

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

As Engrossed: H3/28/23

A Bill

HOUSE BILL 1677

5 By: Representative Beaty Jr.
6 By: Senator Gilmore
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW REGARDING LIVESTOCK; TO AMEND
10 THE LAW REGARDING LIVESTOCK RUNNING AT LARGE; TO
11 AMEND THE LAW REGARDING FENCING; TO REPEAL THE LAW
12 REGARDING FENCING DISTRICTS; AND FOR OTHER PURPOSES.
13
14

Subtitle

15 TO AMEND THE LAW REGARDING LIVESTOCK; TO
16 AMEND THE LAW REGARDING LIVESTOCK RUNNING
17 AT LARGE; TO AMEND THE LAW REGARDING
18 FENCING; AND TO REPEAL THE LAW REGARDING
19 FENCING DISTRICTS.
20
21
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code Title 2, Chapter 38, Subchapter 1 is amended
26 to read as follows:

27 2-38-101. ~~Taking up animals~~ Impounding livestock – Definition.

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

30 (b) Every citizen, a resident householder in any county in this state,
31 on finding any ~~horse, mare, mule, jack, or jenny or any domesticated bovine,~~
32 ~~hog, or sheep, of any age~~ livestock running at large, the owner of which is
33 not known, may ~~take~~ impound the ~~animal~~ livestock by taking it into his or her
34 custody.
35

36 ~~2-38-102. Range animals.~~



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

4
5 2-38-103. ~~Place of taking~~ Site of impounding.

6 ~~No~~ A person shall ~~not take up~~ impound any stray ~~animal~~ livestock,
7 except on his or her own farm or in his or her immediate vicinity.

8
9 2-38-104. Duty and rights of ~~taker up or~~ impounder.

10 (a)(1) Every person ~~taking up~~ impounding any stray ~~animal~~ livestock
11 shall immediately, ~~if the animal is marked or branded, proceed to the office~~
12 ~~of the clerk of the county court of the county in which the animal is taken~~
13 ~~up and shall cause the clerk to examine the State Brand Book~~ notify the
14 Department of Agriculture in writing through procedure established by the
15 department.

16 (2) If it is found that the owner of the livestock may be
17 determined by any mark, tag, or brand upon the animal livestock taken up is
18 ~~entered upon the book, the taker up or~~ impounder of the ~~animal~~ livestock
19 shall at once notify the owner ~~of the mark or brand~~, of his or her having
20 ~~taken up~~ impounded the ~~animal~~ livestock, giving an exact description ~~thereof~~
21 of the livestock.

22 (3)(A) The ~~taker up or~~ impounder of an ~~animal~~ livestock shall
23 receive a reasonable compensation for ~~his or her trouble~~ feeding the
24 livestock.

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

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

33
34 2-38-105. ~~Certificate of examination~~ Confirmation of notification.

35 ~~Upon the taker up of any animal causing examination of the State Brand~~
36 ~~Book to be made by the county clerk~~ Upon providing notice to the Department

1 ~~of Agriculture~~ as prescribed in § 2-38-104, the ~~county clerk department~~ shall
2 ~~give provide~~ to the impounder a ~~certificate~~ confirmation of the ~~examination~~
3 notification having been made, setting out in the ~~certificate~~ confirmation
4 the description of the ~~animal~~ livestock and the marks and brands, or either
5 thereof, ~~and the impounder shall pay the clerk twenty five cents (25¢) as a~~
6 ~~fee for the certificate.~~

7
8 2-38-106. ~~Posting description of animal~~ Livestock description
9 notification.

