

**FENCING RESPONSIBILITIES WITH
GREENBELT OR CONSERVATION EASEMENT**

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: David Ure

LONG TITLE

General Description:

This bill modifies agricultural fencing provisions to require a qualified adjoining landowner to pay 1/2 the cost of constructing and maintaining a fence under certain situations.

Highlighted Provisions:

This bill:

- ▶ defines qualified landowner and qualified adjoining landowner as owners of land used for certain purposes that qualifies under Section 59-2-502 as land in agricultural use or land qualifying as conservation easement land for purposes of this section;
- ▶ requires qualified adjoining landowners to pay 1/2 the cost of a partition fence in certain situations;
- ▶ requires that fencing costs be reasonable, of the type commonly found in that area, and no more expensive than certain specified materials; and
- ▶ allows the qualified landowner to bring a civil action against the qualified adjoining landowner for noncompliance.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

4-26-5.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-26-5.1 is enacted to read:

4-26-5.1. Definitions -- Qualified landowners and qualified adjoining landowners partition fences -- Contribution -- Civil action for damages.

(1) As used in this section:

(a) "Qualified adjoining landowner" means a private landowner whose land adjoins the land of a qualified landowner and is used for grazing livestock or as habitat for big game wildlife and:

(i) is land which qualifies under the definition of "conservation easement" as defined in Section 57-18-2, under Title 57, Chapter 18, Land Conservation Easement Act; or

(ii) is "land in agricultural use" that meets the requirements of Section 59-2-502.

(b) "Qualified landowner" means a private landowner whose land is used for grazing livestock and:

(i) is land which qualifies under the definition of "conservation easement" as defined in Section 57-18-2, under Title 57, Chapter 18, Land Conservation Easement Act; or

(ii) is "land in agricultural use" that meets the requirements of Section 59-2-502.

(2) A qualified landowner may require the qualified adjoining landowner to pay for 1/2 of the cost of the fence if:

(a) the fence is or becomes a partition fence separating the qualified landowner's land from that belonging to the qualified adjoining landowner;

(b) the cost is reasonable for that type of fence;

(c) that type of fence is commonly found in that particular area; and

(d) the construction of the fence is no more expensive than the cost for posts, wire, and connectors.

(3) If the qualified adjoining landowner refuses, the qualified landowner may maintain a civil action against the qualified adjoining landowner for 1/2 of the cost of that portion of the

fence.

(4) The cost of the maintenance of the fence shall also be apportioned between each party based upon the amount of land enclosed. A party who fails to maintain his part of the fence is also liable in a civil action for any damage sustained by the other party as a result of the failure to maintain the fence.