

IC 32-26-6

Chapter 6. Enclosure of Land Subject to Flooding

IC 32-26-6-1

Petition; inspection; assessment

Sec. 1. (a) The owners of real property in a county who own the major portion of the property in the county that is:

- (1) improved and used for purposes of agriculture;
- (2) in an area that is:
 - (A) definitely described by sections or subdivisions of sections; or
 - (B) sufficiently described by metes and bounds; and
- (3) situated upon or near, and subject to overflow from:
 - (A) a stream;
 - (B) a watercourse;
 - (C) a lake;
 - (D) a pond; or
 - (E) a marsh;

may petition the board of commissioners of the county, asking permission to enclose the properties within one (1) general fence that has swinging gates on all public highways crossed by the fence. A petition under this subsection must set forth the kind of fence and gates desired.

(b) Upon the receipt of a petition under subsection (a), the board of county commissioners shall appoint as viewers three (3) reputable householders of the county who are not related by blood or marriage to any of the parties interested in the subject of the petition. After being sworn to faithfully and fairly perform the services required of them, the viewers shall proceed:

- (1) within a reasonable time after the viewers' appointment; and
- (2) after giving publication of the viewers' intention by posting written or printed notices describing the properties in the townships where the properties are located;

to inspect the properties and make an assessment against the owners of the properties for the cost of the fence.

(c) The cost of the fence shall be apportioned between the owners of the properties severally according to the number of acres of improved land owned by each owner and the benefits accruing to the owners severally because of the fence.

As added by P.L.2-2002, SEC.11.

IC 32-26-6-2

Reports of viewers; order to erect or construct fence

Sec. 2. (a) After having performed the duties required under section 1 of this chapter, the viewers shall, as soon as practicable, submit a report in writing to the board of county commissioners of the viewers' actions and a tabular statement of the viewers' assessment. The report submitted under this section is sufficient

authority for the board of county commissioners to issue an order for the erection or construction of the fence and gates if there is no remonstrance against the erection of the fence and gates.

(b) If a remonstrance is made under subsection (a), the board of county commissioners may order or refuse to order the erection of the fence or gate, in the board's discretion.

(c) If the order under subsection (a) is not made because of a mistake or error committed by the viewers, other viewers may be appointed to perform the same service and submit a report.

As added by P.L.2-2002, SEC.11.

IC 32-26-6-3

Affidavit of unpaid assessments

Sec. 3. (a) A certified copy of the report of the viewers, as approved by the board of commissioners, shall be filed in the office of the county auditor.

(b) Thirty (30) days after the fence and gates described in section 1 of this chapter have been constructed, any person interested in the fence and gates may make an affidavit before the county auditor showing which property owners have not paid their several assessments. The county auditor shall enter the sums assessed against the delinquent persons upon the tax duplicate to be collected by the treasurer as other taxes are collected. When the assessments have been collected, the money shall be paid out to the property owners who have voluntarily paid the cost of the fence, in proportion to the amount of the property owners' several assessments.

As added by P.L.2-2002, SEC.11.

IC 32-26-6-4

Surveyors; compensation of viewers

Sec. 4. The viewers appointed under this chapter may, if necessary, employ a surveyor, who shall be paid for the surveyor's services as may be agreed upon. The board of county commissioners shall fix the compensation of the viewers for their services. The entire cost and expenses of the proceedings are a part of the cost of the erection of the fence and gates and shall be collected in the same manner.

As added by P.L.2-2002, SEC.11.

IC 32-26-6-5

Stock running at large

Sec. 5. A person who owns property enclosed under this chapter may not allow stock to run at large upon the enclosed property during the period beginning March 16 and ending December 25 of any year.

As added by P.L.2-2002, SEC.11.