10 (a) Upon failure to find any record of the mark, tag, or brand of the
11 ~~animal taken up~~ impounded livestock or when the person in whose name the mark
12 or brand is found recorded proves not to be the owner of the ~~animal~~
13 livestock, the ~~taker-up or~~ impounder of the ~~animal~~ livestock shall ~~put or~~
14 ~~cause to be put up posters in three (3) of the most public places in the~~
15 ~~township or neighborhood where the animal is taken up, giving a full detailed~~
16 ~~description of the animal, stating the marks, age, color, and value of the~~
17 ~~animal. At the same time, the taker-up or impounder shall deliver to the~~
18 ~~clerk of the county court a copy of the poster, and the clerk shall at once~~
19 ~~enter a full copy of the poster in a book to be kept by him or her for that~~
20 ~~purpose and shall set up the poster upon the courthouse door~~ give notice of
21 the impounding of the livestock by providing a full detailed description of
22 the livestock to the Department of Agriculture to be published in a publicly
23 accessible record.

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

26 (1) The place where the livestock was found running at large;
27 and

28 (2) The date and time of the livestock being impounded.

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

36 (c) ~~If the animal should be proved away as provided in this section,~~

1 ~~it shall be the duty of the person proving away the animal to pay a~~
2 ~~reasonable charge for feeding and advertising the animal if the animal has~~
3 ~~not been used by the person taking it up. In this case no charge shall be~~
4 ~~made for feeding and advertising.~~

5
6 ~~2-38-107. Oath of taker up.~~

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

12
13 ~~2-38-108. Certificate of appraisement.~~

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

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

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

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

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

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

33
34 ~~2-38-109. Bond of taker up.~~

35 ~~(a) Every person taking up an animal as a stray shall, at the time of~~
36 ~~the appraisement, enter into bond to the State of Arkansas, with sufficient~~

1 security to be approved by the justice of the peace who appoints the
2 appraisers, in the value of the animal. The bond shall be conditioned that,
3 if the owner of the animal within one (1) year from the date shall appear and
4 prove his or her property in the animal so taken up, then the taker up will
5 deliver the animal or, if the owner should fail to prove his or her property
6 therein within one (1) year, conditioned that he or she, the obligor, will
7 pay into the county treasury one half ($\frac{1}{2}$) of the appraised value, deducting
8 all legal expenses of the animal, stating the amount of the appraisement.

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

16
17 2-38-110. Records.

18 It is the duty of every clerk of the county court to keep a book in
19 which he or she shall record all descriptions and valuations of animals
20 taken. He or she shall also note on all bonds required to be deposited into
21 his or her office under the provisions of this subchapter the time of filing
22 them and keep the bonds safely for the use of the county the Department of
23 Agriculture to maintain a publicly accessible record of all livestock
24 currently in the custody of impounders within the state that shall include
25 full details and at least one (1) photo provided by the impounder.

26
27 2-38-111. Advertisements to be posted.

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

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

1
2 ~~2-38-112. Publication in addition to posting.~~

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

10
11 ~~2-38-113. Payment of expenses.~~

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

19
20 ~~2-38-114. Stray pen—Exhibition.~~

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

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

30
31 ~~2-38-115. Reclamation by owner.~~

32 ~~(a) Within one (1) year three (3) months from the time of the filing~~
33 ~~of the bond notification required by law, if the owner of any stray animal~~
34 ~~livestock shall appear and claim it, he or she shall notify the taker-up~~
35 ~~impounder; and the owner shall establish his or her claim to the animal~~
36 ~~livestock before some justice of the peace of the county by such evidence as~~

1 ~~shall be satisfactory to the justice~~ a court of competent jurisdiction.

2 (b) Upon the ~~justice court~~ justice court being satisfied of the ownership of the
3 ~~animal taken up~~ impounded livestock, he or she shall make an order in writing
4 requiring the ~~taker up~~ impounder of the animal to ~~deliver~~ release it to the
5 owner when he or she pays the legal costs that have accrued thereon.

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

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

13
14 2-38-116. Refusal to deliver.

15 If any person who has ~~taken up~~ impounded any ~~animal~~ livestock shall
16 refuse to ~~deliver~~ release it to the owner on his or her having complied with
17 the requirements of this subchapter, as respects proving ownership of the
18 ~~animal~~ livestock, the owner shall have a right of civil action. If the owner
19 recovers in an action, he or she shall also recover double costs.

20
21 2-38-117. Compensation for keeping strays.

