



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB0535

by Rep. Jay Hoffman

#### SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1096	from Ch. 34, par. 5-1096
65 ILCS 5/11-42-11.1	from Ch. 24, par. 11-42-11.1
220 ILCS 70/5	
625 ILCS 5/18c-7401	from Ch. 95 1/2, par. 18c-7401

Amends the Counties Code and Illinois Municipal Code. Provides that the Illinois Commerce Commission (currently, a court of competent jurisdiction) will determine whether the installation, maintenance, repair, or removal of a community antenna would create a dangerous condition or interrupt service. Amends the Crossing of Railroad Right-of-way Act. Adds providers of broadband service to the definition of "utility". Amends the Illinois Vehicle Code. Provides that cable operators, holders of State authorizations, and broadband service providers shall not be prevented by a railroad from entering onto railroad real estate or right of way for purposes of construction or installation of system or facilities if they have followed the procedures to enter the property as required by statute. Effective immediately.

LRB100 03783 AWJ 13788 b

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by changing Section  
5 5-1096 as follows:

6 (55 ILCS 5/5-1096) (from Ch. 34, par. 5-1096)

7 Sec. 5-1096. Community antenna television systems;  
8 interference with and payment for access.

9 (a) In any instance in which a county has granted a  
10 franchise to any community antenna television company to  
11 construct, operate or maintain a cable television system within  
12 a designated franchise area, no property owner, condominium  
13 association, managing agent, lessee or other person in  
14 possession or control of any residential building located  
15 within such designated franchise area shall forbid or prevent  
16 any occupant, tenant or lessee of any such building from  
17 receiving cable television service from such franchisee, nor  
18 demand or accept payment from any such occupant, tenant or  
19 lessee in any form as a condition of permitting the  
20 installation of cable television facilities or the maintenance  
21 of cable television service in any such building or any portion  
22 thereof occupied or leased by such occupant, tenant or lessee,  
23 nor shall any such property owner, condominium association,

1 managing agent, lessee or other person discriminate in rental  
2 charges or otherwise against any occupant, tenant or lessee  
3 receiving cable service; provided, however, that the owner of  
4 such building may require, in exchange and as compensation for  
5 permitting the installation of cable television facilities  
6 within and upon such building, the payment of just compensation  
7 to be paid by the cable television franchisee which provides  
8 such cable television service, said sum to be determined in  
9 accordance with the provisions of subparagraphs (c) and (d)  
10 hereof, and provided further that the cable television  
11 franchisee installing such cable television facilities shall  
12 agree to indemnify the owner of such building for any damage  
13 caused by the installation, operation or removal of such cable  
14 television facilities and service.

15 No community antenna television company shall install  
16 cable television facilities within a residential building  
17 pursuant to this subparagraph (a) unless an occupant, tenant or  
18 lessee of such residential building requests the delivery of  
19 cable television services.

20 (b) In any instance in which a county has granted a  
21 franchise to any community antenna television company to  
22 construct, operate or maintain a cable television system within  
23 a designated franchise area, no property owner, condominium  
24 association, managing agent, lessee or other person in  
25 possession and control of any improved or unimproved real  
26 estate located within such designated franchise area shall

1 forbid or prevent such cable television franchisee from  
2 entering upon such real estate for the purpose of and in  
3 connection with the construction or installation of such cable  
4 television system and cable television facilities, nor shall  
5 any such property owner, condominium association, managing  
6 agent, lessee or other person in possession or control of such  
7 real estate forbid or prevent such cable television franchisee  
8 from constructing or installing upon, beneath or over such real  
9 estate, including any buildings or other structures located  
10 thereon, hardware, cable, equipment, materials or other cable  
11 television facilities utilized by such cable franchisee in the  
12 construction and installation of such cable television system;  
13 provided, however, that the owner of any such real estate may  
14 require, in exchange and as compensation for permitting the  
15 construction or installation of cable television facilities  
16 upon, beneath or over such real estate, the payment of just  
17 compensation by the cable television franchisee which provides  
18 such cable television service, said sum to be determined in  
19 accordance with the provisions of subparagraphs (c) and (d)  
20 hereof, and provided further that the cable television  
21 franchisee constructing or installing such cable television  
22 facilities shall agree to indemnify the owner of such real  
23 estate for any damage caused by the installation, operation or  
24 removal of such cable television facilities and service.

25 (c) In any instance in which the owner of a residential  
26 building or the owner of improved or unimproved real estate

1 intends to require the payment of just compensation in excess  
2 of \$1 in exchange for permitting the installation of cable  
3 television facilities in and upon such building, or upon,  
4 beneath or over such real estate, the owner shall serve written  
5 notice thereof upon the cable television franchisee. Any such  
6 notice shall be served within 20 days of the date on which such  
7 owner is notified of the cable television franchisee's  
8 intention to construct or install cable television facilities  
9 in and upon such building, or upon, beneath or over such real  
10 estate. Unless timely notice as herein provided is given by the  
11 owner to the cable television franchisee, it will be  
12 conclusively presumed that the owner of any such building or  
13 real estate does not claim or intend to require a payment of  
14 more than \$1 in exchange and as just compensation for  
15 permitting the installation of cable television facilities  
16 within and upon such building, or upon, beneath or over such  
17 real estate. In any instance in which a cable television  
18 franchisee intends to install cable television facilities as  
19 herein provided, written notice of such intention shall be sent  
20 by the cable television franchisee to the property owner or to  
21 such person, association or managing agent as shall have been  
22 appointed or otherwise designated to manage or operate the  
23 property. Such notice shall include the address of the  
24 property, the name of the cable television franchisee, and  
25 information as to the time within which the owner may give  
26 notice, demand payment as just compensation and initiate legal

1 proceedings as provided in this subparagraph (c) and  
2 subparagraph (d). In any instance in which a community antenna  
3 television company intends to install cable television  
4 facilities within a residential building containing 12 or more  
5 residential units or upon, beneath, or over real estate that is  
6 used as a site for 12 or more manufactured housing units, 12 or  
7 more mobile homes, or a combination of 12 or more manufactured  
8 housing units and mobile homes, the written notice shall  
9 further provide that the property owner may require that the  
10 community antenna television company submit to the owner  
11 written plans identifying the manner in which cable television  
12 facilities are to be installed, including the proposed location  
13 of coaxial cable. Approval of those plans by the property owner  
14 shall not be unreasonably withheld and the owners' consent to  
15 and approval of those plans shall be presumed unless, within 30  
16 days after receipt thereof, or in the case of a condominium  
17 association, 90 days after receipt thereof, the property owner  
18 identifies in writing the specific manner in which those plans  
19 deviate from generally accepted construction or safety  
20 standards, and unless the property owner contemporaneously  
21 submits an alternative construction plan providing for the  
22 installation of cable television facilities in an economically  
23 feasible manner. The community antenna television company may  
24 proceed with the plans originally submitted if an alternative  
25 plan is not submitted by the property owner within 30 days, or  
26 in the case of a condominium association, 90 days, or if an

1 alternative plan submitted by the property owner fails to  
2 comply with generally accepted construction and safety  
3 standards or does not provide for the installation of cable  
4 television facilities in an economically feasible manner. For  
5 purposes of this subsection, "mobile home" and "manufactured  
6 housing unit" have the same meaning as in the Illinois  
7 Manufactured Housing and Mobile Home Safety Act.

