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States' Fence Statutes:

Arkansas



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States' Fence Statutes: Arkansas

A.C.A. §§ 2-38-101 to 2-39-111, §§14-386-101 to 14-387-706

The constitution and statutes are current through Acts 18, 20, 56, 60, 61, 67, 87, 94, 135, 151, 153, 154, 217, 221, 224, 248, 253, 281, 288, 306, 307, 311, 323, 340, 350, 353, 378, 379, 400 and 401 passed by the 2021 Regular Session of the 93rd Arkansas General Assembly and changes made by the Arkansas Code Revision Commission received through December 15, 2020.

§ 2-38-101. Taking up animals.

Every citizen, a resident householder in any county in this state, on finding any horse, mare, mule, jack, or jenny or any domesticated bovine, hog, or sheep, of any age running at large, the owner of which is not known, may take the animal into his or her custody.

§ 2-38-102. Animals in the range.

No person shall take up any domesticated cattle, hogs, or sheep running in the range, unless they shall be found within his or her enclosure, from April 1 until November 1.

§ 2-38-103. Site of taking.

No person shall take up any stray animal, except on his or her own farm or in his or her immediate vicinity.

§ 2-38-104. Impounder obligations and responsibilities.

(a)(1) Every person taking up any stray animal shall immediately, if the animal is marked or branded, proceed to the office of the clerk of the county court of the county in which the animal is taken up and shall cause the clerk to examine the State Brand Book.

(2) If it is found that the mark or brand upon the animal taken up is entered upon the book, the taker-up or impounder of the animal shall at once notify the owner of the mark or brand, of his or her having taken up the animal, giving an exact description thereof.

(3)(A) The taker-up or impounder of an animal shall receive a reasonable compensation for his or her trouble.

(B) If the animal is taken from the range where the stock of the owner is accustomed to be kept, the taker-up or impounder shall receive nothing.

(b) No person shall use, work, or exercise any acts of ownership over any animal taken up by him or her until he or she shall have given notice thereof to the county court clerk. However, he or she may ride the animal to the county court for the purpose of giving the notice to the clerk.

§ 2-38-105. Examination certificate.

Upon the taker-up of any animal causing examination of the State Brand Book to be made by the county clerk as prescribed in § 2-38-104, the county clerk shall give to the impounder a certificate of the examination having been made, setting out in the certificate the description of the animal and the marks and brands, or either thereof, and the impounder shall pay the clerk twenty-five cents (25¢) as a fee for the certificate.

§ 2-38-106. Animal description notification.

(a) Upon failure to find any record of the mark or brand of the animal taken up or when the person in whose name the mark or brand is found recorded proves not to be the owner of the animal, the taker-up or impounder of the animal shall put or cause to be put up posters in three (3) of the most public places in the township or neighborhood where the animal is taken up, giving a full detailed description of the animal, stating the marks, age, color, and value of the animal. At the same time, the taker-up or impounder shall deliver to the clerk of the county court a copy of the poster, and the clerk shall at once enter a full copy of the poster in a book to be kept by him or her for that purpose and shall set up the poster upon the courthouse door.

(b) If, at the expiration of ten (10) days from the date of the poster, the animal has not been proved away, it shall be the duty of the impounder to give notice to the nearest justice of the peace of the county of the taking up of the animal. The impounder shall, at the time of giving notice, file with the justice of the peace the certificate of the clerk of the county court of the examination of the record of marks and brands if the animal taken up is marked or branded.

(c) If the animal should be proved away as provided in this section, it shall be the duty of the person proving away the animal to pay a reasonable charge for feeding and advertising the animal if the animal has not been used by the person taking it up. In this case no charge shall be made for feeding and advertising.

§ 2-38-107. Oath.

In addition to the notice required by law to be given to a county clerk of taking up of strays, it shall be the duty of the taker-up, at the time of giving the notice, to take also an oath before the clerk that the stray was taken up on the farm of the person, or in his or her immediate vicinity, and that he or she had no agency in bringing the stray into the vicinity.

§ 2-38-108. Animal appraisal—Certification.

(a) Every justice of the peace, on receiving notice of any animal being taken up, shall forthwith appoint three (3) appraisers, who shall be citizen householders of the county, to appraise and describe the animal.

(b)(1) The appraisers appointed shall, as soon as practicable, proceed to view the animal and make out a detailed description, stating the marks, brands, age, color, stature, and value thereof, which description and valuation shall be signed by the appraisers and sworn to before the justice appointing them.

(2) For their services, they shall each receive the sum of fifty cents (50¢).

(c) The description and valuation so sworn to shall be delivered by the appraisers to the justice of the peace, who shall deliver to the person taking up the animal a copy thereof.

(d) The original of the certificate of appraisal of the justice shall, within ten (10) days, be deposited into the office of the clerk of the county court of his or her county.

(e) The justice, at the time of depositing the certificate of appraisal with the clerk for record, shall also file with the clerk the bond required by this subchapter, which bond shall be kept by the clerk.

§ 2-38-109. Bond conditions and requirements.

(a) Every person taking up an animal as a stray shall, at the time of the appraisal, enter into bond to the State of Arkansas, with sufficient security to be approved by the justice of the peace who appoints the appraisers, in the value of the animal. The bond shall be conditioned that, if the owner of the animal within one (1) year from the date shall appear and prove his or her property in the animal so taken up, then the taker-up will deliver the animal or, if the owner should fail to prove his or her property therein within one (1) year, conditioned that he or she, the obligor, will pay into the county treasury one-half ($\frac{1}{2}$) of the appraised value, deducting all legal expenses of the animal, stating the amount of the appraisal.

(b) If the animal is a hog, the conditions of the bond shall be that if the owner of the animal, within three (3) months from the date, shall appear and prove his or her property in the animal so taken up then he or she will deliver the animal or that if the owner should fail to prove his or her property therein within three (3) months, then he or she, the obligor, will pay into the county treasury one-half ($\frac{1}{2}$) of the appraised value, deducting all legal expenses of the animal.

§ 2-38-110. Record maintenance requirement.

It is the duty of every clerk of the county court to keep a book in which he or she shall record all descriptions and valuations of animals taken. He or she shall also note on all bonds required to be deposited into his or her office under the provisions of this subchapter the time of filing them and keep the bonds safely for the use of the county.

§ 2-38-111. Advertisements—Fines.

(a) The person taking up any animal under the provisions of this subchapter shall immediately make out, from the copy of the appraisal delivered to him or her by the justice of the peace, four (4) advertisements and put them up in the most public places in his or her township and county.