22 (a) No person shall charge anything for keeping any ~~horse, mare, mule,~~
23 ~~jack, or jenny which may be~~ equine that is worked or ridden while in the
24 possession of the ~~taker up~~ impounder.

25 (b) For the keeping of other ~~animals~~ livestock, or ~~the named animals~~
26 any equine if not worked or ridden, the person ~~taking them up~~ impounding the
27 livestock shall be entitled to a reasonable compensation to be adjudged by
28 ~~the justice of the peace~~ a court of competent jurisdiction before whom the
29 owner proves his or her right of property.

30
31 2-38-118. No premature disposition of strays.

32 (a) ~~No~~ A person ~~taking up~~ impounding any ~~animal~~ livestock shall not
33 sell, exchange, or dispose of it in any manner nor kill any domesticated
34 cattle, hogs, or sheep until after the expiration of the time that the owner
35 has the right to prove his or her property in them.

36 (b) Any person violating the provisions of subsection (a) of this

1 section shall be ~~deemed guilty of a misdemeanor and, upon conviction, shall~~
2 ~~be fined in any sum not less than half nor more than double appraised value~~
3 ~~of the stray so taken up impounded livestock, to be recovered in the county~~
4 ~~where the stray may have been taken up.~~

5
6 2-38-119. Liability for death or escape of ~~animals~~ livestock.

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

11
12 2-38-120. Forfeiture of right to ~~animal~~ livestock.

13 If the owner of any stray ~~animal~~ livestock does not appear and prove
14 his or her property therein within ~~one (1) year~~ three (3) months after the
15 ~~time of setting up the copies of the valuation and description of the animal~~
16 ~~and the filing of the bond required~~ public notification required by this
17 subchapter, he or she shall forfeit his or her right to the ~~animal~~ livestock
18 and the property shall be vested in the ~~taker-up of it~~ impounder.

19
20 ~~2-38-121. Payment and filing required for unclaimed strays.~~

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

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

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

31 ~~(b) After the term of one (1) year from the taking up of any animal,~~
32 ~~if the order of the justice of the peace requiring the taker-up of the animal~~
33 ~~to return the animal to the owner, with the owner's receipt thereon, shall~~
34 ~~not be filed with the clerk, or the one half ($\frac{1}{2}$) of the appraised value paid~~
35 ~~into the treasury, and the county treasurer's receipt filed with the clerk,~~
36 ~~the clerk shall issue a notice to the delinquent to appear at the next~~

1 ~~session of the county court for that county and show cause, if any he or she~~
2 ~~can, why judgment shall not be entered against him or her, in favor of the~~
3 ~~state, for the benefit of the county.~~

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

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

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

11
12 ~~2-38-122. Judgment for costs.~~

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

19
20 SECTION 2. Arkansas Code Title 2, Chapter 38, Subchapter 2 is amended
21 to read as follows:

22 ~~2-38-202. Right of person taking up.~~

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

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

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

30
31 ~~2-38-203. Right to kill certain stock—Notice.~~

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

1
2 SECTION 3. Arkansas Code Title 2, Chapter 38, Subchapter 3 is amended
3 to read as follows:

4 2-38-301. Running at large unlawful when prohibited.

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

14 (b)(1) ~~In every case of trespass by an animal described and prohibited~~
15 ~~by the initiated act, the owner of the animal shall be liable, for all~~
16 ~~damages it may do, to the person owning crops, to be established and~~
17 ~~recovered in a civil action~~ livestock, the owner shall be liable to the
18 person injured for all damages, to which shall be added all costs of
19 impounding, feeding, and caring for the animal.

20 (2) ~~A lien shall exist against the animal in favor of the person~~
21 ~~whose crops may have been damaged or destroyed, and they may be sold under an~~
22 ~~order of the court rendering judgment for damages, to which shall be added~~
23 ~~any and all costs of taking up, feeding, and caring for the animal, and other~~
24 ~~costs~~ The person damaged shall be entitled to a lien on the livestock for the
25 amount of the damages upon the lien's filing with any court having
26 jurisdiction.

