



Jeff Grim

## *Final Analysis*

Legislative Service Commission

### **Am. H.B. 281** 127th General Assembly (As Passed by the General Assembly)

**Reps. Schlichter, Gibbs, J. McGregor, Brown, Wagoner, Combs, Webster, Stebelton, Collier, Aslanides, Domenick, Evans, Batchelder, Book, Daniels, Flowers, Gardner, R. Hagan, Harwood, Hottinger, Patton, Setzer, Zehringer**

**Sens. Mumper, Padgett, Carey, Harris, Kearney, Morano, Schaffer, Wagoner, Wilson**

**Effective date: August 22, 2008**

---

#### **ACT SUMMARY**

- Defines "animal," "grade animal," and "fair market value" for purposes of the law governing claims for compensation from the Dog and Kennel Fund that are made by an owner of an animal that is killed or injured by a dog.
- Revises certain provisions governing the determination of the fair market value of such an animal.
- Eliminates the opportunity for the owner of the animal to appeal to the board of township trustees regarding disputes with the county dog warden concerning the claim, and instead specifies that the owner may appeal to the board of county commissioners.

---

#### **CONTENT AND OPERATION**

##### **Definition of "animal"**

For purposes of provisions in the Dogs Law that govern claims for compensation from the Dog and Kennel Fund made by owners of animals that are killed or injured by a dog, the act defines "animal" as a horse, mule, sheep, head of cattle, swine, goat, domestic rabbit, or domestic fowl or poultry (secs. 955.12 and 955.29(A), by reference to sec. 955.51, not in the act). Accordingly, the act replaces references in those provisions to "horses, sheep, cattle, swine, mules, goats, domestic rabbits, or domestic fowl or poultry," to "horse, sheep, cattle,

swine, mule, and goat," and to "animals, fowl, or poultry" with references to an "animal" (secs. 955.12, 955.27, 955.29, 955.32, 955.351, 955.37, and 955.38).<sup>1</sup> In addition, the act makes a clarification by replacing a former reference to an "animal" with a reference to a "dog" (sec. 955.12).

### **Determination of fair market value of animal**

Under law retained in part by the act, any owner of animals that have an aggregate fair market value of \$10 or more and that have been injured or killed by a dog not belonging to the owner or harbored on his premises may seek compensation for the animals from the Dog and Kennel Fund. The act instead specifies that an owner of such an animal that the owner believes to have a fair market value of \$10 or more may seek such compensation. The act retains law specifying that the owner is prohibited from seeking compensation if he owns or harbors an unregistered dog on the date that the loss or injury occurred. (Sec. 955.29.) It adds that the board of county commissioners must make the final determination of the fair market value of an animal that is the subject of a claim (see below) (sec. 955.35).

The act defines "fair market value" as the average price that is paid for a healthy grade animal at a livestock auction licensed under continuing law and selected by the applicable board of county commissioners (sec. 955.29(B)). Under the act, "grade animal" means an animal that is not eligible for registration by a breed association or in a registry (sec. 955.29(A), by reference to sec. 955.51, not in the act).

Law unchanged by the act specifies that in order to be eligible to receive compensation from the Fund, the owner must notify a member of the board of county commissioners or dog warden of the loss or injury within three days after its discovery. The warden, who must be notified by a county commissioner if applicable, must investigate or have the loss or injury investigated promptly, and the person making the investigation must provide the owner with duplicate copies of forms on which to make a claim for compensation. (Sec. 955.29.)

Law largely unchanged by the act requires the owner to set forth the kind, grade, quality, and fair market value of the animals. The act clarifies that the owner must set forth the kind, grade, quality, and fair market value of the animal, as estimated by the owner. The act retains law that also requires the owner to set forth the nature and amount of the loss or injury, the place where the loss or injury occurred, and all other facts in the possession of the claimant that will enable the warden to fix responsibility for the loss or injury. (Sec. 955.29.)

---

<sup>1</sup> In the remainder of this analysis, "animal" will be used in place of those lists of animals.