(b) If any person shall fail to advertise any stray according to laws in force, he or she shall be deemed guilty of a misdemeanor. Upon conviction, an offender shall be fined in any sum not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00), to be recovered by indictment or information in the county where the stray may have been taken up.

§ 2-38-112. Publication--Description and appraisal.

If the animal taken up is a horse, mare, mule, jack, or jenny, the taker-up shall cause a copy of the description and appraisal to be inserted in some newspaper printed in the state for three (3) weeks if the animal is of the appraised value of at least twenty dollars (\$20.00). Publication shall be commenced in the newspaper within one (1) month after appraisal. This shall be done in addition to the advertisement required by this subchapter.

§ 2-38-113. Payment of fees.

If the owner of any stray horse, mare, mule, jack, or jenny does not prove the stray according to law within twenty (20) days from the time the animal was taken up, the person taking it up shall pay the county clerk all fees, the necessary postage, and the price of the advertisement. The clerk shall immediately transmit, by mail or otherwise, to the printer a copy of the appraisement of the stray and shall account to the printer for all money received by him or her for printing.

§ 2-38-114. Pound lot--Stray pen.

(a) It is the duty of the county court, at the expense of the county, to provide a pound lot or stray pen sufficient to contain all stray horses, mares, mules, jacks, or jennies which may be taken up in their respective counties. The stray pen shall be within one-half ($\frac{1}{2}$) mile of the courthouse.

(b) On the first day of the next term of the circuit court of his or her county, every person taking up any horse, mare, mule, jack, or jenny shall take the animal to the stray pen of his or her county and keep it there, subject to the inspection of all persons from 11:00 a.m. until 3:00 p.m. of each day.

§ 2-38-115. Owner--Establishment of claim.

(a) Within one (1) year from the time of the filing of the bond required by law, if the owner of any stray animal shall appear and claim it, he or she shall notify the taker-up; and the owner shall establish his or her claim to the animal before some justice of the peace of the county by such evidence as shall be satisfactory to the justice.

(b) Upon the justice being satisfied of the ownership of the animal taken up, he or she shall make an order in writing requiring the taker-up of the animal to deliver it to the owner when he or she pays the legal costs that have accrued thereon.

(c)(1) The person having the animal proved and required to be given up by the justice's order shall deliver it to the owner on receiving the amount of cost legally due and shall take a receipt endorsed on the justice's order for the animal.

(2) The order and receipt shall be filed with the clerk of the county court of the proper county, upon the filing of which, the bond shall be deemed to be cancelled.

§ 2-38-116. Owner's rights.

If any person who has taken up any animal shall refuse to deliver it to the owner on his or her having complied with the requirements of this subchapter, as respects proving ownership of the animal, 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 services.

(a) No person shall charge anything for keeping any horse, mare, mule, jack, or jenny which may be worked or ridden while in the possession of the taker-up.

(b) For the keeping of other animals, or the named animals if not worked or ridden, the person taking them up shall be entitled to a reasonable compensation to be adjudged by the justice of the peace before whom the owner proves his or her right of property.

§ 2-38-118. Disposition of strays—Violations.

(a) No person taking up any animal shall 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 deemed guilty of a misdemeanor and, upon conviction, shall be fined in any sum not less than half nor more than double appraised value of the stray so taken up, to be recovered in the county where the stray may have been taken up.

§ 2-38-119. Escape or death of stray—Liability.

If any stray animals die or escape from the possession of the taker-up 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 stray animal.

If the owner of any stray animal does not appear and prove his or her property therein within one (1) year after the time of setting up the copies of the valuation and description of the animal and the filing of the bond required, he or she shall forfeit his or her right to the animal and the property shall be vested in the taker-up of it.

§ 2-38-121. Strays not reclaimed—Requirements.

(a)(1) Every person who shall take up a stray animal which shall not be reclaimed by the owner within one (1) year shall pay into the county treasury of the county in which the stray was taken up one-half ($\frac{1}{2}$) of the residue after deducting all legal expenses from the appraised value of the animal and shall file the county treasurer's receipt for it in the office of the county clerk.

(2)(A) The county clerk shall charge the county treasurer with all such funds as shall be paid into the treasury; and

(B) These funds shall be apportioned among the several districts of the county as other funds are apportioned.

(b) After the term of one (1) year from the taking up of any animal, if the order of the justice of the peace requiring the taker-up of the animal to return the animal to the owner, with the owner's receipt thereon, shall not be filed with the clerk, or the one-half ($\frac{1}{2}$) of the appraised value paid into the treasury, and the county treasurer's receipt filed with the clerk, the clerk shall issue a notice to the delinquent to appear at the next session of the county court for that county and show cause, if any he or she can, why judgment shall not be entered against him or her, in favor of the state, for the benefit of the county.

(c) The notice shall be delivered by the clerk to the sheriff and served by him or her on the person.

(d)(1) If no sufficient cause is shown, the court shall enter judgment against the delinquent for the amount due the county, with costs, and execution shall issue for it as in other cases.

(2) The cause shall be tried without the necessity of formal pleadings.

§ 2-38-122. Costs—Judgments.

If any person fails to file with the clerk of the county the treasurer's receipt or the receipt of the owner of the animal for which he or she executed his or her bond on taking it up, although he or she may have paid the amount due on the bond to the county treasurer or returned the animal in question to the proper owner, the court shall enter judgment against him or her for all costs.

§ 2-38-202. Claimant's rights.

(a)(1) Any person may take up any seed horse, mule, or jack found running at large and, if not claimed within two (2) days, may castrate him.

(2) For this service, he or she shall be entitled to recover from the owner of any horse, mule, or jack, three dollars (\$3.00), which may be recovered in a civil action before any justice of the peace of the county.

(b) Castration shall be done in the usual manner, so that the life of the animal shall be endangered as little as possible.

§ 2-38-203. Right to destroy animal.

If any horse, mule, or jack is running at large and cannot be taken up, it may be killed, if notice is first put up at the courthouse and at three (3) other of the most public places in the county, for ten (10) days, describing the color, marks, and brands, as nearly as practicable, of the animal and that it will be killed unless taken away and secured.

§ 2-38-301. Running at large—Prohibition.

(a) In all counties of this state where there has been or may be submitted to the people by initiative petition a proposed act prohibiting horses, mules, cattle, hogs, sheep, and goats, or any of them, from running at large in the county and at an election held pursuant thereto, the electors voting thereon have enacted or shall enact such an act, it shall be unlawful from the effective date of the act for any animals, at any time during the year, to run at large and enter in and upon the fields and lands of the county, either enclosed or unenclosed.