27
28 2-38-302. Penalty for failing to ~~take up~~ retrieve trespassing ~~animals~~
29 livestock.

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

35 (2)(A)(i) If for twenty-four (24) hours after notification being
36 given to him or her, the owner shall fail, neglect, or refuse to ~~take up~~

1 ~~retrieve the animal upon being notified that his or her animal is running at~~
2 ~~large and trespassing~~ livestock, the owner shall be guilty of a violation and
3 ~~upon conviction shall be fined a sum not less than ten dollars (\$10.00) nor~~
4 ~~more than fifty dollars (\$50.00).~~

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

9 (B) Each day the ~~animal~~ livestock continues to run at
10 large shall constitute a separate ~~offense~~ violation.

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

14
15 2-38-303. Notice to owners of hogs and goats.

16 ~~Hogs and goats when permitted to run at large are especially~~
17 ~~destructive of growing and unharvested crops of corn, oats, other small~~
18 ~~grains, and of winter cover crops; they are especially difficult and often~~
19 ~~practically impossible to catch and take up when preying upon these crops. To~~
20 ~~protect these crops, the animals must be removed or their destructiveness~~
21 ~~stopped without long delay. Therefore, a notice of twenty four (24) hours~~
22 ~~shall be deemed sufficient to enable the owners of these animals to take up~~
23 ~~and confine them, the notice being sufficient if given verbally or otherwise~~
24 ~~to the owner, his or her agent, or his or her servant~~ Within twenty-four (24)
25 hours of receiving actual notice to the owners of hogs and goats running at
26 large, or to his or her agents, the owners or agents shall retrieve and
27 confine the hogs and goats. If these ~~animals~~ hogs or goats are not taken up
28 and confined, any person interested in the preservation of the ~~crops either~~
29 ~~as landlord, tenant, cropper, or the agent or servant of either of them~~
30 property, may ~~kill and~~ destroy any offending hogs or goats and shall not be
31 liable in damages for, or for the value of, the destroyed ~~animals~~ hogs or
32 goats to any person because of having done so.

33
34 SECTION 4. Arkansas Code Title 2, Chapter 38, Subchapter 4 is amended
35 to read as follows:

36 2-38-401. Purpose.

1 It is the purpose of this subchapter to provide for more effective
2 enforcement of the prohibition against ~~cattle, horses, mules, hogs, sheep, or~~
3 ~~goats~~ livestock being allowed to run at large along or on any public highway
4 in the State of Arkansas in violation of § 5-62-122.

5
6 2-38-402. Duty to impound.

7 It is the duty of the ~~Department~~ Division of Arkansas State Police and
8 the sheriffs of the respective counties to ~~restrain and impound any cattle,~~
9 ~~horses, mules, hogs, sheep, or goats~~ ensure the restraint and impounding of
10 any livestock found running at large along or on any public highway in the
11 State of Arkansas.

12
13 2-38-403. Enclosures.

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

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

22
23 2-38-404. Delivery to enclosure.

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

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

32
33 2-38-405. Notice of impounding.

34 When ~~an animal~~ livestock found running at large along or on any public
35 highway is delivered to the enclosure provided by the county ~~court~~ judge, the
36 sheriff shall give notice of the impounding of the ~~animal by causing a~~

1 ~~description of the animal to be inserted in some newspaper of general~~
2 ~~circulation in the county at least once a week for three (3) weeks~~ livestock
3 by submitting a description to the Department of Agriculture for public
4 posting. In addition to a description of the ~~animal~~ livestock, the published
5 notice shall also state the place where the ~~animal~~ livestock was found
6 running at large and the date and time of its being taken up.

7
8 2-38-406. Reclaiming by owner.

9 (a) The owner of any ~~animal~~ livestock impounded under the provisions
10 of this subchapter shall be permitted at any time within ~~thirty (30) days~~
11 three (3) months from the date of first publication of notice of the
12 impounding of the ~~animal~~ livestock to reclaim the ~~animal~~ livestock upon the
13 payment of all costs incurred by the county in connection with the ~~taking up~~
14 ~~and delivery of the animal to the enclosure, the restraint, delivery,~~
15 feeding, and care of the ~~animal~~ livestock while impounded, and the cost of
16 publication of notice.