Under law changed in part by the act, if the animals die as a result of their injuries, their fair market value is considered to be the market value of uninjured animals on the date of the death of the injured animals (sec. 955.29). The calculation of fair market value is subject to a limit of the lesser of \$500 per animal or the uninsured amount of the loss or injury (sec. 955.35). The act slightly revises the law by specifying that if the animal that is the subject of a claim dies as a result of the injuries that it received from a dog, the amount of indemnity is the fair market value of the animal on the date of its death subject to the limit established in ongoing law (sec. 955.35). The act retains law specifying that if the animal that is the subject of a claim does not die as a result of the injuries that it received from a dog, the amount of indemnity is the fair market value of the animal on the date on which it received its injuries subject to the statutory limit (secs. 955.29 and 955.35).

The act specifies that if the animal that is the subject of a claim is registered or eligible for registration in any accepted association of registry, the amount of indemnity is 125% of the fair market value of the animal on the date on which the animal was killed or injured subject to the statutory limit. The act further specifies that if the date of death or injury of an animal cannot be determined, the amount of indemnity must be based on the fair market value of the animal on the date on which the death or injury was discovered by its owner. (Sec. 955.35.)

The act retains law specifying that a fetus that is aborted by an animal because of stress inflicted by a dog and that does not, on that account, survive must be considered to have been killed by the dog regardless of the stage of pregnancy at which the abortion occurs. In the case of any such alleged cause of death, continuing law authorizes the warden, as part of his investigation, to request the Chief of the Division of Animal Industry in the Department of Agriculture to have a state veterinarian certify the cause of death and requires the Chief to comply promptly with the request. Under former law, the veterinarian had to send the certification to the warden. The act instead requires the veterinarian to send the certification to the board of county commissioners. (Secs. 955.29 and 955.35.)

### **Elimination of role of township trustees**

The act retains law specifying that when the owner of a killed or injured animal files his claim for compensation, if the dog warden finds all the statements that the owner made on the claim form to be correct and agrees with the owner as to the fair market value of the animal, the warden must promptly certify the form and send it to the board of county commissioners. Under prior law, if the warden did not find all the statements to be correct or did not agree with the owner as to the fair market value, the owner could appeal to the board of township trustees for a determination. The act instead specifies that such an appeal may be made to the board of county commissioners. Accordingly, the act specifies that statements from witnesses who viewed the results of the killing or injury together with any

pertinent documents, testimony, or other information that the warden has received must be submitted to the board of county commissioners rather than to the board of township trustees. (Sec. 955.29.) In addition, the act eliminates a reference to the amount of a claim that is allowed by the board of township trustees (sec. 955.35).

The act also revises the time frame within which the owner must submit the pertinent documents, testimony, or other information to the board. Rather than requiring the information to be submitted not later than 20 days after the loss or injury of an animal was discovered as required under former law, the act requires the information to be submitted not later than ten days after the warden finds that not all of the owner's statements are correct or disagrees with the owner's estimated fair market value, whichever is applicable. (Sec. 955.29.)

The act also eliminates prior law that required the board of township trustees to receive any other information or testimony that would have enabled it to determine the fair market value of the injured or killed animals (sec. 955.31). The act retains law governing matters concerning witnesses who provide testimony, but specifies that the board of county commissioners, rather than the board of township trustees, must administer an oath or affirmation to each claimant or witness (sec. 955.351).

In addition, the act eliminates former law that required the board of township trustees to hear the claims in the order of their filing and that authorized the board to allow the claims in full or in such parts as the testimony showed to be just to a maximum of the lesser of \$500 per animal or the uninsured amount of the loss or injury. The act also eliminates a requirement that the board of township trustees had to transmit its findings with the testimony taken and the fees due witnesses in each case over the official signatures of the board members to the board of county commissioners in care of the county auditor, who had to enter each claim reported on a book to be kept for that purpose in the order of its receipt. (Sec. 955.33.)

---

## HISTORY

ACTION	DATE
Introduced	06-27-07
Reported, H. Agriculture & Natural Resources	01-23-08
Passed House (90-0)	02-05-08
Reported, S. Agriculture	04-16-08
Passed Senate (32-0)	04-29-08
House concurred in Senate amendments (94-0)	05-07-08

08-hb281-127.doc/kl