(b)(1) In every case of trespass by an animal described and prohibited by the initiated act, the owner of the animal shall be liable, for all damages it may do, to the person owning crops, to be established and recovered in a civil action.

(2) A lien shall exist against the animal in favor of the person whose crops may have been damaged or destroyed, and they may be sold under an order of the court rendering judgment for damages, to which shall be added any and all costs of taking up, feeding, and caring for the animal, and other costs.

§ 2-38-302. Penalty for failing to take up trespassing animals.

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

(2)(A) If for twenty-four (24) hours after notification being given to him or her, the owner shall fail, neglect, or refuse to take up the animal upon being notified that his or her

animal is running at large and trespassing, the owner shall be guilty of a violation and upon conviction shall be fined a sum not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00).

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

(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. Hogs and goats--Notice to owners.

Hogs and goats when permitted to run at large are especially destructive of growing and unharvested crops of corn, oats, other small grains, and of winter cover crops; they are especially difficult and often practically impossible to catch and take up when preying upon these crops. To protect these crops, the animals must be removed or their destructiveness stopped without long delay. Therefore, a notice of twenty-four (24) hours shall be deemed sufficient to enable the owners of these animals to take up and confine them, the notice being sufficient if given verbally or otherwise to the owner, his or her agent, or his or her servant. If these animals are not taken up and confined, any person interested in the preservation of the crops either as landlord, tenant, cropper, or the agent or servant of either of them, may kill and destroy any offending hogs or goats and shall not be liable in damages for, or for the value of, the destroyed animals 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 cattle, horses, mules, hogs, sheep, or goats 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. Impoundment obligations.

It is the duty of the Department of Arkansas State Police and the sheriffs of the respective counties to restrain and impound any cattle, horses, mules, hogs, sheep, or goats found running at large along or on any public highway in the State of Arkansas.

§ 2-38-403. Provision of enclosures.

It is the duty of the county court of each county to provide an appropriate enclosure at the county farm or at some other place 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.

§ 2-38-404. Delivery of animals

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

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

§ 2-38-405. Impoundment of animals—Notice.

When an animal found running at large along or on any public highway is delivered to the enclosure provided by the county court, the sheriff shall give notice of the impounding of the animal by causing a description of the animal to be inserted in some newspaper of general circulation in the county at least once a week for three (3) weeks. In addition to a description of the animal, the published notice shall also state the place where the animal was found running at large and the date and time of its being taken up.

§ 2-38-406. Reclamation of impounded animal.

(a) The owner of any animal impounded under the provisions of this subchapter shall be permitted at any time within thirty (30) days from the date of first publication of notice of the impounding of the animal to reclaim the animal upon the payment of all costs incurred by the county in connection with the taking up and delivery of the animal to the enclosure, the feeding and care of the animal while impounded, and the cost of publication of notice.

(b)(1) The animal shall be delivered to 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 animal from the enclosure shall be borne by the owner.

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

§ 2-38-407. Unclaimed animals—Sale.

If, at the expiration of thirty (30) days after notice was first posted, an animal 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 animal at public sale to the highest bidder after posting notice of sale in the courthouse for five (5) days.

§ 2-38-408. Impoundment costs—Funds.

(a)(1) The county shall be entitled to one dollar (\$1.00) per day for each animal 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 animal.

(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.

§ 2-38-501. Definition

As used in this subchapter:

(1)(A) “Feral hog” means an animal or hybrid animal of either the family Suidae, including without limitation a wild hog, Russian or European wild boar, and Old World swine, or the family Tayassuidae, including without limitation peccary, javelina, and New World swine, that is or has been roaming freely upon public land or private land.

(B) “Feral hog” does not include:

(i) A stray domestic hog that has escaped from domestic confinement for less than:

(a) Five (5) calendar days; or

(b) Fifteen (15) calendar days if the owner of the stray domestic hog provides notice of the escape to all adjacent landowners within the first five (5) calendar days of the escape;

(ii) A hog held by a zoo accredited by the Association of Zoos and Aquariums or by the designated caretakers of the University of Arkansas mascot; or

(iii) A hog held while being transported to a livestock market or for slaughter and having a premises identification tag or other official eartag; and

(2) A “feral hog” is deemed to be a public nuisance.

§ 2-38-502. Capturing and killing feral hogs.

(a) A person may capture or kill a feral hog only as follows:

(1) On private land if the person is the landowner or lessee or has the permission of the landowner or lessee;

(2) On public land if:

(A) Allowed by the landowning entity; and

(B) The person possesses a valid Arkansas hunting license and complies with Arkansas hunting rules; or

(3) After providing verification that he or she has a valid permit issued by the Arkansas Livestock and Poultry Commission in accordance with [16 U.S.C. § 742j-1](#), as it existed on January 1, 2019, upon determining that the permit applicant has a bona fide need to kill feral hogs for protection of land, water, wildlife, livestock, domesticated animals, human life, or crops, and not for a recreational hunting purpose.

(b) A person whose hunting license is revoked shall not take or kill a feral hog during the period of the revocation.

(c)(1) A feral hog captured by any means under subsection (a) of this section shall be immediately killed.

(2) If a feral hog is captured on private property and not moved from the private property, the landowner or lessee is not required to kill the feral hog immediately.

(d)(1) A feral hog may be released into the wild only when the commission authorizes an employee of a state or federal agency to capture or release a feral hog, or both, for tracking or research purposes and with permission of the owner or lessee of the property.

(2) Feral hogs that are captured for the purpose of tracking or research shall be killed upon completion of the tracking or research project.

(e) A certified law enforcement officer or a public employee engaged in the performance of his or her official duties is exempt from the requirements under subdivisions (a)(2) and (3) of this section.

§ 2-38-503. Applicability of animal health requirements.

A feral hog shall be subject to animal health requirements established by the Arkansas Livestock and Poultry Commission.

§ 2-38-504. Releasing hogs into the wild—Penalties.

(a) Except as provided in § 2-38-502(d), a person who knowingly releases or attempts to release a live hog upon public or private land upon conviction is guilty of an unclassified misdemeanor and is subject to a fine of not less than one thousand dollars (\$1,000) per hog nor more than five thousand dollars (\$5,000) per hog, imprisonment not exceeding ninety (90) days, or a combination of fine and imprisonment.

(b) Subsection (a) of this section does not prohibit a person from introducing a domestic hog for farm purposes onto private property enclosed with a fence sufficient under § 2-39-101 et seq. and with permission of the owner or lessee of the property.