17 (b)(1) The ~~animal~~ livestock shall be ~~delivered to~~ retrieved by the
18 owner if reclaimed in accordance with the provisions of this subchapter at
19 the enclosure provided by the county court.

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

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

24
25 2-38-407. Sale of unclaimed ~~animals~~ livestock.

26 If, at the expiration of ~~thirty (30) days~~ three (3) months after notice
27 was first posted, ~~an animal~~ livestock found running at large along or on any
28 public highway has not been claimed by its true owner, then it shall be the
29 duty of the sheriff to sell the ~~animal~~ livestock at public sale to the
30 highest bidder after posting notice of sale in the courthouse for five (5)
31 days.

32
33 2-38-408. Disposition of funds.

34 (a)(1) The county shall be entitled to ~~one dollar (\$1.00)~~ ten dollars
35 (\$10.00) per day for each ~~animal~~ livestock found running at large along or on
36 any public highway and impounded.

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

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

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

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

12
13 SECTION 5. Arkansas Code § 2-39-101 is amended to read as follows:

14 2-39-101. Kinds required for enclosures.

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

17
18 SECTION 6. Arkansas Code § 2-39-102 is amended to read as follows:

19 2-39-102. Definition of fence.

20 As used in this chapter and all laws referring to this chapter,
21 "fence":

22 (1) "Fence" means a structure that is a boundary or barrier that
23 limits human, livestock, or vehicle ingress or egress in an area; and

24 (2) "Livestock" means cattle, bison, horses, sheep, goats,
25 asses, mules, and swine.

26
27 SECTION 7. Arkansas Code § 2-39-106 - § 2-39-108 are amended to read
28 as follows:

29 ~~2-39-106. Sufficiency.~~

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

32
33 ~~2-39-107. View of fence.~~

34 ~~Upon the complaint of the party injured to any justice of the peace of~~
35 ~~the township, the justice shall issue an order to three (3) disinterested~~
36 ~~householders of the neighborhood not related to the parties, reciting the~~

1 ~~complaint and requiring them to view the fence where the trespass is~~
2 ~~complained of and take a memorandum of it. Their testimony in that case shall~~
3 ~~be good evidence on the trial touching the lawfulness of the fence.~~
4

5 2-39-108. ~~Animals~~ Livestock breaking into enclosures.

6 If any ~~horse, cattle, or other stock shall break into any enclosure or~~
7 ~~if any hog, pig, or shoat~~ livestock shall break into any enclosure, the owner
8 of the ~~creature~~ livestock and the injured party shall:

9 (1) For the first trespass, ~~make reparation to the party injured~~
10 ~~for the true value of the damages he or she may have sustained;~~

11 (A) The injured party shall make a record of the incursion
12 and notify the Department of Agriculture in writing through procedure
13 established by the department; and

14 (B) The owner of the livestock shall make reparation to
15 the injured party for the true value of damages he or she may have sustained;

16 (2) For every additional trespass ~~after~~ within twelve (12)
17 months of the first trespass, double damages to be recovered with costs,
18 ~~before any justice of the peace or court having jurisdiction over the~~
19 ~~trespass, in the name of the injured party;~~

20 (A) The injured party shall make a record of the incursion
21 and notify the Department of Agriculture in writing through procedure
22 established by the department; and

23 (B) The owner of the livestock shall be liable for double
24 damages to be recovered with costs before any court having jurisdiction over
25 the trespass; and

26 (3)(A) For the third offense from any animal named breaking into
27 the enclosure trespass within twelve months of the first trespass, the party
28 injured may kill and destroy sell or otherwise transfer the animal livestock
29 so trespassing without being answerable for it.

30 (B) The owner of the livestock may file a claim before any
31 court having jurisdiction over the trespass to recover any amount of the
32 proceeds in excess of the impounder's damage.

