Chapter 330 H.B. No. 2931

AN ACT

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| 2 | relating to required notice of and a lien resulting from damage to a |
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| 3 | fence. |
| 4 | BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS: |
| 5 | SECTION 1. Chapter 70, Property Code, is amended by adding |
| 6 | Subchapter F to read as follows: |
| 7 | SUBCHAPTER F. LIEN RELATED TO DAMAGED FENCE |
| 8 | Sec. 70.501. LANDOWNER'S LIEN. A person who owns real |
| 9 | property in this state that is enclosed by a fence or other |
| 10 | structure obviously designed to exclude intruders or to contain |
| 11 | livestock or other animals may obtain from a court in this state a |
| 12 | judgment entitling the person to a lien against the motor vehicle of |
| 13 | a person who damages the landowner's fence with the motor vehicle if |
| 14 | the person who damages the landowner's fence: |
| 15 | (1) owns the motor vehicle; or |
| 16 | (2) has the consent of the owner of the motor vehicle |
| 17 | to drive the vehicle at the time the person damages the landowner's |
| 18 | fence. |
| 19 | Sec. 70.502. AMOUNT OF LIEN. The amount of a landowner's |
| 20 | lien under this subchapter is equal to the lesser of: |
| 21 | (1) the fair market value of the motor vehicle on the |
| 22 | date the landowner's fence is damaged; or |
| 23 | (2) the actual cost incurred by the landowner to: |
| 24 | (A) repair the fence; |

| 1 | (B) recapture any livestock or other animals that |
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| 2 | escaped as a direct result of the damage to the fence; and |
| 3 | (C) have the vehicle towed from the property and |
| 4 | stored. |
| 5 | Sec. 70.503. PROPERTY TO WHICH LIEN ATTACHES. A |
| 6 | landowner's lien under this chapter attaches only to a motor |
| 7 | vehicle that causes damage to a fence as described by Section |
| 8 | 70.501. |
| 9 | Sec. 70.504. PERFECTING LIEN. A landowner may perfect a |
| 10 | lien under this subchapter in the manner provided by Subchapter F, |
| 11 | Chapter 501, Transportation Code. |
| 12 | Sec. 70.505. EXPIRATION AND DISCHARGE OF LIEN. A lien under |
| 13 | this subchapter does not expire and is discharged only when the |
| 14 | landowner receives payment of the lien. |
| 15 | Sec. 70.506. REMOVAL OF VEHICLE FROM LANDOWNER'S PROPERTY. |
| 16 | A landowner whose fence is damaged by a motor vehicle that is then |
| 17 | abandoned on the owner's property, or the landowner's agent, may: |
| 18 | (1) select a towing service to remove the vehicle from |
| 19 | the landowner's property; and |
| 20 | (2) designate the time at which the towing service may |
| 21 | enter the property to remove the vehicle. |
| 22 | SECTION 2. Chapter 370, Local Government Code, is amended |
| 23 | by adding Section 370.004 to read as follows: |
| 24 | Sec. 370.004. NOTICE OF DAMAGED FENCE. (a) A peace officer |
| 25 | employed by a political subdivision of this state who investigates |

or responds to an incident in which a motor vehicle damages a fence

shall, if the peace officer reasonably believes that the fence is

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- 1 intended to contain livestock or other animals:
- 2 (1) immediately determine the owner of the land on
- 3 which the damaged fence is located; and
- 4 (2) notify the owner of the type and extent of the
- 5 damage, if the owner has registered with the political subdivision
- 6 <u>in accordance with Subsection (c).</u>
- 7 (b) A peace officer is not liable to an owner of land or any
- 8 other person for damage resulting from the peace officer's failure
- 9 to notify the owner under Subsection (a).
- 10 (c) A landowner must provide an agency or department of a
- 11 political subdivision that employs peace officers with the
- 12 <u>following information if the landowner would like a peace officer</u>
- of that agency or department to notify the landowner of damage under
- 14 Subsection (a):
- 15 (1) the landowner's name, address, and telephone
- 16 number; and
- 17 (2) the location and a description of the landowner's
- 18 property.
- SECTION 3. Subchapter F, Chapter 70, Property Code, as
- 20 added by this Act, applies only to damage to a fence or other
- 21 enclosure that is caused on or after the effective date of this Act.
- 22 Damage to a fence or other enclosure that is caused before the
- 23 effective date of this Act is governed by the law in effect at the
- 24 time the fence or other enclosure was damaged, and that law is
- 25 continued in effect for that purpose.
- SECTION 4. This Act takes effect September 1, 2007.

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President of the Senate

Speaker of the House

I certify that H.B. No. 2931 was passed by the House on April 19, 2007, by the following vote: Yeas 142, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2931 was passed by the Senate on May 17, 2007, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

APPROVED:

15 JUN 07

Date

RICK PERRY

Governor

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