8 (d) Any owner of a residential building described in  
9 subparagraph (a), and any owner of improved or unimproved real  
10 estate described in subparagraph (b), who shall have given  
11 timely written notice to the cable television franchisee as  
12 provided in subparagraph (c), may assert a claim for just  
13 compensation in excess of \$1 for permitting the installation of  
14 cable television facilities within and upon such building, or  
15 upon, beneath or over such real estate. Within 30 days after  
16 notice has been given in accordance with subparagraph (c), the  
17 owner shall advise the cable television franchisee in writing  
18 of the amount claimed as just compensation. If within 60 days  
19 after the receipt of the owner's claim, the cable television  
20 franchisee has not agreed to pay the amount claimed or some  
21 other amount acceptable to the owner, the owner may bring suit  
22 to enforce such claim for just compensation in any court of  
23 competent jurisdiction and, upon timely demand, may require  
24 that the amount of just compensation be determined by a jury.  
25 Any such action shall be commenced within 6 months of the  
26 notice given by the cable television franchisee pursuant to

1 subparagraph (c) hereof. In any action brought to determine  
2 such amount, the owner may submit evidence of a decrease in the  
3 fair market value of the property occasioned by the  
4 installation or location of the cable on the property, that the  
5 owner has a specific alternative use for the space occupied by  
6 cable television facilities, the loss of which will result in a  
7 monetary loss to the owner, or that installation of cable  
8 television facilities within and upon such building or upon,  
9 beneath or over such real estate otherwise substantially  
10 interferes with the use and occupancy of such building to an  
11 extent which causes a decrease in the fair market value of such  
12 building or real estate.

13 (e) Neither the giving of a notice by the owner under  
14 subparagraph (c), nor the assertion of a specific claim, nor  
15 the initiation of legal action to enforce such claim, as  
16 provided under subparagraph (d), shall delay or impair the  
17 right of the cable television franchisee to construct or  
18 install cable television facilities and maintain cable  
19 television services within or upon any building described in  
20 subparagraph (a) or upon, beneath or over real estate described  
21 in subparagraph (b).

22 (f) Notwithstanding the foregoing, no community antenna  
23 television company shall enter upon any real estate or rights  
24 of way in the possession or control of any public utility,  
25 railroad or owner or operator of an oil, petroleum product,  
26 chemical or gas pipeline to install or remove cable television



1 facilities or to provide underground maintenance or repair  
2 services with respect thereto, prior to delivery to the public  
3 utility, railroad or pipeline owner or operator of written  
4 notice of intent to enter, install, maintain or remove. No  
5 entry shall be made until at least 15 business days after  
6 receipt of such written notice. Such written notice, which  
7 shall be delivered to the registered agent of such public  
8 utility, railroad or pipeline owner or operator shall include  
9 the following information:

10 (i) The date of the proposed installation,  
11 maintenance, repair or removal and projected length of time  
12 required to complete such installation, maintenance,  
13 repair or removal;

14 (ii) The manner and method of such installation,  
15 maintenance, repair or removal;

16 (iii) The location of the proposed entry and path of  
17 cable television facilities proposed to be placed,  
18 repaired, maintained or removed upon the real estate or  
19 right of way; and

20 (iv) The written agreement of the community antenna  
21 television company to indemnify and hold harmless such  
22 public utility, railroad or pipeline owner or operator from  
23 the costs of any damages directly or indirectly caused by  
24 the installation, maintenance, repair, operation, or  
25 removal of cable television facilities. Upon request of the  
26 public utility, railroad, or owner or operator of an oil,

1           petroleum product, chemical or gas pipeline, the community  
2           antenna television company shall provide proof that it has  
3           purchased and will maintain a policy or policies of  
4           insurance in amounts sufficient to provide coverage for  
5           personal injury and property damage losses caused by or  
6           resulting from the installation, maintenance, repair or  
7           removal of cable television facilities. The written  
8           agreement shall provide that the community antenna  
9           television company shall maintain such policies of  
10          insurance in full force and effect as long as cable  
11          television facilities remain on the real estate or right of  
12          way.

13          Within 15 business days of receipt of the written prior  
14          notice of entry the public utility, railroad or pipeline owner  
15          or operator shall investigate and determine whether or not the  
16          proposed entry and installation or repair, maintenance, or  
17          removal would create a dangerous condition threatening the  
18          safety of the public or the safety of its employees or  
19          threatening to cause an interruption of the furnishing of vital  
20          transportation, utility or pipeline services and upon so  
21          finding shall so notify the community antenna television  
22          company of such decision in writing. Initial determination of  
23          the existence of such a dangerous condition or interruption of  
24          services shall be made by the public utility, railroad or  
25          pipeline owner or operator whose real estate or right of way is  
26          involved. In the event that the community antenna television

1 company disagrees with such determination, a determination of  
2 whether such entry and installation, maintenance, repair or  
3 removal would create such a dangerous condition or interrupt  
4 services shall be made by the Illinois Commerce Commission ~~a~~  
5 ~~court of competent jurisdiction~~ upon the application of such  
6 community antenna television company. An initial written  
7 determination of a public utility, railroad, or pipeline owner  
8 or operator timely made and transmitted to the community  
9 antenna television company, in the absence of a determination  
10 by a court of competent jurisdiction or an Illinois Commerce  
11 Commission finding to the contrary, bars the entry of the  
12 community antenna television company upon the real estate or  
13 right of way for any purpose.

14 Any public utility, railroad or pipeline owner or operator  
15 may assert a written claim against any community antenna  
16 television company for just compensation within 30 days after  
17 written notice has been given in accordance with this  
18 subparagraph (f). If, within 60 days after the receipt of such  
19 claim for compensation, the community antenna television  
20 company has not agreed to the amount claimed or some other  
21 amount acceptable to the public utility, railroad or pipeline  
22 owner or operator, the public utility, railroad or pipeline  
23 owner or operator may bring suit to enforce such claim for just  
24 compensation in any court of competent jurisdiction and, upon  
25 timely demand, may require that the amount of just compensation  
26 be determined by a jury. Any such action shall be commenced

1 within 6 months of the notice provided for in this subparagraph  
2 (f). In any action brought to determine such just compensation,  
3 the public utility, railroad or pipeline owner or operator may  
4 submit such evidence as may be relevant to the issue of just  
5 compensation. Neither the assertion of a claim for compensation  
6 nor the initiation of legal action to enforce such claim shall  
7 delay or impair the right of the community antenna television  
8 company to construct or install cable television facilities  
9 upon any real estate or rights of way of any public utility,  
10 railroad or pipeline owner or operator.