33 (C) Notice provided to the department under this section
34 may be used as evidence of the injured party's compliance in any proceedings
35 stemming from the sale or transfer of the livestock.
36

1 SECTION 8. Arkansas Code § 2-39-110 is repealed.

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

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

8
9 SECTION 9. Arkansas Code Title 14, Chapter 386, is repealed.

10 ~~CHAPTER 386 FENCING DISTRICTS~~

11 ~~Subchapter 1—General Provisions~~

12 ~~14-386-101. Definition.~~

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

17
18 ~~14-386-102. Penalty for leaving gates open, etc.—Damages.~~

19 ~~(a) Any person who shall willfully leave open or unfastened any gate,~~
20 ~~bars, or other passway leading into a fencing district, or any person passing~~
21 ~~through a gate, bars, or other passway and finding the gates, bars, or other~~
22 ~~passway opened or unfastened and shall fail to close or fasten them, or who~~
23 ~~shall tear down the fence, or any part of it, or in any manner injure or~~
24 ~~destroy it, shall be guilty of a misdemeanor.~~

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

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

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

32
33 ~~14-386-103. Penalty for stock running at large—Damages.~~

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

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

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

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

10
11 ~~14-386-104. Establishment of fencing districts.~~

12 ~~(a) The county court of any county in the state is authorized,~~
13 ~~empowered, and required, on the petition of two thirds (2/3) of the landowners~~
14 ~~of any township, or any fractional part of them contiguous to each other, to~~
15 ~~form a fencing district and establish the boundaries of it in accordance with~~
16 ~~the petition.~~

17 ~~(b) Each district shall be designated by number.~~

18
19 ~~14-386-105. Appointment of fencing board, etc.~~

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

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

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

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

32 ~~(B) If any member of the board shall fail to take the oath~~
33 ~~and file it in the office of the clerk within the time allowed in this~~
34 ~~section, he shall be taken to have declined the office and the court shall at~~
35 ~~once appoint another person having the like qualifications in his place, who~~
36 ~~shall take and file the oath of office within ten (10) days after his~~

1 appointment.

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

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

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

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

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

13

14 ~~14-386-106. Appointment of collector and treasurer, etc.~~

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

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

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

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

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

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

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

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

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~~14-386-107. Plans for building fence.~~

~~(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. Openings and gates required.~~

~~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. No boundary fences for adjoining districts.~~

~~(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. Removal of fence in adjoining districts.~~

~~(a) In any fencing district or no fence district created, whether~~

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

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

17
18 ~~14-386-111. Use of existing fences.~~

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

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

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

33
34 ~~14-386-112. Navigable stream as lawful fence.~~

35 Where the boundary of any fencing district shall lie along the bank of
36 a navigable stream, and any other watercourse flows into the stream across

1 ~~the boundary with such force as to render it impracticable to maintain~~
2 ~~watergaps, the distance from bank to bank of the watercourse shall be deemed~~
3 ~~and held to be a good and lawful fence as part of the fence enclosing the~~
4 ~~district.~~

5
6 ~~14-386-113. Assessment not required.~~

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

12
13 ~~14-386-114. Railroads subject to tax.~~

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

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

24
25 ~~14-386-115. Order of assessment.~~

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

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

34 ~~(b)(1) If the estimated cost of the fencing shall exceed one percent~~
35 ~~(1%) of the assessed value of the land as indicated, then it shall be~~
36 ~~provided by the order that the assessment shall be paid in successive annual~~

1 ~~installments, so that no assessment shall in any one (1) year exceed one~~
2 ~~percent (1%) of the assessed value of the land for the fencing.~~

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

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

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

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

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

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

25
26 ~~14-386-116. Publication of order — Contest.~~

27 ~~(a) Within seven (7) days from the making of the order mentioned in §~~
28 ~~14-386-115, the county clerk shall publish a copy of it in some newspaper~~
29 ~~published in the county one (1) time if a newspaper is published in the~~
30 ~~county; and if not, then by posting the copy at the courthouse door, and by~~
31 ~~posting not less than ten (10) copies of it in the district.~~

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

34 ~~(2) A person shall commence legal proceedings for the purpose of~~
35 ~~trying the validity of the assessment within twenty (20) days after the date~~
36 ~~of publication, or else he shall be forever barred in all courts of law or~~

1 equity from questioning the validity of the assessment and the lien created
2 by it.

