

House Bill 681

By: Representatives Carson of the 46<sup>th</sup>, Roberts of the 155<sup>th</sup>, and Hamilton of the 24<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges,  
2 and ferries, so as to provide for the installation of farm crossings and cattle guards on  
3 property which is intersected by a railroad; to provide for time frames under which an entity  
4 with a railroad right of way purchased or leased from the Department of Transportation 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 Department of Transportation upon request; to  
7 provide for arbitration after an order of the Department of Transportation; to provide for  
8 liability for failure to construct a requested farm crossing or cattle guard; to provide for civil  
9 penalties; to provide for an independent safety study; to provide for permitted use of such  
10 farm crossings; to provide for limits on liability; to provide for the maintenance of liability  
11 coverage; to provide for the posting of certain signage; to provide for related matters; to  
12 repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

15 Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries,  
16 is amended by adding a new Code section to read as follows:

17 "32-6-200.1.

18 (a)(1) Any owner of land located in unincorporated areas of this state over which any  
19 entity has acquired a railroad right of way by purchase or lease from the department may  
20 make written notice to such entity requesting the installation of a farm crossing or cattle  
21 guard when a passenger railroad intersects such landowner's property. Such notice shall  
22 be given by certified mail or statutory overnight delivery, return receipt requested, and  
23 shall include a description of the location where the farm crossing or cattle guard is to be  
24 located and an attestation of ownership of the land the railroad intersects. Within 15 days  
25 of receipt of such notice, the entity shall acknowledge receipt by certified mail or  
26 statutory overnight delivery, return receipt requested. Within 45 days of such

27 acknowledgment, the entity shall submit to the landowner a written estimate of costs  
28 associated with installing the requested farm crossing or cattle guard, the cost of which  
29 shall be confined to the portion on the roadbed of the railroad. Thereupon, the landowner  
30 or landowner's agent, if satisfied with the estimate, shall pay to the entity the sum so  
31 estimated. Within 90 days of receipt of the estimated funds, the entity shall proceed with  
32 the construction of the requested farm crossing or cattle guard.

33 (2) In the event that the landowner is not satisfied with the amount of the estimate, the  
34 landowner may file with the department a written request for review of the matter within  
35 30 days of receipt of the estimated costs. Any such request for review shall be  
36 accompanied by a filing fee of \$25.00 and shall include any documents or forms required  
37 by the department. A copy of the request for review shall be served upon the entity by  
38 certified mail or statutory overnight delivery, return receipt requested. The department  
39 shall, within 30 days after the filing of such request, investigate the matter and issue an  
40 order either confirming the estimate of the entity as reasonable or providing for an  
41 amount by which the landowner shall pay for the construction of the requested farm  
42 crossing or cattle guard.

43 (3) An entity may file a written request with the department for determination of whether  
44 a different location exists on the property of the landowner which provides reasonable  
45 access to both portions of a landowner's property and therefor installation of a farm guard  
46 or cattle crossing is unnecessary.

47 (4) Copies of any such order of the department shall be served upon all parties by  
48 certified mail or statutory overnight delivery, return receipt requested. A landowner or  
49 entity may contest an order of the department through a request for arbitration pursuant  
50 to Chapter 9 of Title 9.

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

55 (c) If any entity which is not a state agency fails to acknowledge receipt of a request,  
56 submit an estimate, commence construction, or comply with any order of the department  
57 within 15 days of receipt of such order, then after notice and opportunity for a hearing,  
58 such entity shall be subject to a civil penalty in the amount of \$250.00 per day until the  
59 entity has complied with the provisions of subsection (a) of this Code section. Any fine  
60 under this subsection shall be tolled for the period from the filing of a petition for judicial  
61 review and shall be subject to judicial review in such manner as is provided by law for  
62 judicial review of contested cases under Chapter 13 of Title 50, the 'Georgia Administrative  
63 Procedure Act,' until the rendering of a final decision.

64 (d) Prior to the installation of any farm crossing or cattle guard pursuant to this Code  
65 section, a landowner shall cause to be conducted an independent study of the safety of the  
66 requested farm crossing or cattle guard.

67 (e) Any farm crossing constructed under the provisions of this Code section shall not be  
68 considered a public crossing, and the use of such crossing shall be limited to the landowner  
69 or the landowner's heirs, assigns, or licensees. No entity shall be liable for damages or  
70 injury caused in relation to the installation of a farm crossing or cattle guard unless it is  
71 proven that there was gross negligence in such installation.

72 (f) Any landowner who obtains a farm crossing under this Code section shall:

73 (1) Maintain liability insurance which names the entity as an additional insured with  
74 limits of not less than \$1 million per occurrence and \$2 million aggregate; and

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

77 (g) Nothing in this Code section shall be construed to restrict the duties of entities in  
78 relation to railroad grade crossings on public roads as provided for in this part."

79 **SECTION 2.**

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