11 To the extent that the public utility, railroad, or owner  
12 or operator of an oil, petroleum product, chemical or gas  
13 pipeline deems it appropriate to supervise, monitor or  
14 otherwise assist the community antenna television company in  
15 connection with the installation, maintenance, repair or  
16 removal of cable television facilities upon such real estate or  
17 rights of way, the community antenna television company shall  
18 reimburse the public utility, railroad or owner or operator of  
19 an oil, petroleum product, chemical or gas pipeline for costs  
20 reasonable and actually incurred in connection therewith.

21 The provisions of this subparagraph (f) shall not be  
22 applicable to any easements, rights of way or ways for public  
23 service facilities in which public utilities, other than  
24 railroads, have any interest pursuant to "an Act to revise the  
25 law in relation to plats" approved March 21, 1874, and all  
26 ordinances enacted pursuant thereto. Such easements, rights of

1 way and ways for public service facilities are hereby declared  
2 to be apportionable and upon written request by a community  
3 antenna television company, public utilities shall make such  
4 easements, rights of way and ways for public service facilities  
5 available for the construction, maintenance, repair or removal  
6 of cable television facilities provided that such  
7 construction, maintenance, repair or removal does not create a  
8 dangerous condition threatening the safety of the public or the  
9 safety of such public utility employees or threatening to cause  
10 an interruption of the furnishing of vital utility service.  
11 Initial determination of the existence of such a dangerous  
12 condition or interruption of services shall be made by the  
13 public utility whose easement, right of way or way for public  
14 service facility is involved. In the event the community  
15 antenna television company disagrees with such determination,  
16 a determination of whether such construction, maintenance,  
17 repair or removal would create such a dangerous condition or  
18 threaten to interrupt vital utility services, shall be made by  
19 a court of competent jurisdiction upon the application of such  
20 community antenna television company.

21 If a county notifies or a county requires a developer to  
22 notify a public utility before or after issuing a permit or  
23 other authorization for the construction of residential  
24 buildings, then the county or developer shall, at the same  
25 time, similarly notify any community antenna television system  
26 franchised by or within that county.

1           In addition to such other notices as may be required by  
2 this subparagraph (f), a community antenna television company  
3 shall not enter upon the real estate or rights of way of any  
4 public utility, railroad or pipeline owner or operator for the  
5 purposes of above-ground maintenance or repair of its  
6 television cable facilities without giving 96 hours prior  
7 written notice to the registered agent of the public utility,  
8 railroad or pipeline owner or operator involved, or in the case  
9 of a public utility, notice may be given through the statewide  
10 one-call notice system provided for by General Order of the  
11 Illinois Commerce Commission or, if in Chicago, through the  
12 system known as the Chicago Utility Alert Network.

13       (Source: P.A. 93-219, eff. 1-1-04.)

14           Section 10. The Illinois Municipal Code is amended by  
15 changing Section 11-42-11.1 as follows:

16           (65 ILCS 5/11-42-11.1) (from Ch. 24, par. 11-42-11.1)

17           Sec. 11-42-11.1. (a) In any instance in which a  
18 municipality has (i) granted a franchise to any community  
19 antenna television company or (ii) decided for the municipality  
20 itself to construct, operate or maintain a cable television  
21 system within a designated area, no property owner, condominium  
22 association, managing agent, lessee or other person in  
23 possession or control of any residential building located  
24 within the designated area shall forbid or prevent any

1 occupant, tenant or lessee of any such building from receiving  
2 cable television service from such franchisee or municipality,  
3 nor demand or accept payment from any such occupant, tenant or  
4 lessee in any form as a condition of permitting the  
5 installation of cable television facilities or the maintenance  
6 of cable television service in any such building or any portion  
7 thereof occupied or leased by such occupant, tenant or lessee,  
8 nor shall any such property owner, condominium association,  
9 managing agent, lessee or other person discriminate in rental  
10 charges or otherwise against any occupant, tenant or lessee  
11 receiving cable service; provided, however, that the owner of  
12 such building may require, in exchange and as compensation for  
13 permitting the installation of cable television facilities  
14 within and upon such building, the payment of just compensation  
15 by the cable television franchisee which provides such cable  
16 television service, said sum to be determined in accordance  
17 with the provisions of subparagraphs (c) and (d) hereof, and  
18 provided further that the cable television franchisee  
19 installing such cable television facilities shall agree to  
20 indemnify the owner of such building for any damage caused by  
21 the installation, operation or removal of such cable television  
22 facilities and service.

23 No community antenna television company shall install  
24 cable television facilities within a residential building  
25 pursuant to this subparagraph (a) unless an occupant, tenant or  
26 lessee of such residential building requests the delivery of

1 cable television services. In any instance in which a request  
2 for service is made by more than 3 occupants, tenants or  
3 lessees of a residential building, the community antenna  
4 television company may install cable television facilities  
5 throughout the building in a manner which enables the community  
6 antenna television company to provide cable television  
7 services to occupants, tenants or lessees of other residential  
8 units without requiring the installation of additional cable  
9 television facilities other than within the residential units  
10 occupied by such other occupants, tenants or lessees.

11 (b) In any instance in which a municipality has (i) granted  
12 a franchise to any community antenna television company or (ii)  
13 decided for the municipality itself to construct, operate or  
14 maintain a cable television system within a designated area, no  
15 property owner, condominium association, managing agent,  
16 lessee or other person in possession and control of any  
17 improved or unimproved real estate located within such  
18 designated area shall forbid or prevent such cable television  
19 franchisee or municipality from entering upon such real estate  
20 for the purpose of and in connection with the construction or  
21 installation of such cable television system and cable  
22 television facilities, nor shall any such property owner,  
23 condominium association, managing agent, lessee or other  
24 person in possession or control of such real estate forbid or  
25 prevent such cable television franchisee or municipality from  
26 constructing or installing upon, beneath or over such real



1 estate, including any buildings or other structures located  
2 thereon, hardware, cable, equipment, materials or other cable  
3 television facilities utilized by such cable franchisee or  
4 municipality in the construction and installation of such cable  
5 television system; provided, however, that the owner of any  
6 such real estate may require, in exchange and as compensation  
7 for permitting the construction or installation of cable  
8 television facilities upon, beneath or over such real estate,  
9 the payment of just compensation by the cable television  
10 franchisee which provides such cable television service, said  
11 sum to be determined in accordance with the provisions of  
12 subparagraphs (c) and (d) hereof, and provided further that the  
13 cable television franchisee constructing or installing such  
14 cable television facilities shall agree to indemnify the owner  
15 of such real estate for any damage caused by the installation,  
16 operation or removal of such cable television facilities and  
17 service.