3
4 ~~14-386-117. Delivery of assessment to collector.~~

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

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

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

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

14 ~~(b) The warrant may be in the following form: "State of Arkansas to the~~
15 ~~Collector of Fencing District No....."~~

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

19 ~~"Witness my hand and official seal of this day of~~
20 ~~....., 19....."~~

21
22 ~~14-386-118. Notice of assessment.~~

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

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

33 ~~"Given under my hand this day of,~~
34 ~~19....."~~

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

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~~14-386-119. Proceedings upon nonpayment of 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 straightway 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 delinquencies in no fence district.~~

~~(a) In all instances where county collectors are charged with the~~

1 ~~collection of assessments in no fence districts, they shall, in addition to~~
2 ~~certifying the list of delinquent assessments to the commissioners of the~~
3 ~~district, certify the list to the county clerk.~~

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

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

8
9 ~~14-386-121. Annual repairs.~~

10 ~~(a) The cost of keeping a fence in repair shall, from year to year, be~~
11 ~~ascertained, collected, and expended in the same manner as is provided in §~~
12 ~~14-386-115 as to the cost of the original erection of the fence. However, the~~
13 ~~county court shall be authorized, on the petition of two-thirds (2/3) of the~~
14 ~~landowners of the district, to revoke the order that established the~~
15 ~~district.~~

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

19
20 ~~14-386-122. Control of fence construction.~~

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

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

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

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

31
32 ~~Subchapter 2—Small Stock~~

33
34 ~~14-386-201. Penalty.~~

35 ~~(a) Whenever a fencing district is established under the provisions of~~
36 ~~this subchapter, it shall be unlawful for any person owning or having control~~

1 of stock that have been restrained from running at large to knowingly permit
2 such stock to run at large within the territory comprising the district.

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

7
8 ~~14-386-202. Establishment of fencing districts.~~

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

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

17 (3) ~~Each district shall be designated by number.~~

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

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

24
25 ~~14-386-203. Lawful fence.~~

26 ~~Whenever a fencing district is established as to small stock, such as~~
27 ~~hogs, sheep, goats, etc., four (4) barbed wires securely fastened to posts~~
28 ~~firmly set in the ground, not exceeding sixteen feet (16') apart, the bottom~~
29 ~~wire twenty inches (20") above the ground, the second wire ten inches (10")~~
30 ~~above the first, the third wire twelve inches (12") above the second, and the~~
31 ~~fourth wire twelve inches (12") above the third; or five (5) sound rails~~
32 ~~securely fastened to posts firmly set in the ground, the top rail four and~~
33 ~~one-half feet (4½') above the ground, and the others properly spaced beneath,~~
34 ~~shall be a lawful fence within the district.~~

35
36 ~~Subchapter 3—Additions or Consolidations~~

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~~14-386-301.—Addition of adjacent area to fencing district.~~

~~(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.—Consolidation of fence or no fence districts.~~

~~(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~~

1 ~~appointed as commissioners of the consolidated district, or the court may~~
2 ~~appoint three (3) other landowners of the district as commissioners.~~

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

7
8 ~~Subchapter 4 — Enclosure by Other Districts~~

9
10 ~~14-386-401. Penalty for animals running at large — Damages.~~

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

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

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

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

26
27 ~~14-386-402. Petition to establish district.~~

28 ~~When any number of landowners owning land adjacent to any fencing~~
29 ~~district organized under and pursuant to the law shall present to the county~~
30 ~~court a petition, in writing, accompanied by a map, giving a description and~~
31 ~~setting forth what land they desire to have enclosed in such district, and~~
32 ~~where the lands as set forth and described in the petition are bounded or~~
33 ~~completely enclosed by existing fencing districts, no fence districts,~~
34 ~~counties where a stock law is in effect, or navigable rivers, or combination~~
35 ~~of them, it shall be the duty of the court to give notice, by publication in~~
36 ~~some newspaper published in the county where the lands lie, of the filing of~~

1 the petition and a description of all lands as set forth and contained in the
2 description.