(c) A person who knowingly purchases, sells, offers for sale, receives, possesses, imports, distributes, or transports a live feral hog upon conviction is guilty of an unclassified misdemeanor and is subject to a fine of one thousand dollars (\$1,000) per hog or imprisonment not exceeding thirty (30) days, or both.

(d) Upon the arrest of a person under this section, the arresting law enforcement officer may seize and take custody of any hog in the possession of the arrested person and may seize any equipment used in furtherance of the violation, including without limitation a motor vehicle, trailer, and trap.

(e)(1) A court having competent jurisdiction:

(A) Shall order the forfeiture and immediate euthanasia of any hog that was the basis of a conviction under this section;

(B) May order the forfeiture and immediate euthanasia of a hog before a conviction if the court determines that the hog poses an imminent risk to public health or safety; and

(C) May order the forfeiture of any seized equipment.

(2) However:

(A) A conveyance used by any person as a common carrier is not subject to forfeiture under this subsection unless it appears that the owner or other person in charge of the conveyance was a consenting party or privy to the commission or attempt to commit the violation;

(B) Equipment is not subject to forfeiture under this subsection by reason of any act or omission established by the owner of the equipment to have been committed or omitted without his or her knowledge or consent and without the knowledge or consent of any person having possession, care, or control of the equipment with the owner's permission; and

(C) A forfeiture of equipment encumbered by a security interest is subject to the security interest of the secured party if the secured party neither had knowledge of nor consented to the use of the equipment in the commission or attempt to commit the violation.

(f) In addition to the fines, penalties, and forfeitures imposed under this section, a court may require the defendant to make restitution to the state or any of its political subdivisions for transporting, housing, feeding, euthanizing, and disposing of any hog forfeited under this section.

(g) A certified law enforcement officer may write a citation for a violation under this section.

(h)(1) Fines collected under this section shall be deposited into the Feral Hog Eradication Fund that is designated as special revenues for the Arkansas Natural Resources Commission.

(2) The funds designated under subdivision (h)(1) of this section are to be used for eradication efforts to eliminate feral hogs.

(i) This section does not apply to the purchase, sale, receipt, possession, import, or transportation of a live feral hog that serves as a mascot for an institution of higher education.

§ 2-39-101. Kinds required for enclosures.

All fields and grounds kept for enclosures shall be enclosed with a fence.

§ 2-39-102. Definition of fence.

As used in this chapter and all laws referring to this chapter, "fence" means a structure that is a boundary or barrier that limits human, livestock, or vehicle ingress or egress in an area.

§ 2-39-105. Maintenance.

When any person encloses any land adjoining another's land already enclosed with a fence so that any part of the fence first made becomes the partition fence between them, then, in such case, the charge of the division fence, as far as it is enclosed on both sides, shall be equally borne and maintained by both parties.

§ 2-39-106. Adequacy.

In all cases, the sufficiency of a fence shall be judged by the persons summoned to view the fence in accordance with the provisions of this chapter.

§ 2-39-107. Complaint resolution—Testimony.

Upon the complaint of the party injured to any justice of the peace of the township, the justice shall issue an order to three (3) disinterested householders of the neighborhood not related to the parties, reciting the complaint and requiring them to view the fence where the trespass is complained of and take a memorandum of it. Their testimony in that case shall be good evidence on the trial touching the lawfulness of the fence.

§ 2-39-108. Animals breaking into enclosures.

If any horse, cattle, or other stock shall break into any enclosure or if any hog, pig, or shoat shall break into any enclosure, the owner of the creature shall:

- (1) For the first trespass, make reparation to the party injured for the true value of the damages he or she may have sustained;
- (2) For every trespass after the first trespass, double damages to be recovered with costs, before any justice of the peace or court having jurisdiction over the trespass, in the name of the injured party; and
- (3) For the third offense from any animal named breaking into the enclosure, the party injured may kill and destroy the animal so trespassing without being answerable for it.

§ 2-39-109. Automobile damage—Liability.

In instances where a motor vehicle damages the fence or gate belonging to a person other than himself or herself and the damage allows livestock to escape, the owner of the livestock shall not be liable for damage caused by the livestock until he or she has had actual notice of their escape and a reasonable opportunity to repair the fence or gate and recover the livestock.

§ 2-39-110. Liability for injuring animals.

If any person damaged for the want of a sufficient fence shall hurt, wound, lame, or kill, or cause the same thing to be done by shooting, hunting with a dog, or otherwise, any animal mentioned in this chapter, with the exception of a feral hog, the person shall be liable to the owner of the animal for double damages, with costs.

§ 2-39-111. Vandalism—Liability.

A person who willfully cuts or otherwise damages the fence, gate, or gate lock of another shall be liable for triple damage plus attorney's fees and other costs.

§ 14-386-101. Definition.

As used in this chapter, unless the context otherwise requires, "land" has the same meaning and signification as are attached to the words "real property" in the act providing for the collection of state, county, and city revenue.

§ 14-386-102. Willfully leaving open gate.

(a) Any person who shall willfully leave open or unfastened any gate, bars, or other passway leading into a fencing district, or any person passing through a gate, bars, or other passway and finding the gates, bars, or other passway opened or unfastened and shall fail to close or fasten

them, or who shall tear down the fence, or any part of it, or in any manner injure or destroy it, shall be guilty of a misdemeanor.

(b) Upon conviction, an offender shall be punished by a fine in any sum not less than one dollar (\$1.00) nor more than fifty dollars (\$50.00) and, in addition thereto, shall be liable to:

(1) The fencing board of the district so injured for double the amount of damages done to the fence; and

(2) Any person in double the amount of any damages caused him by such action.

§ 14-386-103. Stock running at large.

(a) After any fencing district has been enclosed by a good and lawful fence, it shall be unlawful for any person who is the owner, or who has control of any kind of stock, to let them run at large in the district.

(b)(1) Any person violating the provisions of this section shall be deemed guilty of a misdemeanor.

(2) Upon conviction, an offender shall be fined in any sum not less than one (\$1.00) or more than fifty dollars (\$50.00) and, in addition to the fine, shall be liable for double the amount of any damages that any person may sustain by reason of the stock running at large in the district, to be recovered by action before any court having competent jurisdiction.

(c) This section shall not prohibit any person from fencing his lands, or any part of them, separately and pasturing them.

§ 14-386-104. Forming fencing district—Boundaries.

(a) The county court of any county in the state is authorized, empowered, and required, on the petition of two-thirds ($\frac{2}{3}$) of the landowners of any township, or any fractional part of them contiguous to each other, to form a fencing district and establish the boundaries of it in accordance with the petition.

