

**SENATE
STATE OF MINNESOTA
NINETIETH SESSION**

S.F. No. 1736

(SENATE AUTHORS: WESTROM)

DATE
03/06/2017

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Introduction and first reading
Referred to Local Government

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to partition fences; providing that a landowner or occupant who does not
1.3 need a partition fence cannot be required to share in construction or maintenance
1.4 costs; repealing a statute that applies this standard only in St. Louis County;
1.5 amending Minnesota Statutes 2016, section 344.03, subdivision 1, by adding a
1.6 subdivision; repealing Minnesota Statutes 2016, section 383C.809.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2016, section 344.03, subdivision 1, is amended to read:

1.9 Subdivision 1. **Adjoining owners.** Except as provided in subdivision 3, if all or a part
1.10 of adjoining Minnesota land is improved and used, and one or both of the owners of the
1.11 land desires the land to be partly or totally fenced, the ~~land owners~~ landowners or occupants
1.12 shall build and maintain a partition fence between their lands in equal shares. The requirement
1.13 in this ~~section~~ subdivision and the procedures in this chapter apply to the Department of
1.14 Natural Resources when it owns land adjoining privately owned land subject to this section
1.15 and chapter and the landowner desires the land permanently fenced for the purpose of
1.16 restraining livestock.

1.17 Sec. 2. Minnesota Statutes 2016, section 344.03, is amended by adding a subdivision to
1.18 read:

1.19 **Subd. 3. Owner or occupant not required to pay for fence; re-evaluation authorized.**

1.20 **(a) When a landowner or occupant has no need for a fence, that owner or occupant shall**
1.21 **not be required to build or maintain, or to pay for the building or maintenance of, a partition**
1.22 **fence under this chapter. For purposes of this subdivision, a landowner or occupant with**

2.1 no need for a fence includes, but is not limited to, one whose neighbor builds, maintains,
2.2 or intends to build or maintain a partition fence to restrain livestock to the neighbor's property.

2.3 (b) If adjoining landowners or occupants disagree about the need for a fence, it is a
2.4 controversy to be decided by a fence viewer under section 344.06.

2.5 (c) If a landowner or occupant is not required to build or maintain, or pay for the building
2.6 or maintenance of, a partition fence under paragraph (a), but that owner's or occupant's
2.7 circumstances change to include the need for a partition fence within seven years after the
2.8 partition fence is constructed, either adjoining owner or occupant may request that a fence
2.9 viewer perform a re-evaluation and reassignment of the cost of construction and maintenance
2.10 under section 344.06.

2.11 Sec. 3. **REPEALER.**

2.12 Minnesota Statutes 2016, section 383C.809, is repealed.

2.13 Sec. 4. **EFFECTIVE DATE.**

2.14 This act is effective August 1, 2017, and applies to partition fences built on or after that
2.15 date.

383C.809 ST. LOUIS COUNTY; PARTITION FENCE CONTROVERSIES.

Notwithstanding chapter 344, when an owner or occupant of land in St. Louis County applies to the fence viewers for settlement of a partition fence controversy under chapter 344, the fence viewers shall not require an owner or occupant who can establish to the fence viewers that the establishing owner or occupant has no need for a fence to pay any share of the cost of construction or maintenance of the fence. If an owner or occupant is exempt from payment of any of the costs of a partition fence because the owner or occupant does not need the fence, but that owner's or occupant's circumstances change to include the need for a partition fence within seven years of completion of the partition fence, either owner or occupant may request the fence viewers to perform a reevaluation and reassignment of shares of the cost of construction and maintenance in accordance with section 344.06. If the landowners or occupants disagree about the need for a fence, it is a controversy under that section. A decision by the fence viewers of a controversy relating to a partition fence may include an assignment of shares of the cost of construction, repair, or maintenance of a partition fence in accordance with the need and benefit of each party. Except as provided in this section, all other controversies relating to partition fences shall conform to chapter 344.