

Handbook of Florida Fence and Property Law: Fence Contracts¹

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Preface

With approximately 19,000 livestock farms in the state, along with horse farms; orange groves; croplands of soybeans, sugarcane, cotton, and peanuts; and many other agricultural and livestock facilities, livestock and farming have a significant impact on Florida's economy. Florida's agricultural economy has been required to co-exist with rapid population and commercial growth in the state over the last twenty-five years. Conflicts between these interests bring to prominence issues such as the rights and responsibilities of adjoining landowners, farmers, and property owners in general. Due to the added importance placed on these areas of real property, the legal aspects of fences in the state of Florida have taken on significant importance.

This handbook is designed to inform property owners of their rights and responsibilities in terms of their duty to fence. Discussed areas include a property owner's responsibility to fence when livestock is kept on the property, the rights of adjoining landowners to

fence, the placement of fences, encroachments, boundary lines, easements, contracts, nuisances, and a landowner's responsibilities towards persons who enter his property.

This handbook is intended to provide a basic overview of the many rights and responsibilities that farmers and farmland owners have under Florida's fencing and property law. Readers may value this handbook because it informs them about these rights and responsibilities. However, the reader should be aware that because the laws, administrative rulings, and court decisions on which this booklet is based are subject to constant revision, portions of this booklet could become outdated at any time. This handbook should not be viewed as a comprehensive guide to fencing and property laws. Additionally, many details of cited laws are left out due to space limitations. This handbook should not be seen as a statement of legal opinion or advice by the authors on any of the legal issues discussed within. This handbook is not a replacement for personal legal advice, but is only a guide to inform the public on issues relating to

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Readers wishing to find further information from the Florida Statutes may access those statutes online at <http://www.leg.state.fl.us/STATUTES/>.

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Fence Contracts

When entering into a fence contract or agreement, what do I need to consider so that I may avoid a future dispute?

For legal purposes as well as for clarity's sake and ease of recording, it is always better to have a written contract than a verbal agreement. A written contract provides you and your neighbor a better understanding of the intentions of all parties involved in the contract. In addition, it is usually easier to bind someone to a written rather than a verbal agreement. Although the list below does not provide a full list of everything that should be included in a written contract, the following elements should be included in any valid, legally recognized contract:

- The names and signatures of the parties
- A clear description of the lands involved and the terms that each party has agreed upon (e.g., who is to contribute what, maintenance responsibilities, the exact location of the fence, etc.)
- The date of the contract's execution
- At least two witnesses (preferably ones who have no interest in the contract and are not related to the parties) and a notary (identification of the signatories and attestation to the facts)

- The length of time that the contract will run or any ways it can be otherwise terminated
- Any methods for changing the terms of the contract in the future
- Damages and other remedies if one of the parties does not fulfill its agreed-upon obligations (Florida Statutes section 695.01)

Summary

Court actions are always expensive and time consuming. To avoid going to court in a dispute, start with a written contract, ensure all vague terms are clearly defined, and verify that all parties have agreed upon the terms. While the above list is not completely inclusive, it should help provide some guidelines in making a contract. In the case where a dispute does arise, be reasonable and try to reach a compromise with the opposing party even if you think you are right. Compromise and settlement are usually much more efficient and less expensive than court costs.

Further Information

Circular 1242, Handbook of Florida Fence and Property Law
http://edis.ifas.ufl.edu/TOPIC_BOOK_Florida_Fence_and_Property_Law