(b) Each district shall be designated by number.

§ 14-386-105. District fencing board.

(a)(1)(A) Immediately upon the formation of a fencing district, the county court shall appoint three (3) persons, and owners of land in it who shall compose the fencing board of the district.

(B) If the petition for the formation of such a district names the persons to be appointed as the board, the court shall appoint the persons named in the petition.

(2)(A)(i) Each member of the board shall, within ten (10) days after his appointment, take the oath of office required by Arkansas Constitution, Article 19, § 20 and that he will not, either directly or indirectly, be interested in any contract made by the board.

(ii) The oath shall be filed in the office of the county clerk.

(B) If any member of the board shall fail to take the oath and file it in the office of the clerk within the time allowed in this section, he shall be taken to have

declined the office and the court shall at once appoint another person having the like qualifications in his place, who shall take and file the oath of office within ten (10) days after his appointment.

(b)(1) The board shall elect one of their number chairman.

(2)(A) Vacancies that may occur after the board shall have organized shall be filled by appointments made by the remaining members.

(B) If all the places on the board become vacant, or if those appointed shall, after qualification, refuse or neglect to act, new members shall be appointed by the court as in the first instance.

(c)(1) A majority of the board shall constitute a quorum for the transaction of business and the performance of the duties enjoined by this subchapter.

(2) The members of the board shall receive no compensation for their services.

§ 14-386-106. Board appointed collector—Treasurer.

(a)(1)(A) The fencing board shall appoint the collector and treasurer of the district, who shall take the oath of office required by § 14-386-105.

(B) The collector and treasurer shall execute bond to the chairman of the board, each in a sum at least equal to twice the amount of moneys which will probably come to their hands, with good and sufficient security, to be approved by the board, conditioned that:

(i) They will faithfully discharge the duties of their office; and

(ii) They will account for and pay over all moneys that may come to their hands according to law and the order of the board for the district for which they were appointed.

(2) The same person may be treasurer or collector of one (1) or more districts of the county, but the moneys of the different districts shall be kept separately.

(b)(1) The collector shall pay over to the treasurer on the first of each month all moneys received by him, deducting from them three percent (3%) for his services, and shall take duplicate receipts for them, one (1) of which he shall file with the board.

(2)(A) The treasurer shall pay out no moneys save upon the order of the board and upon a warrant signed by the chairman of it.

(B) The treasurer shall be allowed a commission of one percent (1%) on all sums by him lawfully paid out.

§ 14-386-107. Fence building plans.

(a)(1) Immediately after their organization, fencing boards shall form plans for the building of a good and lawful fence and all necessary gates to enclose and protect the fencing district and shall procure estimates of the cost of it.

(2) For this purpose, the board may employ such engineers, surveyors, and other agents as may be needed, and may provide for their compensation, which, with all other necessary expenditures, shall be taken as a part of the cost of the fencing.

(b) If for any cause the improvement shall not be made, the cost shall be a charge upon the land in the district and shall be raised and paid by assessment in the manner prescribed in § 14-386-115.

§ 14-386-108. Providing openings and gates.

A fencing board shall provide for openings and gates with good and convenient fastenings on all public highways or necessary roads, and at such other points along the enclosing fence as they may deem advisable, and shall have substantial blocks or stiles placed adjacent to the roads on each side of every gate or opening.

§ 14-386-109. Adjoining districts--Boundary fences.

(a) In all cases where two (2) or more fence or no-fence districts adjoin at one (1) or more points, it shall be unnecessary for the districts to construct or maintain a boundary fence at the points where the districts adjoin each other. The terms "fence district" and "no-fence district" shall mean any territory within which the running at large of stock or animals of any kind is prohibited, regardless of whether it is termed a fence district, a no-fence district, a stock law district, or any other name.

(b) In all such cases, all of the provisions of the law under which each of the adjoining districts is operating shall be applicable to the districts, despite the fact that there is no boundary fence at the point where the districts adjoin.

§ 14-386-110. Adjoining districts--Fence removal.

(a) In any fencing district or no-fence district created, whether under a special act or the general laws of the State of Arkansas, where any such district shall be adjoined either before or after the construction of its boundary fence by any other fencing or no-fence district in the same or any other county, if a boundary fence shall have been constructed along such portion of the district's boundary prior to the organization of the other district, the commissioner or directors of the district shall have the right to tear down and remove the fence at all points where it shall be adjacent or contiguous to the other district and may dispose of the materials in the fence as, in their judgment, they may deem to be the best interest of the district.

(b) The penalties provided for allowing animals to run at large and the remedies offered for depredation of such animals and any and all other provisions of fencing districts or no-fence districts laws shall remain in full force and effect and shall not be deemed to be in any manner abrogated or nullified by reason of the fact that there may be no fence along the line between any two (2) fencing or no-fence districts.

§ 14-386-111. Fence constructed by owner.

(a) If in the construction of the fence of a fencing district any owner of land in the district shall be found to have built a fence which may be profitably made a part of the general fence for the district, being as good as that required by the system determined upon by the fencing board, the board shall appraise the value of the fence made by the owner and shall allow its value as a set-off against the assessment against his land.

(b)(1) In case the fence made by the owner shall be found to fail to meet the required standard, the board may allow the owner the value of the materials of it, insofar as they may be profitably used in perfecting the fence of the district, as a set-off against the assessment against his land.

(2) In such a case, the board shall issue to the owner a certificate showing the amount of the set-off allowed, which certificate shall be received by the collector for the amount named in it in lieu of money charged against the holder's land.

§ 14-386-112. Navigable stream boundary.

Where the boundary of any fencing district shall lie along the bank of a navigable stream, and any other watercourse flows into the stream across the boundary with such force as to render it impracticable to maintain watergaps, the distance from bank to bank of the watercourse shall be deemed and held to be a good and lawful fence as part of the fence enclosing the district.

§ 14-386-113. Inapplicability of assessment provisions.

If each landowner in a fencing district shall build and maintain his proportionate share of the fence required to make a good and lawful fence for the district in accordance with the plan determined upon by the fencing board, the assessment provided for in this chapter need not be made or collected.

§ 14-386-114. Railroad company tax requirements.

(a) Every railroad company, foreign or domestic, doing business in this state and having any part of its real property situated wholly or in part in any fencing district formed in this state, whether it is formed under general or special law, shall be required to pay taxes for the benefit of any such district.

