

## CHAPTER 32.

## CONSTRUCTION OF VIADUCTS.

H. F. 225. AN ACT to Authorize Certain Cities to Require the Erection and Construction of Viaducts Over or Under Railroads on Public Streets and to Provide Compensation to Owners of Property Abutting on such Streets.

*Be it enacted by the General Assembly of the State of Iowa:*

Cities of 7,000  
population  
may require  
railroads to  
build viaducts.

SECTION 1. The council of any city of the first class and cities organized under special charter or cities of the second class having a population of (7,000) seven thousand or over, shall have power to require any railroad company or companies, owning or operating any railroad track or tracks upon or across any public street or streets of such city to erect, construct, reconstruct complete and keep in repair to the extent hereinafter provided any viaduct or viaducts upon or along such street or streets and over or under such track or tracks including the approaches thereto as may be deemed and declared by ordinances of such city necessary for the safety and protection of the public: provided that the approaches to any such viaduct which any railroad company or companies may be required to construct, or reconstruct and keep in repair shall not exceed for each viaduct a total distance of eight hundred feet, and provided further that no such viaduct shall be required on more than every fourth street running in the same direction and that no railroad company shall be required to build or contribute to the building more than one such viaduct with its approaches in any one year. Nor shall any viaduct be required until the Board of Railroad Commissioners shall, after due examination determined said viaduct to be necessary in order to promote the public safety and convenience, and the plans of said viaduct prepared as provided in section 3 hereof, shall have been approved by said board.

Assessment of  
damages.

SEC. 2. Whenever any such viaduct shall be deemed and declared by ordinances necessary for the safety and protection of the public, the council shall provide for appraising, assessing and determining the damages, if any, which may be caused to any property, by reason of the construction of such viaduct and its approaches. The proceedings for such purpose shall be the same as provided by law for taking possession of streets by railroad companies, except that the damages assessed shall be paid by the city.

Specifications.

SEC. 3. The width, height and strength of any such viaduct, and the approaches thereto, the material therefor, and the manner of construction thereof shall be such as may be required

by the Board of Public Works and approved by the mayor and council, but if there be no board of public works, then they shall be such as may be required by the council.

SEC. 4. When two or more railroad companies own or operate separate lines of track to be crossed by any such viaduct, the proportion thereof, and of the approaches thereto, to be constructed by each, or of the cost to be borne by each shall be determined by the council. After the completion of any such viaduct, any revenue derived therefrom by the crossing thereon of street railway lines, or otherwise, shall constitute a special fund, and shall be applied in making repairs to such viaduct. One half of all ordinary repairs to such viaduct, or to the approaches thereto, shall be paid out of such fund, or shall be borne by the city, and the remaining half shall be borne by the railroad company or companies and if the track of more than one company is so crossed the said one half of such repairs shall be borne by such companies in the same proportion as the original construction of such viaduct.

Where two or more companies have interest.

Revenue.

SEC. 5. Every city to which this act applies is authorized and empowered to receive a bond of indemnity from persons interested in the construction of any such viaduct conditioned for the payment of all the damages which may be assessed in favor of abutting property owners together with costs.

Indemnity bond.

SEC. 6. If any railroad company neglects or refuses for more than thirty days after such notice as may be prescribed by ordinance, to comply with the requirements of any ordinance passed under the provisions hereof, the city may construct or repair the viaduct or approach or portion of viaduct or approach which such ordinance may require such railroad company to construct or maintain, and recover the cost of such construction or maintenance from such railroad company in any court of competent jurisdiction.

Refusal to comply.

SEC. 7. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and the Des Moines Leader, newspapers published in Des Moines, Iowa.

Publication.

Approved April 7, 1888.

I hereby certify that the foregoing was published in the *Iowa State Register* and *Des Moines Leader* April 17, 1888

FRANK D. JACKSON, *Secretary of State.*