

Senate Bill 90

By: Senator McKoon of the 29th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 5 of Chapter 8 of Title 46 of the Official Code of Georgia Annotated,
2 relating to construction, improvement, and repair of rail lines, depots, and roads, so as to
3 provide for the installation of farm crossings and cattle guards on property which is
4 intersected by a railroad; to provide for time frames under which a railroad company shall
5 respond to such requests for farm crossings or cattle guards; to provide for payment of such
6 construction; to provide for review by the Public Service Commission when cost estimates
7 cannot be agreed upon; to provide for liability for failure to construct a requested farm
8 crossing or cattle guard; to provide for civil penalties; to provide for permitted use of such
9 farm crossings; to provide for the maintenance of liability coverage; to provide for the
10 posting of certain signage; to provide for related matters; to repeal conflicting laws; and for
11 other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 Article 5 of Chapter 8 of Title 46 of the Official Code of Georgia Annotated, relating to
15 construction, improvement, and repair of rail lines, depots, and roads, is amended by adding
16 a new Code section to read as follows:

17 "46-8-134.

18 (a) Any owner of land located in unincorporated areas of this state over which any foreign
19 or domestic railroad company has acquired a right of way by purchase or lease may make
20 written notice to such railroad company requesting the installation of a farm crossing or
21 cattle guard when a railroad intersects such landowner's property. Such notice shall be
22 given by certified mail or statutory overnight delivery, return receipt requested, and shall
23 include a description of the location where the farm crossing or cattle guard is to be located
24 and an attestation of ownership of the land the railroad intersects. Within ten days of
25 receipt of such notice, the railroad company shall submit to the landowner a written
26 estimate of costs associated with installing the requested farm crossing or cattle guard, the
27 cost of which shall be confined to the portion on the roadbed of the railroad. Thereupon

28 the landowner or landowner's agent, if satisfied with the estimate, shall pay to the railroad
29 company the sum so estimated. Within 60 days of receipt of the estimated funds, the
30 railroad company shall proceed with the construction of the requested farm crossing or
31 cattle guard. In the event that the landowner is not satisfied with the amount of the
32 estimate, the landowner may file with the commission a written request for review of the
33 matter. Any such request for review shall be accompanied by a filing fee of \$25.00 and
34 shall include any documents or forms required by the commission. A copy of the request
35 for review shall be served upon the railroad company by certified mail or statutory
36 overnight delivery, return receipt requested. The commission shall, within 30 days after
37 the filing of such request, investigate the matter and issue an order either confirming the
38 estimate of the railroad company as reasonable or providing for an amount by which the
39 landowner shall pay for the construction of the requested farm crossing or cattle guard.
40 The sole issue for determination by the commission shall be the reasonableness of the cost
41 of construction and no defense shall be available to the railroad company that shall prevent
42 the construction of a requested farm crossing or cattle guard. Copies of any such order of
43 the commission shall be served upon all parties by certified mail or statutory overnight
44 delivery, return receipt requested.

45 (b) Any railroad company that fails to install a requested farm crossing or cattle guard as
46 provided in subsection (a) of this Code section shall be liable for all damages that result to
47 a landowner or a landowner's heirs, assigns, or licensees due to such failure. Such action
48 may be brought in a court of competent jurisdiction in the county where the land is located.

49 (c) If any railroad company fails to submit an estimate within ten days, commence
50 construction within 60 days, or comply with any order of the commission within 15 days
51 of receipt of such order, then after notice and opportunity for a hearing, such railroad
52 company shall be subject to a civil penalty in the amount of \$250.00 per day until the
53 railroad company has complied with the provisions of subsection (a) of this Code section.
54 Any fine under this subsection shall be tolled for the period from the filing of a petition for
55 judicial review and shall be subject to judicial review in such manner as is provided by law
56 for judicial review of contested cases under Chapter 13 of Title 50, the 'Georgia
57 Administrative Procedure Act,' until the rendering of a final decision.

58 (d) Any farm crossing constructed under the provisions of this Code section shall not be
59 considered a public crossing and the use of such crossing shall be limited to the landowner
60 or the landowner's heirs, assigns, or licensees.

61 (e) Any landowner who obtains a farm crossing under this Code section shall:

62 (1) Maintain liability insurance which names the railroad company as an additional
63 insured with limits of not less than \$500,000.00 per occurrence; and

64 (2) Erect two signs, at least 24 inches by 24 inches in size, on both sides of the farm
65 crossing that state 'Stop' and 'Private RR Crossing. No Trespassing'.

66 (f) Nothing in this Code section shall be construed to restrict the duties of railroad
67 companies in relation to railroad grade crossings on public roads as provided for in Part 2
68 of Article 6 of Chapter 6 of Title 32."

69 **SECTION 2.**

70 All laws and parts of laws in conflict with this Act are repealed.