(b) The tax required in this section shall be assessed by the county court, which assessment shall be based upon the last assessment made by the Assessment Coordination Division, and each parcel of land or right-of-way owned by the railroad, and situated in any such district, shall be subject to the tax.

§ 14-386-115. Court-ordered assessment.

(a)(1) As soon as the fencing board shall have formed its plan and shall have ascertained the cost of the fencing, it shall report it to the county court, which shall at once, by order, assess the cost upon the land in the district, assessing each parcel of land according to its value as shown by the last county assessment on file in the office of the county clerk.

(2) In the case of land owned by railroad companies, the assessment shall be made according to the value of the land as shown by the last assessment made by the Assessment Coordination Division.

(b)(1) If the estimated cost of the fencing shall exceed one percent (1%) of the assessed value of the land as indicated, then it shall be provided by the order that the assessment shall be paid in successive annual installments, so that no assessment shall in any one (1) year exceed one percent (1%) of the assessed value of the land for the fencing.

(2) The order shall fix the day in each year when the assessment for the year shall be paid, and the day fixed for the payment of the first installment shall not be later than sixty (60) days from the date of the order making the assessment.

(c) The order of the county court assessing the cost of fencing may be in the following form:

“Whereas, Two-thirds of the landowners of Fencing District No..... have petitioned for the formation of said district, and,

Whereas, Said district has been formed and established by orders of this court on said petition and a fencing board for said district have been appointed and have qualified and have reported to the court an estimate of the cost of fencing said district, and,

Whereas, The estimated cost of said fencing is dollars, amounting to percent of the assessed value of said real property; therefore,

It is now ordered and adjudged by the court that all land situated in said district be assessed at the rate of percent upon the dollar of the said valuation, as the same appears by the assessment made by the assessor of this county, now on file in the county clerk's office, which assessment shall be paid on or before the day of, 20....., and such assessment shall be a charge against and lien upon the lands in said district from the date of said order.”

§ 14-386-116. Notice of order—Objection.

(a) Within seven (7) days from the making of the order mentioned in § 14-386-115, the county clerk shall publish a copy of it in some newspaper published in the county one (1) time if a newspaper is published in the county; and if not, then by posting the copy at the courthouse door, and by posting not less than ten (10) copies of it in the district.

(b)(1) Anyone who may feel aggrieved by the order may object to the assessment.

(2) A person shall commence legal proceedings for the purpose of trying the validity of the assessment within twenty (20) days after the date of publication, or else he shall be forever barred in all courts of law or equity from questioning the validity of the assessment and the lien created by it.

§ 14-386-117. Assessment and warrant delivery.

(a) Immediately after making the order, the county clerk shall:

(1) Make out, at the expense of the fencing district, a copy of so much of the last assessment made by the county assessor as contains the description and valuation of the land situated in the district;

(2) Extend against each parcel of land on it the assessment made; and

(3) Deliver it, with his warrant attached to it, to the collector of the district within thirty (30) days from the making of the order.

(b) The warrant may be in the following form:

“State of Arkansas to the Collector of Fencing District No.: ”

“You are hereby commanded to collect from the owners of land described in the annexed list the assessments thereon extended and to pay them to the treasurer of the district within sixty (60) days from this date.

“Witness my hand and official seal on this day of, 19... ..”

§ 14-386-118. Special assessment notice form.

(a) The collector of a fencing district shall, immediately upon the receipt of the tax list, cause to be published in some newspaper published in the county, if there is one, a notice which may be in the following form:

“SPECIAL ASSESSMENT

“The tax book for the collection of the special assessment upon the land in Fencing District No. has been placed in my hands. All owners of land lying in this district are required to pay their assessment to me within thirty days from this date. If such payment is not made, action will be commenced at the end of that time for collection of said assessments and for legal penalties and costs.”

“Given under my hand this day of, 19....
....., Collector.”

(b) The notice shall also be published by posting ten (10) copies of it in the district.

§ 14-386-119. Enforcing unpaid assessment.

(a) If any assessment made under this subchapter shall not be paid within the time mentioned in the notice published by the collector of a fencing district:

(1) The collector shall add to it a penalty of twenty percent (20%) and shall at once return a list of the property on which the assessments have not been paid to the fencing board, as delinquent;

(2)(A) The board shall straightaway cause a complaint in equity to be filed in the court having jurisdiction of suits for the enforcement of liens upon real property, for the condemnation and sale of such delinquent land for the payment of the assessment, penalty, and costs of suit.

(B) In the complaint, it shall not be necessary to state more than the fact of the assessment and the nonpayment of it within the time required by law, without any other further statement of any step required to be taken by the court, the board, or any officer whatever, concluding with a request that the delinquent lands be charged with the amount of the assessment, penalty, and costs of suit and be condemned and sold for the payment of it.

(b)(1) It shall not be necessary to exhibit with the complaint any copy of any order of court or other document or paper connected with the assessment and collection of moneys assessed under this subchapter; and

(2) It shall be no objection to any suit brought for this purpose that the lands of two (2) or more owners are joined in the same proceeding, as such a suit may be brought against one (1) or more owners.

(c)(1) In these suits the same service shall be had on defendants, and the case shall proceed in the same manner as is provided by law in cases or suits for the collection of assessments for local improvements in cities of the first class, insofar as these proceedings can be made applicable.

(2) In case of sale, the owner shall have the same right of redemption by paying the amount of the purchase money and all assessments to the purchaser and twenty percent (20%) on it, within one (1) year from the date of sale.

§ 14-386-120. Certifying delinquency list.

(a) In all instances where county collectors are charged with the collection of assessments in no-fence districts, they shall, in addition to certifying the list of delinquent assessments to the commissioners of the district, certify the list to the county clerk.

(b)(1) It is the duty of the clerks to add delinquent assessments to any application for redemption of lands sold for state and county taxes.

(2) It is the duty of the county treasurers to collect the assessments and pay the collection to the commissioners of the district.

§ 14-386-121. Repair costs.

(a) The cost of keeping a fence in repair shall, from year to year, be ascertained, collected, and expended in the same manner as is provided in § 14-386-115 as to the cost of the original erection of the fence. However, the county court shall be authorized, on the petition of two-thirds ($\frac{2}{3}$) of the landowners of the district, to revoke the order that established the district.

(b) No order of revocation shall in any way interfere with or prevent the assessment and collection of all sums needed to pay all debts contracted by the fencing board prior to the order of revocation.

§ 14-386-122. Fence construction--Board control.

(a) Fencing boards shall have control of the construction of the fence for their districts.

(b)(1) The boards may advertise for proposals for doing any work by contract and may accept or reject any proposals.

