

# STATE OF NEW YORK

4990

2021-2022 Regular Sessions

## IN SENATE

February 22, 2021

Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the general city law and the railroad law, in relation to authorizing cities to request that railroad corporations perform railroad crossing, bridge and right of ways maintenance

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The general city law is amended by adding a new section  
2 21-g to read as follows:

3 § 21-g. Railroad bridge and right of ways maintenance. 1. Any city  
4 through which a railroad route, as described in section sixteen of the  
5 railroad law, passes, except a railroad route on which trains or subways  
6 are operated by a public authority, may make a written request of the  
7 railroad corporation that owns the tracks, bridges and/or right of ways  
8 along such route within such city to perform maintenance of any and all  
9 bridges and/or right of ways, including but not limited to, the paint-  
10 ing, cleaning, repairing, or lighting of such bridges, and/or the clean-  
11 ing, grading, resurfacing, cutting or removal of trees, brush or  
12 foliage, and/or other maintenance of such right of ways.

13 2. Any request made by a city in accordance with subdivision one of  
14 this section, must specify with particularity, the maintenance that the  
15 city is requesting to be performed, including the types of materials,  
16 processes, and equipment to be used, together with a description of the  
17 property at which the bridge or right of way is located.

18 3. If, after ninety days of a request made by a city in accordance  
19 with subdivision one of this section, the railroad corporation has not  
20 completely complied with the request, then the city that made the  
21 request, may notify the railroad corporation that if such railroad  
22 corporation does not completely perform the requested maintenance within  
23 thirty days, that such city will perform, or contract to perform, such

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 maintenance on behalf of, and at the expense of, such railroad corpo-  
2 ration.

3 4. If, after thirty days of a notification made by a city in accord-  
4 ance with subdivision three of this section, the railroad corporation  
5 fails to completely comply with the request made by the city in accord-  
6 ance with subdivision one of this section, then the city making such  
7 request and providing such notice, may perform, or contract to perform  
8 the requested maintenance on behalf of, and at the expense of, such  
9 railroad corporation.

10 5. A railroad corporation, that has not complied with the request made  
11 in accordance with subdivision one of this section, and has not complied  
12 with a notice made in accordance with subdivision three of this section,  
13 shall be deemed to have authorized and granted permission to the city  
14 making such request and providing such notice, and/or to the contractors  
15 of the city making such request and providing such notice, to enter and  
16 remain upon the property of the railroad corporation for the purpose of  
17 providing such requested maintenance. During the performance of the  
18 requested maintenance by the city making such request, and/or their  
19 contractor, the railroad corporation shall provide all cooperation  
20 necessary, including the provision of the notification of train sched-  
21 ules, the necessary stoppage or reduction of speed of trains, the neces-  
22 sary access to any bridges and/or right of ways involved, and any other  
23 assistance or cooperation that is necessary to complete such mainte-  
24 nance.

25 6. Upon the completion of the maintenance in accordance with subdivi-  
26 sion five of this section, the city that performed, or contracted for  
27 the performance of, such requested maintenance, shall send an invoice of  
28 all costs and expenses incurred by the city that performed, or  
29 contracted for the performance of, such requested maintenance. Such  
30 invoice shall describe with particularity all costs, payments and  
31 expenses made and/or incurred by the city in the performance of such  
32 requested maintenance, including the number of hours of labor performed,  
33 and materials, processes and equipment used to complete the task. Upon  
34 receipt of the invoice described in this subdivision, the railroad  
35 corporation shall remit full payment to the city that performed, or  
36 contracted for the performance of, such requested maintenance. If such  
37 railroad corporation fails to fully pay the invoice within sixty days of  
38 its receipt, the city may impose a lien for the amount of the invoice  
39 upon the real property of the railroad, residing within such city.

40 § 2. The railroad law is amended by adding a new section 29 to read as  
41 follows:

42 § 29. Railroad bridge and right of ways maintenance. 1. Any railroad  
43 corporation that has been provided a request, in accordance with subdivi-  
44 vision one of section twenty-one-g of the general city law, for the  
45 performance of maintenance on a bridge or right of ways owned by such  
46 railroad corporation, shall make all reasonable efforts to comply and  
47 accommodate such request, including but not limited to performing, or  
48 contracting for the performance of such request.

49 2. Any city that does not receive reasonable compliance and accommo-  
50 modation from a railroad corporation, pursuant to this section or pursuant  
51 to section twenty-one-g of the general city law, may make an application  
52 to the supreme court for three times any damages such city has  
53 sustained, as the result of the railroad corporation's failure to so  
54 comply or accommodate.

55 3. Any railroad corporation that has been provided a request, in  
56 accordance with subdivision one of section twenty-one-g of the general

1 city law, for the performance of maintenance on a bridge or right of  
2 ways owned by such railroad corporation, may make an application to the  
3 supreme court, seeking a temporary or limited stay or modification of  
4 such request, in the interests of justice, and upon good cause demon-  
5 strating as to why such request cannot be complied with or accommodated  
6 by the railroad corporation.

7 § 3. This act shall take effect immediately.