain the running at large of such animals, and shall be entitled to a reasonable fee for the taking up, feeding, and keeping of such animals.

(2) The stock marshal, within three (3) days, shall notify, in writing, the owner of the animals, if known, of the taking up of the animals, stating the amount due for the taking up, feeding, and keeping.

(b)

(1) The stock marshal shall have a lien upon any such animals found running at large and taken up by him for the taking up, feeding, keeping, and care of them.

(2)

(A)

(i) If the owner or keeper fails or refuses to pay for the taking up, feeding, keeping, and care of the animals within ten (10) days after the receipt of the written notice, the stock marshal shall sell them for cash, at public auction in the township where the animals were taken up, after first advertising the sale by at least three (3) written notices posted in the township where the animals were taken up.

(ii) Any amount received from the sale of any animals in excess of the amount due for the taking up, feeding, keeping, and care of the animals shall be paid to the county treasurer.

(B) If the owner or keeper of the animals is not known, they shall be deemed to be strays and shall be dealt with as provided by § 14-387-107.

§ 14-387-701. Inapplicability to certain counties

Sections 14-387-301 -- 14-387-306, and 14-386-701 -- 14-386-706 shall not apply to Hot Spring, Montgomery, Sebastian, Sharp, Nevada, Izard, Van Buren, Calhoun, Marion, Howard, Cross, Cleveland, Monroe, Arkansas, St. Francis, Crittenden, Clark, Drew, Desha, Bradley, and Union counties.

§ 14-387-702. Certain cumulative laws.

All laws and parts of laws that are in force shall be cumulative with §§ 14-387-301 -- 14-387-306, and 14-387-701 -- 14-387-706, except where existing laws are in direct conflict with §§ 14-387-301 -- 14-387-306, and 14-387-701 -- 14-387-706.



§ 14-387-703. Attaching township to unit.

Whenever three (3) or more townships shall have been formed into a unit for the purpose of restraining any stock as enumerated in § 14-387-301 and shall have been perfected in the way and manner as provided in this chapter, then any other township, or any group of townships, that would be a contiguous whole to the unit thus formed, may be attached to, and become a part of, the unit, in the same way and manner as provided for in this chapter in the first instance, by merely stating in the petition, in addition to the other requirements, that the petitioners wish their township attached to the unit, naming the townships in it.

§ 14-387-704. Fence unnecessary.

It shall not be necessary for any person to fence against any of the species of animals enumerated in the petition that has been adopted, and it shall be no defense to any action or proceedings brought or had that the party taking up stock did not have his lands enclosed with a lawful fence. However, nothing in this section shall be construed to lessen or interfere with the obligations of the railroads in this state to fence the right-of-way of the railroads as is provided for by law.

§ 14-387-705. Driving of stock allowed.

Nothing in §§ 14-387-301 -- 14-387-306, and 14-387-701 -- 14-387-706 shall be construed as to prevent owners or other persons from driving any of the species of animals enumerated in § 14387-301 from one place to another, or along the public highway, the owners of animals being responsible for all damages that any person may sustain in consequence of the driving of stock.

§ 14-387-706. Stock taken up—Damages.

(a) If the owner or keeper of the stock restrained and the taker-up or the person damaged by the stock cannot agree on the amount of damage, then either party may apply to any justice of the peace where the taker-up resides for the appointment of three (3) appraisers to assess the damages done, or what would be a reasonable compensation for the taking up feeding, and keeping of the stock. Thereupon, it shall be the duty of the justice to issue notice to three (3) disinterested householders of the township to appear at such place in the township as he may designate and assess the damages or compensation as required in this section.

(b)

(1) The appraisers, or any two (2) of them so notified, shall take an oath that they will fairly and impartially assess the damages or compensation, or both, in the controversy, and they shall make out, sign, and deliver to



each party a written statement of their findings as to damages and compensation.

(2)

(A) Upon the payment of the damages and compensation and the expenses of the controversy, the owner of the stock shall be entitled to take them away.

(B)

(i) If refused, the owner may maintain an action for them as in case of wrongful detention of property.

(ii) In any such action, if it be shown to the satisfaction of the court trying the cause that the owner or keeper of the stock had, previous to the appointment of appraisers, tendered to the taker-up of the stock in legal currency of the United States the amount of damages awarded by the appraisers and that the taker-up of the stock refused to accept the tender so made, then the taker-up of the stock shall pay all costs incident to the appraisement made by the appraisers as prescribed in this section.

(c)

(1) The justice of the peace, the appraisers, and the witnesses, if any, shall be allowed the same fees as are allowed by law for similar services.

(2) The fees shall be paid by the owner of the stock before he is entitled to take the stock away.