(2)(A) All contractors shall be required to give bond for the faithful performance of such contracts as may be awarded them, with good and sufficient securities in double the amount of the contract work.

(B) The bond shall be given to the board, and suits may be brought on it in the name of the board, but the sum recovered shall be for the use of the district for which the bond was given.

§ 14-386-201. Unlawful activities.

(a) Whenever a fencing district is established under the provisions of this subchapter, it shall be unlawful for any person owning or having control of stock that have been restrained from running at large to knowingly permit such stock to run at large within the territory comprising the district.

(b) Any person violating the provisions of subsection (a) of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than ten dollars (\$10.00) nor more than twenty-five (\$25.00) dollars.

§ 14-386-202. Forming fencing districts.

(a)(1) The county court of any county is authorized, empowered, and required, on the petition of a majority in land value, acreage, or number of landowners of any townships or any fractional part of them contiguous to each other, to form and establish a fencing district and establish the boundaries of it, in accordance with the petition.

(2) The court may change the boundaries of the district by adding new territory contiguous to it upon the application of a majority in land value, acreage, or number of landowners of the territory to be added.

(3) Each district shall be designated by number.

(b)(1) The petitioners shall specify in their petition what stock they wish to restrain from running at large, and the county court shall make an order restraining the stock mentioned in the petition from running at large within the district.

(2) The district shall apply to such stock as are mentioned in the petition.

§ 14-386-203. Fence specifications.

Whenever a fencing district is established as to small stock, such as hogs, sheep, goats, etc., four (4) barbed wires securely fastened to posts firmly set in the ground, not exceeding sixteen feet (16') apart, the bottom wire twenty inches (20") above the ground, the second wire ten inches (10") above the first, the third wire twelve inches (12") above the second, and the fourth wire twelve inches (12") above the third; or five (5) sound rails securely fastened to posts firmly set in the ground, the top rail four and one-half feet (4 ½ ') above the ground, and the others properly spaced beneath, shall be a lawful fence within the district.

§ 14-386-301. Adding adjacent lands.

(a) When any number of owners of either rural acreage or city or town land near or adjacent to any fencing district organized under and pursuant to the law shall present to the county court a petition, in writing, accompanied by a map giving description and setting forth such land as they desire to have enclosed in any such district embraced within the enclosure of the fence of the district, it shall be the duty of the court to give a notice by publication in some newspaper in the county for a period of not less than twenty (20) days of a hearing upon the petition, calling upon all persons whose lands or interest may be affected by the petition to appear and show cause, if any, why the request of the petitioner should not be granted.

(b) If upon the hearing, the court shall deem that owners of a majority in value or acreage of the land affected favor the petition and that the lands should be enclosed within the fencing district and protected by the enclosure or fences kept and maintained by the district, it shall be the duty of the court to make an order enclosing the lands in the district and to direct the commissioner of the district to make such alteration of the fences kept and maintained by the district as may be necessary to bring the lands within the enclosure.

(c)(1) From the date of the order, all lands which shall become a part of the fencing district shall thereafter be liable for such charges, taxes, and assessments as are levied against other lands within the district.

(2)(A) The lands so enclosed in the order shall be liable for any special assessments made by the commissioner of the district, to help defray the cost and expenses of making the alteration necessary to enclose the additional lands.

(B) The assessment shall be paid by the owners of the lands.

§ 14-386-302. District consolidation.

(a)(1) All fence districts or no-fence districts created by special act or under § 14-386-202 in any county in the State of Arkansas may be consolidated under the management of one (1) board of commissioners by order of the county court.

(2) One (1) or either of the boards of the districts may be appointed as commissioners of the consolidated district, or the court may appoint three (3) other landowners of the district as commissioners.

(b) The consolidated district as provided in this section shall be governed by general statutes pertaining to fencing districts and all the power conferred in them is invested in the consolidated district and in its board of commissioners.

§ 14-386-401. Stock running at large.

(a) If a majority of the qualified electors voting in an election held under the provisions of this subchapter shall approve the creation of the proposed fencing district, the district shall be held and deemed to be enclosed by a good and lawful fence, and it shall be unlawful for any person who is the owner, or who has control, of any kind of stock to let them run at large in the district.

(b)(1) Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than one dollar (\$1.00) or more than fifty dollars (\$50.00).

(2) In addition to the fine, an offender shall be liable for double the amount of any damages that any person may sustain by reason of his stock running at large in the district, to be recovered by action before any court of competent jurisdiction.

(c) This section shall not prohibit any person from fencing his lands, or any part of them separately, and pasturing them.

§ 14-386-402. Petitions.

When any number of landowners owning land adjacent to any fencing district organized under and pursuant to the law shall present to the county court a petition, in writing, accompanied by a

map, giving a description and setting forth what land they desire to have enclosed in such district, and where the lands as set forth and described in the petition are bounded or completely enclosed by existing fencing districts, no-fence districts, counties where a stock law is in effect, or navigable rivers, or combination of them, it shall be the duty of the court to give notice, by publication in some newspaper published in the county where the lands lie, of the filing of the petition and a description of all lands as set forth and contained in the description.

§ 14-386-403. Notice and election.

(a) The county court shall in the same publication prescribed by § 14-386-402 give notice of and cause an election to be held within thirty (30) days of the date of the filing of the petition, in the townships or parts of townships included in the petition, where the question of the creation of the proposed fencing district shall be submitted to the qualified electors living or owning land in the proposed district.

(b) The court shall designate a place in each township or parts of each township to be affected by the proposed district where the election shall be held and appoint and name the judges and clerks to conduct the election.

§ 14-386-404. Election ballots.

(a) Except as provided for in this subchapter, all elections held under the provisions of this subchapter shall be held subject to and in accordance with the general election laws of this state.

(b) Ballots used in elections provided for in this subchapter shall be substantially in the following form:

“FENCING DISTRICT BALLOT

“A petition has been filed in the County court of County to create and establish a fencing district within that part of county bounded and completely enclosed by (here insert the limits and boundaries as contained in the petition). If a majority of the qualified electors voting in this election approve of the proposed fencing district as described above, thirty (30) days after the date of this election, it shall be unlawful for any person or persons to permit stock to roam or run at large within such district.

FOR the creation of the fencing district .

AGAINST the creation of the fencing district .

§ 14-386-405. Results of election.

(a) After the county election commissioners have ascertained and declared the results of any election held under the provisions of this subchapter, it shall be the duty of the county court to cause the results to be printed in some newspaper published in the county where the lands lie.