3
4 ~~14-386-403. Submission to electors.~~

5 ~~(a) The county court shall in the same publication prescribed by § 14-~~
6 ~~386-402 give notice of and cause an election to be held within thirty (30)~~
7 ~~days of the date of the filing of the petition, in the townships or parts of~~
8 ~~townships included in the petition, where the question of the creation of the~~
9 ~~proposed fencing district shall be submitted to the qualified electors living~~
10 ~~or owning land in the proposed district.~~

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

15
16 ~~14-386-404. Manner of election.~~

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

20 ~~(b) Ballots used in elections provided for in this subchapter shall be~~
21 ~~substantially in the following form: "FENCING DISTRICT BALLOT~~
22 ~~"A petition has been filed in the County court of County to~~
23 ~~create and establish a fencing district within that part of~~
24 ~~county bounded and completely enclosed by (here insert the limits and~~
25 ~~boundaries as contained in the petition). If a majority of the qualified~~
26 ~~electors voting in this election approve of the proposed fencing district as~~
27 ~~described above, thirty (30) days after the date of this election, it shall~~
28 ~~be unlawful for any person or persons to permit stock to roam or run at large~~
29 ~~within such district.~~

30 ~~FOR the creation of the fencing district □.~~
31 ~~AGAINST the creation of the fencing district □."~~

32
33 ~~14-386-405. Election results.~~

34 ~~(a) After the county election commissioners have ascertained and~~
35 ~~declared the results of any election held under the provisions of this~~
36 ~~subchapter, it shall be the duty of the county court to cause the results to~~

1 ~~be printed in some newspaper published in the county where the lands lie.~~

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

4
5 ~~14-386-406. Rejection of proposal.~~

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

11
12 ~~14-386-407. Payment of expenses.~~

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

20
21 ~~14-386-408. Navigable river as lawful fence.~~

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

26
27 ~~Subchapter 5 — Status and Funding~~

28
29 ~~14-386-501. Construction.~~

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

32
33 ~~14-386-502. Validation of existing districts.~~

34 ~~The organization of all fencing districts created and established by~~
35 ~~order of any county court in the State of Arkansas, which have not been~~
36 ~~abandoned or dissolved by the judgment or order of any court of competent~~

1 jurisdiction, are ratified and confirmed. All districts are declared to be
2 legal entities in the nature of quasi-municipal corporations, public agencies
3 with all powers and authorities vested in them by the provisions of §§ 14-
4 386-101—14-386-108, 14-386-111, 14-386-113, 14-386-115—14-386-119, 14-
5 386-121, 14-386-122, and all legislation supplementary thereto.

6
7 14-386-503. Money from federal government or private sector.

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

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

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

23
24 14-386-504. Issuance of bonds, notes, etc.

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

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

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

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

7 ~~(i) Be, and constitute, the general obligation of~~
8 ~~any district;~~

9 ~~(ii) Have the effect of negotiable paper;~~

10 ~~(iii) Not be invalid for any irregularity or defect~~
11 ~~in the proceedings for the issue or sale of them; and~~

12 ~~(iv) Be incontestable in the hands of bona fide~~
13 ~~purchasers or holders for value.~~

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

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

28
29 ~~14-386-505. Disposition of surplus funds.~~

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

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~~Subchapter 6 — Stock at Large~~

~~14-386-601. — Impounding of animals.~~

~~(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. — Return 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. — Appointment of 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. — Sale of impounded animals.~~

~~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. — Disposition of excess money.~~

~~(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~~

1 ~~punished as such.~~

2

3 ~~14-386-606. Duties of treasurer.~~

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

9

10 */s/Beaty Jr.*

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