



Ohio Revised Code

Section 971.07 Responsibility for new partition fence - reimbursement.

Effective: September 30, 2008

Legislation: House Bill 323 - 127th General Assembly

(A) If a partition fence does not exist between adjoining properties, there is no evidence that a partition fence previously existed, an affidavit has not been filed with the applicable county recorder in accordance with section 971.05 or 971.06 of the Revised Code, or a written agreement between the owners of adjoining properties has not been filed with the applicable county recorder in accordance with section 971.04 of the Revised Code and an owner wants to build a partition fence, that owner shall bear the costs of building and maintaining in good repair the partition fence. The owner may file with the applicable county recorder an affidavit that specifies the costs incurred by the owner to build the partition fence. Each year after the fence is built, the owner may file with the applicable county recorder an affidavit that specifies the costs incurred that year by the owner to maintain the fence in good repair.

(B) If an owner of adjoining property that did not assist in bearing the costs of building and maintaining in good repair a partition fence, or any successor in interest of the property, subsequently uses the fence to keep livestock enclosed on the property within thirty years after the fence was built, the owner that built the fence, or any successor in interest of the property, may file a claim for reimbursement of a proportionate share of the total cost of building and maintaining in good repair the partition fence with the owner of the adjoining property or that owner's successor in interest, provided that an affidavit has been filed under division (A) of this section. A reimbursement claimed under this division shall equal the total cost of building and maintaining the partition fence in good repair minus one-thirtieth of the total cost multiplied by the number of years, including parts of a year, that are included in the period beginning on the date on which the affidavit was filed and ending on the date on which the claim for reimbursement is made. An owner that receives a claim for reimbursement under this division promptly shall pay it. In addition, if necessary, the owners shall modify the partition fence so that it complies with the standards for preferred partition fences established in this chapter. The owners shall equally divide the costs of the modification of the partition fence.

(C) If the owner of adjoining property, or that owner's successor in interest, fails to pay the claim for



reimbursement of the proportionate share of the total cost of building and maintaining in good repair the partition fence that was filed under division (B) of this section, the owner that filed the claim for reimbursement may file an action in a court of competent jurisdiction to recover not more than the proportionate share of the total cost of building and maintaining in good repair the partition fence.

(D) If the owner of adjoining property, or that owner's successor in interest, pays the claim for reimbursement filed by the owner that built and maintained in good repair the partition fence under division (B) of this section or is required to reimburse that owner by a court under division (C) of this section, the owner of the adjoining property, or that owner's successor in interest, subsequently is subject to section 971.06 of the Revised Code.

(E) If the owner that builds and maintains in good repair a partition fence does not file an affidavit under division (A) of this section, the owner forfeits the owner's right to reimbursement from the owner of adjoining property as authorized under this section.