

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Senator Scott**

A Bill

ACT 668 OF 1995
SENATE BILL 550

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 23-12-1005(a) AND 23-12-
9 1008(a) TO PROVIDE MORE REALISTIC TIME-FRAMES FOR
10 INVESTIGATIONS AND OTHER PROCEDURES REGARDING THE
11 MAINTENANCE OR OBSTRUCTION OF RAILROAD CROSSINGS; TO
12 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

Subtitle

15 "TO PROVIDE MORE REALISTIC TIME-FRAMES
16 FOR INVESTIGATIONS AND OTHER PROCEDURES
17 REGARDING MAINTENANCE OR OBSTRUCTION OF
18 RAILROAD CROSSINGS."

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22 SECTION 1. Arkansas Code 23-12-1005(a) is amended to read as follows:

23 "(a) (1) (A) Prior to any request by a state, municipal, or county
24 official for sanctions against any railroad company for violation of any
25 regulation promulgated pursuant to this subchapter, the state, municipal, or
26 county official shall state the claim or complaint in writing by certified
27 mail to the registered agent of the railroad company in question.

28 (B) Within forty-five (45) days after the receipt of the written
29 claim or complaint by the railroad company, the railroad company shall respond
30 to the claim or complaint, stating with specificity the corrective action
31 taken, any corrective or remedial action planned and the time for its
32 completion, or the reason for any refusal on the part of the railroad to
33 correct the situation.

34 (C) This response shall be in writing to the complaining official
35 by certified mail.

36 (2) (A) In the event the issue is not then resolved to the

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1 satisfaction of the complaining official, the official shall notify the State
2 Highway Commission in writing.

3 (B) (i) The commission shall, within sixty (60) days after receipt
4 of the complaint, hold a hearing on the complaint.

5 (ii) Notice of such hearing shall be given the railroad and
6 the complainant at least twenty (20) days before the hearing.

7 (C) The commission or its designated representative shall, after
8 appropriate notice and hearing on the complaint, and within twenty (20) days
9 after such hearing, determine the adequacy of the railroad's action or the
10 reasonableness of its refusal under the circumstances.

11 (3) (A) If the State Highway Commission makes a finding of inadequate
12 action or unreasonable refusal on the part of the railroad based on
13 information presented at a hearing before the commission or before a
14 designated representative of the commission, the railroad company charged with
15 such violation shall be subject to a penalty of not less than two hundred
16 dollars (\$200) nor more than ten thousand dollars (\$10,000) per occurrence,
17 said penalty to be assessed by the State Highway Commission.

18 (B) (i) The decision of the commission may be appealed to the
19 circuit court of the county in which the violation occurred at any time within
20 thirty (30) days after the decision is rendered.

21 (ii) Provided, the decision of the commission shall be final
22 unless appealed as authorized herein."

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24 SECTION 2. Arkansas Code 23-12-1008(a) is amended to read as follows:

25 "(a) (1) (A) Prior to any request by a state, municipal, or county
26 official for sanctions against a railroad company for violation of §§
27 23-12-1006 - 23-12-1008, the state, municipal, or county official shall state
28 the claim or complaint in writing, by certified mail, to the registered agent
29 of the railroad company in question.

30 (B) (i) Within forty-five (45) days after the receipt of the
31 written claim or complaint by the railroad company, the railroad company shall
32 respond to the claim or complaint stating with specificity the reasons for
33 obstructing a crossing for an unlawful period of time.

34 (ii) This response shall be in writing to the complaining
35 official by certified mail.

1 (2) (A) In the event the issue is not then resolved to the
2 satisfaction of the complaining official, the official shall notify the State
3 Highway Commission in writing and shall enclose a copy of the complaint and
4 response.

5 (B) (i) The commission shall, within sixty (60) days after
6 receipt of the notice, hold a hearing on the complaint.

7 (ii) Notice of such hearing shall be given the railroad and
8 the complainant at least twenty (20) days before the hearing.

9 (C) The commission or its designated representative, after an
10 appropriate notice and hearing on the complaint, shall determine whether the
11 obstruction was for an unlawful period of time under the circumstances.

12 (3) (A) If the State Highway Commission makes such a finding of unlawful
13 delay based on information presented at a hearing before the commission or
14 before its designated representative, the railroad company charged with such
15 violation shall be subject to a penalty to be imposed by the State Highway
16 Commission of not less than two hundred dollars (\$200) nor more than five
17 hundred dollars (\$500) per occurrence.

18 (B) (i) The decision of the commission may be appealed to the circuit
19 court of the county in which the violation occurred at any time within thirty
20 (30) days after the decision is rendered.

21 (ii) Provided, the decision of the commission shall be final
22 unless appealed as authorized herein."

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24 SECTION 3. All provisions of this act of a general and permanent nature
25 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
26 Revision Commission shall incorporate the same in the Code.

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28 SECTION 4. If any provision of this act or the application thereof to
29 any person or circumstance is held invalid, such invalidity shall not affect
30 other provisions or applications of the act which can be given effect without
31 the invalid provision or application, and to this end the provisions of this
32 act are declared to be severable.

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34 SECTION 5. All laws and parts of laws in conflict with this act are
35 hereby repealed.

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SECTION 6. EMERGENCY. It is hereby found and determined by the General Assembly that the time-frames for investigations and procedures regarding the maintenance or obstruction of railroad crossings, which cross any public road, highway or street in this State, as such time-frames currently exist in Arkansas Code Annotated Sections 23-12-1005(a) and 23-12-1008(a), are unrealistic from a practical standpoint and have imposed an undue burden both on the State and the railroad companies in meeting such time-frames when a complaint is filed with the State Highway Commission against a railroad company, that the amendments contained in this act will provide more realistic time-frames and will relieve such undue burdens; that only by the immediate effectiveness of this act may the aforementioned problems be solved; and that the provisions of this act are essential to the continued operation of state government. Therefore an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: 3-17-95

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