

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

SENATE FILE NO. _____

Subdivision-perimeter partition fencing.

Sponsored by: Joint Agriculture, State and Public Lands
and Water Resources Interim Committee

A BILL

for

1 AN ACT relating to subdivisions; requiring subdivision
2 perimeter partition fences as specified; specifying
3 requirements to erect and maintain subdivision perimeter
4 partition fences; providing for costs of maintaining
5 fences; providing a conforming amendment; and providing for
6 an effective date.

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8 *Be It Enacted by the Legislature of the State of Wyoming:*

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10 **Section 1.** W.S. 11-28-106 and 18-5-306(a) by creating
11 a new paragraph (xiii) are amended to read:

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1 **11-28-106. Construction and maintenance of partition**
2 **fences.**

3
4 (a) Except as otherwise provided, the owner of any
5 lawful fence which is or becomes a partition fence
6 separating the owner's land from that belonging to some
7 other person may require the person to pay for one-half
8 (1/2) of what it would or does actually cost to construct
9 the partition fence. In case of refusal, the owner may
10 maintain a civil action against the person refusing and is
11 entitled to recover one-half (1/2) of what it would or did
12 actually cost to construct that portion of the partition
13 fence used by the person and costs of suit. The joint users
14 of a partition fence shall contribute to the cost of
15 maintenance in proportion to their respective interests and
16 if either refuses to pay his share of the cost of
17 maintenance, the other may recover maintenance costs in the
18 manner provided for recovering the cost of construction.

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20 (b) For subdivisions as defined in W.S.
21 18-5-302(a)(vii), the owner of a tract of land located on
22 the perimeter of a subdivision shall be responsible for the
23 construction and maintenance of the perimeter fence in

1 accordance with the requirements set forth in W.S.
2 18-5-306(a)(xiii)(B). In the event W.S.
3 18-5-306(a)(xiii)(B) is applicable and a fence meeting the
4 minimal requirements described in W.S. 18-5-306(a)(xiii)(B)
5 is not constructed, the adjoining landowner shall not be
6 liable for any damages caused by, or arising from, livestock
7 pastured on the adjoining land that may wander onto the
8 subdivided land.

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10 **18-5-306. Minimum requirements for subdivision**
11 **permits.**

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13 (a) The board shall require, and with respect to
14 paragraph (xii) of this subsection may require, the
15 following information to be submitted with each application
16 for a subdivision permit, provided the board may by rule
17 exempt from any of the following requirements of this
18 subsection or subsection (c) of this section and may exempt
19 from paragraph (xii) of this subsection the subdivision of
20 one (1) or more units of land into not more than a total of
21 five (5) units of land:

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23 (xiii) Evidence satisfactory to the board that:

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(A) The subdivider who offers any part of the subdivision for sale or who solicits any offers for the purchase thereof, has discussed partition fences with all adjoining landowners, and either:

(I) Has reached an agreement with each adjoining landowner regarding whether a partition fence will be constructed and the requirements for the construction and maintenance of the partition fence; or

(II) If an agreement has not been reached with an adjoining landowner, the subdivider shall erect a partition fence that either meets the requirements of W.S. 11-28-102 or, if applicable, subdivisions (a)(xiii)(B)(I) and (II) of this paragraph. The subdivision covenants binding the subdivider's successors shall be recorded and shall include that each sale shall require the successor to maintain the fence at his sole expense.

(B) If an agreement has not been reached with an adjoining landowner, and if that adjoining

1 landowner has pastured sheep or goats on the land
2 immediately adjacent to the land being subdivided for a
3 period of at least thirty (30) uninterrupted days within
4 the twelve (12) months preceding submittal of the
5 application, the subdivider shall construct a fence that
6 meets or exceeds the following minimal requirements:

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8 (I) Steel, concrete or sound wooden
9 posts set firmly in the ground at least twenty (20) inches
10 deep, at no greater distance apart than twenty-two (22)
11 feet between the posts, or thirty-three (33) feet with at
12 least two (2) iron or wooden stays between the posts. The
13 stays shall be placed equal distance apart from themselves
14 and the post on either side; and

15
16 (II) Starting from ground level, woven
17 "net" wire at least thirty-two (32) inches in height with
18 two (2) spans of barbed wire not more than fifteen (15)
19 inches or less than ten (10) inches apart above the woven
20 "net" wire.

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22 (e) In the event subdivision (a)(xiii)(B) of this
23 section is applicable and a fence meeting the minimal

1 requirements described in subdivision (a)(xiii)(B) of this
2 section is not constructed by the subdivider, the adjoining
3 landowner shall not be liable for any damages caused by, or
4 arising from, livestock pastured on the adjoining land that
5 may wander onto the subdivided land.

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7 **Section 2.** This act is effective July 1, 2011.

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(END)