18 (c) In any instance in which the owner of a residential  
19 building or the owner of improved or unimproved real estate  
20 intends to require the payment of just compensation in excess  
21 of \$1 in exchange for permitting the installation of cable  
22 television facilities in and upon such building, or upon,  
23 beneath or over such real estate, the owner shall serve written  
24 notice thereof upon the cable television franchisee. Any such  
25 notice shall be served within 20 days of the date on which such  
26 owner is notified of the cable television franchisee's

1 intention to construct or install cable television facilities  
2 in and upon such building, or upon, beneath or over such real  
3 estate. Unless timely notice as herein provided is given by the  
4 owner to the cable television franchisee, it will be  
5 conclusively presumed that the owner of any such building or  
6 real estate does not claim or intend to require a payment of  
7 more than \$1 in exchange and as just compensation for  
8 permitting the installation of cable television facilities  
9 within and upon such building, or upon, beneath or over such  
10 real estate. In any instance in which a cable television  
11 franchisee intends to install cable television facilities as  
12 herein provided, written notice of such intention shall be sent  
13 by the cable television franchisee to the property owner or to  
14 such person, association or managing agent as shall have been  
15 appointed or otherwise designated to manage or operate the  
16 property. Such notice shall include the address of the  
17 property, the name of the cable television franchisee, and  
18 information as to the time within which the owner may give  
19 notice, demand payment as just compensation and initiate legal  
20 proceedings as provided in this subparagraph (c) and  
21 subparagraph (d). In any instance in which a community antenna  
22 television company intends to install cable television  
23 facilities within a residential building containing 12 or more  
24 residential units or upon, beneath, or over real estate that is  
25 used as a site for 12 or more manufactured housing units, 12 or  
26 more mobile homes, or a combination of 12 or more manufactured

1 housing units and mobile homes, the written notice shall  
2 further provide that the property owner may require that the  
3 community antenna television company submit to the owner  
4 written plans identifying the manner in which cable television  
5 facilities are to be installed, including the proposed location  
6 of coaxial cable. Approval of such plans by the property owner  
7 shall not be unreasonably withheld and such owners' consent to  
8 and approval of such plans shall be presumed unless, within 30  
9 days after receipt thereof, or in the case of a condominium  
10 association, 90 days after receipt thereof, the property owner  
11 identifies in writing the specific manner in which such plans  
12 deviate from generally accepted construction or safety  
13 standards, and unless the property owner contemporaneously  
14 submits an alternative construction plan providing for the  
15 installation of cable television facilities in an economically  
16 feasible manner. The community antenna television company may  
17 proceed with the plans originally submitted if an alternative  
18 plan is not submitted by the property owner within 30 days, or  
19 in the case of a condominium association, 90 days, or if an  
20 alternative plan submitted by the property owner fails to  
21 comply with generally accepted construction and safety  
22 standards or does not provide for the installation of cable  
23 television facilities in an economically feasible manner. For  
24 purposes of this subsection, "mobile home" and "manufactured  
25 housing unit" have the same meaning as in the Illinois  
26 Manufactured Housing and Mobile Home Safety Act.

1           (d) Any owner of a residential building described in  
2 subparagraph (a), and any owner of improved or unimproved real  
3 estate described in subparagraph (b), who shall have given  
4 timely written notice to the cable television franchisee as  
5 provided in subparagraph (c), may assert a claim for just  
6 compensation in excess of \$1 for permitting the installation of  
7 cable television facilities within and upon such building, or  
8 upon, beneath or over such real estate. Within 30 days after  
9 notice has been given in accordance with subparagraph (c), the  
10 owner shall advise the cable television franchisee in writing  
11 of the amount claimed as just compensation. If within 60 days  
12 after the receipt of the owner's claim, the cable television  
13 franchisee has not agreed to pay the amount claimed or some  
14 other amount acceptable to the owner, the owner may bring suit  
15 to enforce such claim for just compensation in any court of  
16 competent jurisdiction and, upon timely demand, may require  
17 that the amount of just compensation be determined by a jury.  
18 Any such action shall be commenced within 6 months of the  
19 notice given by the cable television franchisee pursuant to  
20 subparagraph (c) hereof. In any action brought to determine  
21 such amount, the owner may submit evidence of a decrease in the  
22 fair market value of the property occasioned by the  
23 installation or location of the cable on the property, that the  
24 owner has a specific alternative use for the space occupied by  
25 cable television facilities, the loss of which will result in a  
26 monetary loss to the owner, or that installation of cable

1 television facilities within and upon such building or upon,  
2 beneath or over such real estate otherwise substantially  
3 interferes with the use and occupancy of such building to an  
4 extent which causes a decrease in the fair market value of such  
5 building or real estate.

6 (e) Neither the giving of a notice by the owner under  
7 subparagraph (c), nor the assertion of a specific claim, nor  
8 the initiation of legal action to enforce such claim, as  
9 provided under subparagraph (d), shall delay or impair the  
10 right of the cable television franchisee to construct or  
11 install cable television facilities and maintain cable  
12 television services within or upon any building described in  
13 subparagraph (a) or upon, beneath or over real estate described  
14 in subparagraph (b).

15 (f) Notwithstanding the foregoing, no community antenna  
16 television company or municipality shall enter upon any real  
17 estate or rights of way in the possession or control of any  
18 public utility, railroad or owner or operator of an oil,  
19 petroleum product, chemical or gas pipeline to install or  
20 remove cable television facilities or to provide underground  
21 maintenance or repair services with respect thereto, prior to  
22 delivery to the public utility, railroad or pipeline owner or  
23 operator of written notice of intent to enter, install,  
24 maintain or remove. No entry shall be made until at least 15  
25 business days after receipt of such written notice. Such  
26 written notice, which shall be delivered to the registered

1 agent of such public utility, railroad or pipeline owner or  
2 operator shall include the following information:

3 (i) The date of the proposed installation,  
4 maintenance, repair or removal and projected length of time  
5 required to complete such installation, maintenance,  
6 repair or removal;

7 (ii) The manner and method of such installation,  
8 maintenance, repair or removal;

9 (iii) The location of the proposed entry and path of  
10 cable television facilities proposed to be placed,  
11 repaired, maintained or removed upon the real estate or  
12 right of way; and

13 (iv) The written agreement of the community antenna  
14 television company to indemnify and hold harmless such  
15 public utility, railroad or pipeline owner or operator from  
16 the costs of any damages directly or indirectly caused by  
17 the installation, maintenance, repair, operation, or  
18 removal of cable television facilities. Upon request of the  
19 public utility, railroad, or owner or operator of an oil,  
20 petroleum product, chemical or gas pipeline, the community  
21 antenna television company shall provide proof that it has  
22 purchased and will maintain a policy or policies of  
23 insurance in amounts sufficient to provide coverage for  
24 personal injury and property damage losses caused by or  
25 resulting from the installation, maintenance, repair or  
26 removal of cable television facilities. The written

1 agreement shall provide that the community antenna  
2 television company shall maintain such policies of  
3 insurance in full force and effect as long as cable  
4 television facilities remain on the real estate or right of  
5 way.

