

**177.190 Appeal by railroad company to Circuit Court.**

- (1) Any railroad company dissatisfied with a final order of the department directing the elimination of any grade crossing or change of existing overhead or underpass structure, or any order modifying or amending the final order may appeal by filing a petition in the clerk's office of the Franklin Circuit Court in accordance with KRS Chapter 13B.
- (2) On the hearing of the appeal, the Circuit Court shall determine whether the elimination of the grade crossing, or the change in existing overhead or underpass structure, is reasonably necessary for the safety of the traveling public, and whether the plans and specifications prescribed by the order of the department are reasonably adequate to provide safety of operation for the trains of the railroad company, its employees and the public, and make reasonably adequate provisions for the future development of the railroad company's facilities.
- (3) If the court finds from the evidence that the elimination of the grade crossing or change in existing overhead or underpass structure is not reasonably necessary for the safety of the traveling public, it shall, by final judgment, enjoin the department from enforcing its final order.
- (4) If the court finds from the evidence that the elimination of the grade crossing or change in existing overhead or underpass structure is reasonably necessary for the safety of the traveling public, it shall, by final judgment, either order the railroad company to proceed with the work in accordance with the final order of the department, or in accordance with other plans and specifications prescribed by the court.

**Effective:** July 15, 1996

**History:** Amended 1996 Ky. Acts ch. 318, sec. 63, effective July 15, 1996. -- Amended 1976 Ky. Acts ch. 62, sec. 93. -- Amended 1974 Ky. Acts ch. 74, Art. IV, sec. 20(1). -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4356z-7.