

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 109 (St. Mary's County Delegation)
Environment and Transportation Education, Health, and Environmental Affairs

St. Mary's County - Farm Fences - Repeal

This bill repeals specified provisions of public local law that relate to joint fences for adjoining farms in St. Mary's County.

Fiscal Summary

State Effect: None.

Local Effect: None. The bill repeals obsolete provisions of public local law in St. Mary's County.

Small Business Effect: None.

Analysis

Current Law: In St. Mary's County, whenever joint fences are established for the mutual benefit of different owners or possessors of adjoining land, each party must keep his/her proportion of the fence in good repair in the following manner: (1) all post and rail or plank fences must be at least four feet high, and all worm and other fences must be at least four and one-half feet high, based on a specified calculation; and (2) between the bottom rail or plank and the ground or embankment on which the fence is placed there must be no larger interval than eight inches, and between the bottom rail or plank and the rail or plank directly above the same there must be no larger interval than eight inches. When fence or fences must be constructed, in whole or in part of wire, the wires may not be more than seven inches apart to the height of twenty inches from the ground or embankment on which the fences may be placed.

If either of the parties making or keeping a joint fence fails to comply with the above provisions and refuses or delays to make or repair the fence within 30 days after notice in writing is given to the person or agent, overseer or tenant, a court of competent jurisdiction may authorize the party aggrieved by the refusal or delay to make or repair the fence, and require appropriate reimbursement for the proper proportion of all costs and reasonable expenses necessarily incurred, to be recovered from the party delaying or refusing to make or repair the fence.

If joint fences are not made and kept in repair, the aggrieved party may discontinue the fence by giving three months' notice in writing to the party refusing or delaying to make or repair the fence, or his/her tenant, overseer or agent; in all other cases, unless by mutual consent, 12 months' notice is required to discontinue any joint fences.

On any line of land of adjoining owners where there has been no fence, either of the owners, upon giving notice to the adjoining owner and upon the refusal or delay of the adjoining owner to build the fence, the party giving the notice is authorized to build a fence and recover all proportionate costs and reasonable expenses incurred in building the fence from the owner so in default according to these provisions.

Background: St. Mary's County reports that these provisions of public local law were enacted in 1916, last amended in 1981, and are now obsolete. The county advises that this issue is addressed by the common law right of contribution by tenants in common.

Additional Information

Prior Introductions: None.

Cross File: SB 102 (Senator Waugh) - Education, Health, and Environmental Affairs.

Information Source(s): St. Mary's County; Judiciary (Administrative Office of the Courts); Maryland Department of Agriculture; Department of Legislative Services

Fiscal Note History: First Reader - January 23, 2017
md/tso Third Reader - March 21, 2017

Analysis by: Michael Sanelli

Direct Inquiries to:
(410) 946-5510
(301) 970-5510