6 Within 15 business days of receipt of the written prior  
7 notice of entry the public utility, railroad or pipeline owner  
8 or operator shall investigate and determine whether or not the  
9 proposed entry and installation or repair, maintenance, or  
10 removal would create a dangerous condition threatening the  
11 safety of the public or the safety of its employees or  
12 threatening to cause an interruption of the furnishing of vital  
13 transportation, utility or pipeline services and upon so  
14 finding shall so notify the community antenna television  
15 company or municipality of such decision in writing. Initial  
16 determination of the existence of such a dangerous condition or  
17 interruption of services shall be made by the public utility,  
18 railroad or pipeline owner or operator whose real estate or  
19 right of way is involved. In the event that the community  
20 antenna television company or municipality disagrees with such  
21 determination, a determination of whether such entry and  
22 installation, maintenance, repair or removal would create such  
23 a dangerous condition or interrupt services shall be made by  
24 the Illinois Commerce Commission ~~a court of competent~~  
25 ~~jurisdiction~~ upon the application of such community antenna  
26 television company or municipality. An initial written

1 determination of a public utility, railroad, or pipeline owner  
2 or operator timely made and transmitted to the community  
3 antenna television company or municipality, in the absence of a  
4 determination by a court of competent jurisdiction or an  
5 Illinois Commerce Commission finding to the contrary, bars the  
6 entry of the community antenna television company or  
7 municipality upon the real estate or right of way for any  
8 purpose.

9 Any public utility, railroad or pipeline owner or operator  
10 may assert a written claim against any community antenna  
11 television company for just compensation within 30 days after  
12 written notice has been given in accordance with this  
13 subparagraph (f). If, within 60 days after the receipt of such  
14 claim for compensation, the community antenna television  
15 company has not agreed to the amount claimed or some other  
16 amount acceptable to the public utility, railroad or pipeline  
17 owner or operator, the public utility, railroad or pipeline  
18 owner or operator may bring suit to enforce such claim for just  
19 compensation in any court of competent jurisdiction and, upon  
20 timely demand, may require that the amount of just compensation  
21 be determined by a jury. Any such action shall be commenced  
22 within 6 months of the notice provided for in this subparagraph  
23 (f). In any action brought to determine such just compensation,  
24 the public utility, railroad or pipeline owner or operator may  
25 submit such evidence as may be relevant to the issue of just  
26 compensation. Neither the assertion of a claim for compensation



1 nor the initiation of legal action to enforce such claim shall  
2 delay or impair the right of the community antenna television  
3 company to construct or install cable television facilities  
4 upon any real estate or rights of way of any public utility,  
5 railroad or pipeline owner or operator.

6 To the extent that the public utility, railroad, or owner  
7 or operator of an oil, petroleum product, chemical or gas  
8 pipeline deems it appropriate to supervise, monitor or  
9 otherwise assist the community antenna television company in  
10 connection with the installation, maintenance, repair or  
11 removal of cable television facilities upon such real estate or  
12 rights of way, the community antenna television company shall  
13 reimburse the public utility, railroad or owner or operator of  
14 an oil, petroleum product, chemical or gas pipeline for costs  
15 reasonable and actually incurred in connection therewith.

16 The provisions of this subparagraph (f) shall not be  
17 applicable to any easements, rights of way or ways for public  
18 service facilities in which public utilities, other than  
19 railroads, have any interest pursuant to "An Act to revise the  
20 law in relation to plats", approved March 21, 1874, as amended,  
21 and all ordinances enacted pursuant thereto. Such easements,  
22 rights of way and ways for public service facilities are hereby  
23 declared to be apportionable and upon written request by a  
24 community antenna television company, public utilities shall  
25 make such easements, rights of way and ways for public service  
26 facilities available for the construction, maintenance, repair

1 or removal of cable television facilities provided that such  
2 construction, maintenance, repair or removal does not create a  
3 dangerous condition threatening the safety of the public or the  
4 safety of such public utility employees or threatening to cause  
5 an interruption of the furnishing of vital utility service.  
6 Initial determination of the existence of such a dangerous  
7 condition or interruption of services shall be made by the  
8 public utility whose easement, right of way or way for public  
9 service facility is involved. In the event the community  
10 antenna television company or municipality disagrees with such  
11 determination, a determination of whether such construction,  
12 maintenance, repair or removal would create such a dangerous  
13 condition or threaten to interrupt vital utility services,  
14 shall be made by a court of competent jurisdiction upon the  
15 application of such community antenna television company.

16 If a municipality notifies or a municipality requires a  
17 developer to notify a public utility before or after issuing a  
18 permit or other authorization for the construction of  
19 residential buildings, then the municipality or developer  
20 shall, at the same time, similarly notify any community antenna  
21 television system franchised by or within that municipality.

22 In addition to such other notices as may be required by  
23 this subparagraph (f), a community antenna television company  
24 or municipality shall not enter upon the real estate or rights  
25 of way of any public utility, railroad or pipeline owner or  
26 operator for the purposes of above-ground maintenance or repair

1 of its television cable facilities without giving 96 hours  
2 prior written notice to the registered agent of the public  
3 utility, railroad or pipeline owner or operator involved, or in  
4 the case of a public utility, notice may be given through the  
5 statewide one-call notice system provided for by General Order  
6 of the Illinois Commerce Commission or, if in Chicago, through  
7 the system known as the Chicago Utility Alert Network.

8 (Source: P.A. 93-219, eff. 1-1-04.)

9 Section 15. The Crossing of Railroad Right-of-way Act is  
10 amended by changing Section 5 as follows:

11 (220 ILCS 70/5)

12 Sec. 5. Definitions. As used in this Act, unless the  
13 context otherwise requires:

14 "Crossing" means the construction, operation, repair, or  
15 maintenance of a facility over, under, or across a railroad  
16 right-of-way by a utility when the right-of-way is owned by a  
17 land management company and not a registered rail carrier.

18 "Direct expenses" includes, but is not limited to, any or  
19 all of the following:

20 (1) The cost of inspecting and monitoring the crossing  
21 site.

22 (2) Administrative and engineering costs for review of  
23 specifications and for entering a crossing on the  
24 railroad's books, maps, and property records and other

1 reasonable administrative and engineering costs incurred  
2 as a result of the crossing.

3 (3) Document and preparation fees associated with a  
4 crossing, and any engineering specifications related to  
5 the crossing.

