

**OPINION NO. 88-097**

**Syllabus:**

1. An owner who is fully insured for loss of or injury to livestock is not entitled to compensation from the dog and kennel fund pursuant to R.C. 955.29 for that loss or injury.
2. An owner who is partly insured for loss of or injury to livestock is entitled to compensation from the dog and kennel fund pursuant to R.C. 955.29, provided that the compensation does not exceed the lesser of five hundred dollars per animal or the uninsured amount of the loss or injury.

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**To: C. Keith Plummer, Guernsey County Prosecuting Attorney, Cambridge, Ohio**  
**By: Anthony J. Celebrezze, Jr., Attorney General, December 28, 1988**

I have before me your request for my opinion concerning R.C. 955.29, which provides that under certain circumstances an owner of livestock may be

compensated from the county dog and kennel fund for loss of or injury to livestock. You ask whether the county should compensate an owner when the owner has insurance that will cover all or part of the loss or injury.

R.C. 955.29 provides that an owner of livestock may claim compensation from the dog and kennel fund as follows:

Any owner of horses, sheep, cattle, swine, mules, goats, domestic rabbits, or domestic fowl or poultry that have an aggregate fair market value of ten dollars or more and that have been injured or killed by a dog not belonging to the owner or harbored on his premises, in order to be eligible to receive compensation from the dog and kennel fund, shall notify a member of the board of county commissioners or dog warden within three days after the loss or injury has been discovered. A commissioner who is notified shall immediately notify the dog warden of the loss or injury. The warden shall investigate....

R.C. 955.29 further provides that if the warden finds the claim to be correct and agrees with the owner on the fair market value of the livestock, the warden shall certify the claim to the board of county commissioners. If the warden does not certify the claim to the county commissioners, the owner may appeal to the board of township trustees for a determination.

A claim certified to the county commissioners is examined pursuant to R.C. 955.35, which provides in pertinent part:

The board of county commissioners, at the next regular meeting after claims in accordance with sections 955.29 to 955.34 of the Revised Code, have been submitted, shall examine the same and may hear additional testimony or receive additional affidavits in regard thereto and may allow the amount previously certified by the dog warden or allowed by the board of township trustees, or a part thereof, or any amount in addition thereto, as it may find to be just, *but in no event shall the amount allowed exceed the lesser of five hundred dollars per animal or the uninsured amount of the loss or injury.* (Emphasis added.)

Pursuant to R.C. 955.37, an owner may appeal to the probate court from a final allowance made by the board of county commissioners. R.C. 955.38 provides that the amount found by the probate court "shall not exceed the lesser of five hundred dollars per animal or the uninsured amount of the loss or injury." Similarly, R.C. 955.33 provides that a claim appealed to the board of township trustees may be allowed "to a maximum of the lesser of five hundred dollars per animal or the uninsured amount of the loss or injury." The claimant is required by R.C. 955.36 to indicate whether he is insured against the loss or injury and to submit a copy of his insurance policy with his claim.

Thus, R.C. 955.33, R.C. 955.35, and R.C. 955.38 limit the maximum payment from the dog and kennel fund to the lesser of five hundred dollars per animal or the uninsured amount of the loss or injury. If the owner who suffered the loss or injury is insured for the entire loss or injury, the uninsured amount is zero and no payment may be made from the dog and kennel fund. If the uninsured amount of the loss or injury is greater than zero but less than five hundred dollars per animal, the owner may be compensated from the dog and kennel fund for the uninsured amount. If the uninsured amount of the loss is greater than five hundred dollars per animal, the owner may be compensated from the dog and kennel fund at five hundred dollars per animal.

Therefore, it is my opinion and you are advised that

1. An owner who is fully insured for loss of or injury to livestock is not entitled to compensation from the dog and kennel fund pursuant to R.C. 955.29 for that loss or injury.

2. An owner who is partly insured for loss of or injury to livestock is entitled to compensation from the dog and kennel fund pursuant to R.C. 955.29, provided that the compensation does not exceed the lesser of five hundred dollars per animal or the uninsured amount of the loss or injury.