(b) If the proposed district has been approved, the county court shall declare the proposed fencing district to be created.

§ 14-386-406. Proposal rejected.

If, at any election held under the provisions of this subchapter, a majority of the electors reject the proposed fencing district, no petition proposing to create or establish such a district with the same boundaries shall be filed within one (1) year from the date of the election at which the proposed district was rejected.

§ 14-386-407. Expense and cost payment.

All expenses incurred by any official or officer of any county in performance of duties defined by this subchapter and the costs of all elections held under the provisions of this subchapter shall be paid by the persons signing or filing the petition as provided in this subchapter, unless there is, in the opinion of the county judge, sufficient funds in the county general revenues, in which event the judge is empowered to pay all costs from these revenues, at his discretion.

§ 14-386-408. Navigable river boundaries.

Where the boundary of any fencing district created under the provisions of this subchapter shall be a navigable river, the river shall be deemed and held to be a good and lawful fence, as part of the fence enclosing the remainder of the district.

§ 14-386-501. Rule of construction.

This subchapter shall be liberally construed to the end that its purposes may be successfully accomplished.

§ 14-386-502. District ratification and validation.

The organization of all fencing districts created and established by order of any county court in the State of Arkansas, which have not been abandoned or dissolved by the judgment or order of any court of competent jurisdiction, are ratified and confirmed. All districts are declared to be legal entities in the nature of quasi-municipal corporations, public agencies with all powers and authorities vested in them by the provisions of §§ 14-386-101 -- 14-386-108, 14-386-111, 14-386-113, 14-386-115 -- 14-386-119, 14-386-121, 14-386-122, and all legislation supplementary thereto.

§ 14-386-503. Grant accepting authorized.

(a) All fencing districts are expressly authorized to accept grants of money from, and to borrow money from, the federal government, or from any federal agency, or from any private person, individual, or corporation, or from any other source, for the purpose of executing or carrying out the purposes for which the district was organized.

(b)(1) Any district, or the fencing board of the district, for the purposes prescribed in subsection (a) of this section is expressly authorized and empowered to enter into and to execute the loan agreements and contracts with the lending agencies as the board may deem necessary or proper in connection with any grant or loan to the district.

(2) Any agreement or contract entered into by any district, or the board of any such district, is ratified, confirmed, and made binding, in all respects, upon any board and its successor, from time to time, and any contract shall be enforceable by an appropriate civil action in the courts of this state.

§ 14-386-504. Negotiable bond, etc., issuance.

(a)(1) Any fencing district, or the fencing board of the district, for the purposes prescribed in § 14-386-503 is expressly authorized and empowered to issue its general obligation, negotiable bonds, notes, or certificates of indebtedness, in the corporate name of the district, or in the name of the board of any district, in form, denomination, rate of interest, amount, place of payment, date of retirement, terms of payment, or redemption, and with contract provisions required by the lending agency or approved by the board of any district.

(2) In no event shall any bonds or other evidences of indebtedness be sold by any such district, or the board of any such district, on any basis that will cost the borrower over the life of the obligation interest at more than six percent (6%) per annum.

(b)(1) Any and all bonds, notes, or certificates of indebtedness issued by any district, or the board of any such district in its corporate capacity, shall be signed by the chairman and attested by the secretary of the board, in the name of, and for, the district.

(2)(A) All bonds, notes, certificates of indebtedness, or other evidences of indebtedness issued under this subchapter shall:

- (i) Be, and constitute, the general obligation of any district;
- (ii) Have the effect of negotiable paper;
- (iii) Not be invalid for any irregularity or defect in the proceedings for the issue or sale of them; and
- (iv) Be incontestable in the hands of bona fide purchasers or holders for value.

(B)(i) Under no circumstances shall any such bond, note, or other evidence of indebtedness issued under this subchapter be held or construed to be an obligation of the State of Arkansas, nor shall the State of Arkansas, under any theory or upon any grounds, be liable or responsible for them.

- (ii) The bonds, notes, or other evidences of indebtedness, shall be solely and exclusively the general negotiable obligations of the district issuing them in its corporate capacity, or of the board for the district in its representative capacity, and without personal obligation or liability of either of the individual members of the board, and shall be secured by, and payable only from, the assets, property, securities, and revenues, matured or unmatured, of the district, authority for the mortgage, or pledge of which as security for the payment of them is expressly given.

§ 14-386-505. Surplus funds.

When any fencing district in this state has completed all of the contemplated improvements and has paid and discharged all of its obligations and has a surplus of funds on hand, not needed for repair or maintenance or the operation of the district, then, in such event, the board of directors of the district may, in their discretion, contribute so much of the surplus funds as they may determine to any public, charitable, educational, or general welfare purpose within the county in which the district is situated.

§ 14-386-601. Impounding stock.

- (a) Any person finding stock running at large in any fencing district may impound them.
- (b) Immediately upon impounding the stock the impounder shall give notice to the owner or his agent, if known.

§ 14-386-602. Turning over to owner.

If the owner shall, within two (2) days after being notified, pay the reasonable charges for impounding, feeding, and caring for the stock, and also pay all damages to owners of crops caused by the stock, they shall be turned over to him.

§ 14-386-603. Appraisers.

If the parties interested fail to agree upon the amount of the charges and damages, the secretary of the fencing board and the impounder shall each appoint an appraiser, and the appraisers shall adjust and fix the charges and damages, calling in a third party if they cannot agree.

§ 14-386-604. Public sale.

If the owner or agent fails to pay the charges and damages within two (2) days after notice, the impounder shall post written or printed notices in three (3) public places in the fencing district, describing the property and fixing a day for its sale at some public place in the district upon a day at least ten (10) days from the date of the notices, and shall sell the property at the time and place mentioned in the notices, at public outcry, to the highest bidder for cash in hand and within legal hours for judicial sales.

§ 14-386-605. Surplus monies.

- (a) After deducting the charges and damages as ascertained in § 14-386-603, the impounder shall pay the remainder to the treasurer of the fencing district, taking his receipt for it.
- (b) The failure to pay the moneys to the treasurer by the impounder or other person claiming to be damaged by the stock shall be deemed theft and punished as such.

§ 14-386-606. Treasurer's responsibilities.

The treasurer of the fencing district shall keep, in the books of the district, an accurate account of all moneys so received by him, with the name of the depositor and the date of the receipt by him, being responsible upon his official bond for them, and shall pay over the moneys to the proper owner of the stock so sold, upon proof of his ownership.

§ 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, Iazard, 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 § 14-387-301 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 appraisal 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.