6 (4) Damages assessed in connection with the rights  
7 granted to a utility with respect to a crossing.

8 "Facility" means any cable, conduit, wire, pipe, casing  
9 pipe, supporting poles and guys, manhole, or other material or  
10 equipment, that is used by a utility to furnish any of the  
11 following:

12 (1) Communications, video, or information services.

13 (2) Electricity.

14 (3) Gas by piped system.

15 (4) Sanitary and storm sewer service.

16 (5) Water by piped system.

17 "Land management company" means an entity that is the  
18 owner, manager, or agent of a railroad right-of-way and is not  
19 a registered rail carrier.

20 "Railroad right-of-way" means one or more of the following:

21 (1) A right-of-way or other interest in real estate  
22 that is owned or operated by a land management company and  
23 not a registered rail carrier.

24 (2) Any other interest in a former railroad  
25 right-of-way that has been acquired or is operated by a  
26 land management company or similar entity.

1 "Special circumstances" means either or both of the  
2 following:

3 (1) The characteristics of a segment of a railroad  
4 right-of-way not found in a typical segment of a railroad  
5 right-of-way that enhance the value or increase the damages  
6 or the engineering or construction expenses for the land  
7 management company associated with a proposed crossing, or  
8 to the current or reasonably anticipated use by a land  
9 management company of the railroad right-of-way,  
10 necessitating additional terms and conditions or  
11 compensation associated with a crossing.

12 (2) Variances from the standard specifications  
13 requested by the land management company.

14 "Special circumstances" may include, but is not limited to,  
15 the railroad right-of-way segment's relationship to other  
16 property, location in urban or other developed areas, the  
17 existence of unique topography or natural resources, or other  
18 characteristics or dangers inherent in the particular crossing  
19 or segment of the railroad right-of-way.

20 "Utility" shall include (1) public utilities as defined in  
21 Section 3-105 of the Public Utilities Act, (2)  
22 telecommunications carriers as defined in Section 13-202 of the  
23 Public Utilities Act, (3) electric cooperatives as defined in  
24 Section 3.4 of the Electric Supplier Act, (4) telephone or  
25 telecommunications cooperatives as defined in Section 13-212  
26 of the Public Utilities Act, (5) rural water or waste water

1 systems with 10,000 connections or less, (6) a holder as  
2 defined in Section 21-201 of the Public Utilities Act, (7)  
3 municipalities owning or operating utility systems consisting  
4 of public utilities as that term is defined in Section 11-117-2  
5 of the Illinois Municipal Code, ~~and~~ (8) a cable operator that  
6 is issued a cable television franchise by the municipality or  
7 county pursuant to Section 11-42-11 of the Illinois Municipal  
8 Code or Section 5-1095 of the Counties Code, and (9) a provider  
9 of broadband service as "broadband service" is defined in  
10 Section 21-201 of the Public Utilities Act.

11 (Source: P.A. 99-525, eff. 6-30-16.)

12 Section 20. The Illinois Vehicle Code is amended by  
13 changing Section 18c-7401 as follows:

14 (625 ILCS 5/18c-7401) (from Ch. 95 1/2, par. 18c-7401)

15 Sec. 18c-7401. Safety Requirements for Track, Facilities,  
16 and Equipment.

17 (1) General Requirements. Each rail carrier shall,  
18 consistent with rules, orders, and regulations of the Federal  
19 Railroad Administration, construct, maintain, and operate all  
20 of its equipment, track, and other property in this State in  
21 such a manner as to pose no undue risk to its employees or the  
22 person or property of any member of the public.

23 (2) Adoption of Federal Standards. The track safety  
24 standards and accident/incident standards promulgated by the

1 Federal Railroad Administration shall be safety standards of  
2 the Commission. The Commission may, in addition, adopt by  
3 reference in its regulations other federal railroad safety  
4 standards, whether contained in federal statutes or in  
5 regulations adopted pursuant to such statutes.

6 (3) Railroad Crossings. No public road, highway, or street  
7 shall hereafter be constructed across the track of any rail  
8 carrier at grade, nor shall the track of any rail carrier be  
9 constructed across a public road, highway or street at grade,  
10 without having first secured the permission of the Commission;  
11 provided, that this Section shall not apply to the replacement  
12 of lawfully existing roads, highways and tracks. No public  
13 pedestrian bridge or subway shall be constructed across the  
14 track of any rail carrier without having first secured the  
15 permission of the Commission. The Commission shall have the  
16 right to refuse its permission or to grant it upon such terms  
17 and conditions as it may prescribe. The Commission shall have  
18 power to determine and prescribe the manner, including the  
19 particular point of crossing, and the terms of installation,  
20 operation, maintenance, use and protection of each such  
21 crossing.

22 The Commission shall also have power, after a hearing, to  
23 require major alteration of or to abolish any crossing,  
24 heretofore or hereafter established, when in its opinion, the  
25 public safety requires such alteration or abolition, and,  
26 except in cities, villages and incorporated towns of 1,000,000

1 or more inhabitants, to vacate and close that part of the  
2 highway on such crossing altered or abolished and cause  
3 barricades to be erected across such highway in such manner as  
4 to prevent the use of such crossing as a highway, when, in the  
5 opinion of the Commission, the public convenience served by the  
6 crossing in question is not such as to justify the further  
7 retention thereof; or to require a separation of grades, at  
8 railroad-highway grade crossings; or to require a separation of  
9 grades at any proposed crossing where a proposed public highway  
10 may cross the tracks of any rail carrier or carriers; and to  
11 prescribe, after a hearing of the parties, the terms upon which  
12 such separations shall be made and the proportion in which the  
13 expense of the alteration or abolition of such crossings or the  
14 separation of such grades, having regard to the benefits, if  
15 any, accruing to the rail carrier or any party in interest,  
16 shall be divided between the rail carrier or carriers affected,  
17 or between such carrier or carriers and the State, county,  
18 municipality or other public authority in interest. However, a  
19 public hearing by the Commission to abolish a crossing shall  
20 not be required when the public highway authority in interest  
21 vacates the highway. In such instance the rail carrier,  
22 following notification to the Commission and the highway  
23 authority, shall remove any grade crossing warning devices and  
24 the grade crossing surface.

