CHAPTER 133

FENCES AND FENCE VIEWERS

§2951. Legal fences

All fences 4 feet high and in good repair, consisting of rails, timber, stone walls, iron or wire, and brooks, rivers, ponds, creeks, ditches and hedges, or other things which in the judgment of the fence viewers having jurisdiction thereof are equivalent thereto, are legal and sufficient fences. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2952. Maintenance

The occupants of lands enclosed with fences shall maintain partition fences between their own and the adjoining enclosures, in equal shares, while both parties continue to improve them. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2953. Neglect of owners; function of fence viewers

If any party neglects or refuses to repair or rebuild any such fence that that party is legally required to maintain, the aggrieved party may complain to 2 or more fence viewers of the town where the land is situated who, after due notice to the delinquent party, shall proceed to survey it and, if they determine that it is insufficient, they shall signify it in writing to the delinquent occupant and direct the delinquent occupant to repair or rebuild it within such time as they judge reasonable not exceeding 30 days. If the fence is not repaired or rebuilt accordingly, the complainant may make or repair it. [PL 1991, c. 548, Pt. A, §24 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 548, §A24 (AMD).

§2954. Double compensation for building fence

When the complainant has completed such fence and, after notice given, it has been adjudged sufficient by 2 or more of the fence viewers, and the value thereof, with the fence viewers' fees, certified under their hands, the complainant may demand of the occupant or owner of the land where the fence was deficient double the value and fees thus ascertained. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

In case of neglect or refusal for one month after demand, the complainant may recover the same by a civil action, with interest at the rate of 1% a month, and if the delinquent owner or occupant repairs or rebuilds such fence without paying the fees of the fence viewers, certified by them, double the amount thereof may be recovered by the complainant as provided. [PL 1987, c. 737, Pt. A, §2

(NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2955. Division of partition fences; record of assignments; fees

When the occupants or owners of adjacent lands disagree respecting their rights in partition fences and their obligation to maintain them, on application of either party, 2 or more fence viewers of the town where the lands lie, after reasonable notice to each party, may in writing under their hands assign to each the occupants' or owners' share thereof and limit the time in which each shall build or repair each occupant's or owner's part of the fence, not exceeding 30 days. Such assignment and all other assignments of proprietors of partition fences provided for, recorded in the town clerk's office, shall be binding upon the parties and they shall thereafter maintain their part of the fence. If such fence has been built and maintained by the parties in unequal proportions and the fence viewers adjudge it to be good and sufficient, they may, after notice in writing under their hands, award to the party who built and maintained the larger portion the value of such excess, to be recovered in a civil action against the other party if not paid within 6 months after demand. Parties to assignments shall pay the fees of the fence viewers certified under their hands in equal proportions, and if either party neglects to pay the party's proportion within one month after demand, the party applying to the fence viewers may pay the same and recover of the delinquent party, in a civil action, double the amount of that party's proportion thereof. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2956. Building of part assigned; remedy on failure

If any party refuses or neglects to build and maintain the part thus assigned to that party, it may be done by the aggrieved party who is entitled to double the value and expenses, to be ascertained and recovered as provided in section 2954, and shall have a lien therefor on the land owned or occupied by the party neglecting or refusing to build or maintain the partition fence assigned to that party by the fence viewers, to be enforced by attachment made within one year from the day of division by them. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2957. Repairs

All division fences shall be kept in good repair throughout the year, unless the occupants of adjacent lands otherwise agree. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2958. Fences may vary from dividing line

When, in the opinion of the fence viewers having jurisdiction of the case, it is, by reason of natural impediments, impracticable or unreasonably expensive to build a fence on the true line between adjacent lands and the occupants disagree respecting its position, on application of either party as provided in section 2955, and after notice to both parties and a view of the premises, they may determine by a certificate under their hands communicated to each party on which side of the true line and at what distance, or whether partly on one side and partly on the other and at what distances, the fence shall be built and maintained and in what proportion by each party. Either party may have the same remedy against the other as if the fence were on the true line. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2959. Assignment of parts before fence is built

When adjacent lands have been occupied in common without a partition fence and either party desires to occupy in severalty or when it is necessary to make a fence running into the water and the parties liable to build and maintain it disagree, either party may apply to the fence viewers of the town, who shall proceed as in section 2955, except that the fence viewers may allow longer than 30 days for building the fence, having regard to the season of the year. In other respects, the remedy shall be as provided in section 2955. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2960. Occupant ceasing to improve land; adjoining owner may buy fence

When one party ceases to improve that party's land or lays open that party's enclosure, that party shall not take away any part of that party's partition fence adjoining the next enclosure improved if the owner or occupant thereof will pay therefor what 2 or more fence viewers, on due notice to both parties, determine to be its reasonable value. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2961. Liability of owner starting to improve land lying in common

When any land which has been unenclosed is afterwards enclosed or used for pasturing, its occupant or owner shall pay for 1/2 of each partition fence on the line between that occupant's or owner's land and the enclosure of any other occupant or owner and its value shall be ascertained in writing; if the parties do not agree, by 2 or more of the fence viewers of the town where such fence stands. After the value is so ascertained, on notice to such occupant or owner, if the occupant or owner neglects or refuses for 30 days after demand to pay it, the proprietor of the fence may have a civil action for such value and the cost of ascertaining it. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2962. Fences on town line

If the line on which a partition fence is to be made or divided is the boundary between 2 or more towns, or partly in one town and partly in another, a fence viewer shall be taken from each town. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2963. Division of fences; notice; verbal agreements

When a fence between owners of improved lands is divided either by fence viewers or by the written agreement of the parties recorded in the town clerk's office where the land lies, the owners shall erect and support it accordingly. If any person lays that person's own lands common, and determines not to improve any part of them adjoining such fence, and gives 6 months' notice to all occupants of adjoining lands, that person shall not be required to maintain such fence while that person's land so lies common and unimproved. All partition fences divided by parol agreement and actually built in pursuance of such agreement, including fences so built heretofore, shall be deemed legal fences as if divided by fence viewers or written agreement, and the adjoining owners shall support their respective portions of fence under such agreement until otherwise ordered by the fence viewers on application to them by either party. When a party has constructed that party's part of a fence in pursuance of a parol or written agreement or assignment of fence viewers, no assignment may thereafter be made by fence viewers depriving that party of the full value of such fence or any part thereof. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2964. Applicability to house lots or written agreements

Nothing in this chapter extends to house lots, the contents of which do not exceed half an acre; but if the owner of such lot improves it, the owner of the adjacent land shall make and maintain 1/2 of the fence between them whether that owner of adjacent land improves or not; nor does this chapter make void any written agreement respecting partition fences. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2965. Neglect of duty by fence viewers

Any fence viewer who, when requested, unreasonably neglects to view any fence or to perform any other duties required of the fence viewer forfeits $3 to any person suing therefor within 40 days after such neglect and is liable for all damages to the party injured. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2966. Compensation of fence viewers

Each fence viewer shall be paid by the person employing the fence viewer at the rate of $3 a day for the time employed. If the party liable neglects to pay the same for 30 days after demand, each fence viewer may recover double the amount in a civil action. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

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