25 The Commission shall also have power by its order to  
26 require the reconstruction, minor alteration, minor relocation



1 or improvement of any crossing (including the necessary highway  
2 approaches thereto) of any railroad across any highway or  
3 public road, pedestrian bridge, or pedestrian subway, whether  
4 such crossing be at grade or by overhead structure or by  
5 subway, whenever the Commission finds after a hearing or  
6 without a hearing as otherwise provided in this paragraph that  
7 such reconstruction, alteration, relocation or improvement is  
8 necessary to preserve or promote the safety or convenience of  
9 the public or of the employees or passengers of such rail  
10 carrier or carriers. By its original order or supplemental  
11 orders in such case, the Commission may direct such  
12 reconstruction, alteration, relocation, or improvement to be  
13 made in such manner and upon such terms and conditions as may  
14 be reasonable and necessary and may apportion the cost of such  
15 reconstruction, alteration, relocation or improvement and the  
16 subsequent maintenance thereof, having regard to the benefits,  
17 if any, accruing to the railroad or any party in interest,  
18 between the rail carrier or carriers and public utilities  
19 affected, or between such carrier or carriers and public  
20 utilities and the State, county, municipality or other public  
21 authority in interest. The cost to be so apportioned shall  
22 include the cost of changes or alterations in the equipment of  
23 public utilities affected as well as the cost of the  
24 relocation, diversion or establishment of any public highway,  
25 made necessary by such reconstruction, alteration, relocation  
26 or improvement of said crossing. A hearing shall not be

1 required in those instances when the Commission enters an order  
2 confirming a written stipulation in which the Commission, the  
3 public highway authority or other public authority in interest,  
4 the rail carrier or carriers affected, and in instances  
5 involving the use of the Grade Crossing Protection Fund, the  
6 Illinois Department of Transportation, agree on the  
7 reconstruction, alteration, relocation, or improvement and the  
8 subsequent maintenance thereof and the division of costs of  
9 such changes of any grade crossing (including the necessary  
10 highway approaches thereto) of any railroad across any highway,  
11 pedestrian bridge, or pedestrian subway.

12 Every rail carrier operating in the State of Illinois shall  
13 construct and maintain every highway crossing over its tracks  
14 within the State so that the roadway at the intersection shall  
15 be as flush with the rails as superelevated curves will allow,  
16 and, unless otherwise ordered by the Commission, shall  
17 construct and maintain the approaches thereto at a grade of not  
18 more than 5% within the right of way for a distance of not less  
19 the 6 feet on each side of the centerline of such tracks;  
20 provided, that the grades at the approaches may be maintained  
21 in excess of 5% only when authorized by the Commission.

22 Every rail carrier operating within this State shall remove  
23 from its right of way at all railroad-highway grade crossings  
24 within the State, such brush, shrubbery, and trees as is  
25 reasonably practical for a distance of not less than 500 feet  
26 in either direction from each grade crossing. The Commission

1 shall have power, upon its own motion, or upon complaint, and  
2 after having made proper investigation, to require the  
3 installation of adequate and appropriate luminous reflective  
4 warning signs, luminous flashing signals, crossing gates  
5 illuminated at night, or other protective devices in order to  
6 promote and safeguard the health and safety of the public.  
7 Luminous flashing signal or crossing gate devices installed at  
8 grade crossings, which have been approved by the Commission,  
9 shall be deemed adequate and appropriate. The Commission shall  
10 have authority to determine the number, type, and location of  
11 such signs, signals, gates, or other protective devices which,  
12 however, shall conform as near as may be with generally  
13 recognized national standards, and the Commission shall have  
14 authority to prescribe the division of the cost of the  
15 installation and subsequent maintenance of such signs,  
16 signals, gates, or other protective devices between the rail  
17 carrier or carriers, the public highway authority or other  
18 public authority in interest, and in instances involving the  
19 use of the Grade Crossing Protection Fund, the Illinois  
20 Department of Transportation. Except where train crews provide  
21 flagging of the crossing to road users, yield signs shall be  
22 installed at all highway intersections with every grade  
23 crossing in this State that is not equipped with automatic  
24 warning devices, such as luminous flashing signals or crossing  
25 gate devices. A stop sign may be used in lieu of the yield sign  
26 when an engineering study conducted in cooperation with the

1 highway authority and the Illinois Department of  
2 Transportation has determined that a stop sign is warranted. If  
3 the Commission has ordered the installation of luminous  
4 flashing signal or crossing gate devices at a grade crossing  
5 not equipped with active warning devices, the Commission shall  
6 order the installation of temporary stop signs at the highway  
7 intersection with the grade crossing unless an engineering  
8 study has determined that a stop sign is not appropriate. If a  
9 stop sign is not appropriate, the Commission may order the  
10 installation of other appropriate supplemental signing as  
11 determined by an engineering study. The temporary signs shall  
12 remain in place until the luminous flashing signal or crossing  
13 gate devices have been installed. The rail carrier is  
14 responsible for the installation and subsequent maintenance of  
15 any required signs. The permanent signs shall be in place by  
16 July 1, 2011.

17 No railroad may change or modify the warning device system  
18 at a railroad-highway grade crossing, including warning  
19 systems interconnected with highway traffic control signals,  
20 without having first received the approval of the Commission.  
21 The Commission shall have the further power, upon application,  
22 upon its own motion, or upon complaint and after having made  
23 proper investigation, to require the interconnection of grade  
24 crossing warning devices with traffic control signals at  
25 highway intersections located at or near railroad crossings  
26 within the distances described by the State Manual on Uniform

1 Traffic Control Devices adopted pursuant to Section 11-301 of  
2 this Code. In addition, State and local authorities may not  
3 install, remove, modernize, or otherwise modify traffic  
4 control signals at a highway intersection that is  
5 interconnected or proposed to be interconnected with grade  
6 crossing warning devices when the change affects the number,  
7 type, or location of traffic control devices on the track  
8 approach leg or legs of the intersection or the timing of the  
9 railroad preemption sequence of operation until the Commission  
10 has approved the installation, removal, modernization, or  
11 modification. Commission approval shall be limited to  
12 consideration of issues directly affecting the public safety at  
13 the railroad-highway grade crossing. The electrical circuit  
14 devices, alternate warning devices, and preemption sequences  
15 shall conform as nearly as possible, considering the particular  
16 characteristics of the crossing and intersection area, to the  
17 State manual adopted by the Illinois Department of  
18 Transportation pursuant to Section 11-301 of this Code and such  
19 federal standards as are made applicable by subsection (2) of  
20 this Section. In order to carry out this authority, the  
21 Commission shall have the authority to determine the number,  
22 type, and location of traffic control devices on the track  
23 approach leg or legs of the intersection and the timing of the  
24 railroad preemption sequence of operation. The Commission  
25 shall prescribe the division of costs for installation and  
26 maintenance of all devices required by this paragraph between

1 the railroad or railroads and the highway authority in interest  
2 and in instances involving the use of the Grade Crossing  
3 Protection Fund or a State highway, the Illinois Department of  
4 Transportation.

5 Any person who unlawfully or maliciously removes, throws  
6 down, damages or defaces any sign, signal, gate or other  
7 protective device, located at or near any public grade  
8 crossing, shall be guilty of a petty offense and fined not less  
9 than \$50 nor more than \$200 for each offense. In addition to  
10 fines levied under the provisions of this Section a person  
11 adjudged guilty hereunder may also be directed to make  
12 restitution for the costs of repair or replacement, or both,  
13 necessitated by his misconduct.

14 It is the public policy of the State of Illinois to enhance  
15 public safety by establishing safe grade crossings. In order to  
16 implement this policy, the Illinois Commerce Commission is  
17 directed to conduct public hearings and to adopt specific  
18 criteria by July 1, 1994, that shall be adhered to by the  
19 Illinois Commerce Commission in determining if a grade crossing  
20 should be opened or abolished. The following factors shall be  
21 considered by the Illinois Commerce Commission in developing  
22 the specific criteria for opening and abolishing grade  
23 crossings:

- 24 (a) timetable speed of passenger trains;  
25 (b) distance to an alternate crossing;  
26 (c) accident history for the last 5 years;

1           (d) number of vehicular traffic and posted speed  
2           limits;

3           (e) number of freight trains and their timetable  
4           speeds;

5           (f) the type of warning device present at the grade  
6           crossing;

7           (g) alignments of the roadway and railroad, and the  
8           angle of intersection of those alignments;

9           (h) use of the grade crossing by trucks carrying  
10          hazardous materials, vehicles carrying passengers for  
11          hire, and school buses; and

12          (i) use of the grade crossing by emergency vehicles.

13          The Illinois Commerce Commission, upon petition to open or  
14          abolish a grade crossing, shall enter an order opening or  
15          abolishing the crossing if it meets the specific criteria  
16          adopted by the Commission.

17          Except as otherwise provided in this subsection (3), in no  
18          instance shall a grade crossing be permanently closed without  
19          public hearing first being held and notice of such hearing  
20          being published in an area newspaper of local general  
21          circulation.

22          (4) Freight Trains - Radio Communications. The Commission  
23          shall after hearing and order require that every main line  
24          railroad freight train operating on main tracks outside of yard  
25          limits within this State shall be equipped with a radio  
26          communication system. The Commission after notice and hearing

1 may grant exemptions from the requirements of this Section as  
2 to secondary and branch lines.

3 (5) Railroad Bridges and Trestles - Walkway and Handrail.

4 In cases in which the Commission finds the same to be practical  
5 and necessary for safety of railroad employees, bridges and  
6 trestles, over and upon which railroad trains are operated,  
7 shall include as a part thereof, a safe and suitable walkway  
8 and handrail on one side only of such bridge or trestle, and  
9 such handrail shall be located at the outer edge of the walkway  
10 and shall provide a clearance of not less than 8 feet, 6  
11 inches, from the center line of the nearest track, measured at  
12 right angles thereto.

13 (6) Packages Containing Articles for First Aid to Injured  
14 on Trains.

15 (a) All rail carriers shall provide a first aid kit  
16 that contains, at a minimum, those articles prescribed by  
17 the Commission, on each train or engine, for first aid to  
18 persons who may be injured in the course of the operation  
19 of such trains.

20 (b) A vehicle, excluding a taxi cab used in an  
21 emergency situation, operated by a contract carrier  
22 transporting railroad employees in the course of their  
23 employment shall be equipped with a readily available first  
24 aid kit that contains, as a minimum, the same articles that  
25 are required on each train or engine.

26 (7) Abandoned Bridges, Crossings, and Other Rail Plant. The



1 Commission shall have authority, after notice and hearing, to  
2 order:

3 (a) The removal of any abandoned railroad tracks from  
4 roads, streets or other thoroughfares in this State; and

5 (b) The removal of abandoned overhead railroad  
6 structures crossing highways, waterways, or railroads.

7 The Commission may equitably apportion the cost of such  
8 actions between the rail carrier or carriers, public utilities,  
9 and the State, county, municipality, township, road district,  
10 or other public authority in interest.

11 (8) Railroad-Highway Bridge Clearance. A vertical  
12 clearance of not less than 23 feet above the top of rail shall  
13 be provided for all new or reconstructed highway bridges  
14 constructed over a railroad track. The Commission may permit a  
15 lesser clearance if it determines that the 23 foot clearance  
16 standard cannot be justified based on engineering,  
17 operational, and economic conditions.

18 (9) Right-of-Access To Railroad Property.

19 (a) With respect to a (i) cable operator franchised by  
20 a municipality or county pursuant to the Illinois Municipal  
21 Code or the Counties Code, respectively, (ii) a holder of  
22 State authorization, or (iii) a provider of broadband  
23 service, no railroad subject to the jurisdiction of the  
24 Illinois Commerce Commission shall forbid or prevent the  
25 cable operator, holder, or provider from entering upon any  
26 real estate or right of way in the possession or control of

1 the railroad for the purpose of or in connection with the  
2 construction or installation of the cable operator's,  
3 holder's, or provider's system or facilities. However, the  
4 railroad may require, in exchange and as compensation for  
5 permitting the construction or installation of the systems  
6 or facilities upon, beneath, or over its real estate, the  
7 payment of just compensation by the holder, provider, or  
8 cable operator. This compensation shall be determined in  
9 accordance with paragraph (b) of this subsection (9). The  
10 cable operator, holder, or provider shall agree to  
11 indemnify the railroad for any damage caused by the  
12 installation, operation of, or removal of the system or  
13 facilities.

14 (b) No community antenna television company, holder of  
15 state authorization, cable operator, or provider of  
16 broadband service shall enter upon any real estate or  
17 rights-of-way in the possession or control of any railroad  
18 subject to the jurisdiction of the Illinois Commerce  
19 Commission unless the community antenna television  
20 company, holder, cable operator, or provider of broadband  
21 service first complies with the applicable provisions of  
22 subparagraph (f) of Section 11-42-11.1 of the Illinois  
23 Municipal Code.

24 (c) Notwithstanding any provision of law to the contrary,  
25 this subsection (9) applies to all entries of railroad  
26 rights-of-way involving a railroad subject to the jurisdiction

1 of the Illinois Commerce Commission and shall govern in the  
2 event of any conflict with any other provision of law.

3 (d) This subsection (9) applies to any entry upon any real  
4 estate or right of way in the possession or control of any  
5 railroad subject to the jurisdiction of the Illinois Commerce  
6 Commission for the purpose of or in connection with the  
7 construction or installation of a cable operator's, holder's,  
8 or provider's system or facilities commenced or renewed on or  
9 after the effective date of this amendatory Act of the 100th  
10 General Assembly.

11 (e) Nothing in this amendatory Act of the 100th General  
12 Assembly shall be construed to prevent a railroad from  
13 negotiating other terms and conditions of the resolution of any  
14 dispute in relation to an entry upon or right of access as set  
15 forth in this subsection (9).

16 (f) For purposes of this subsection (9), "broadband  
17 service", "cable operator", and "holder" have the meaning given  
18 to those terms under Section 21-201 of the Public Utilities  
19 Act.

20 (Source: P.A. 96-470, eff. 8-14-09; 97-374, eff. 1-1-12.)

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law.