

SENATE FILE NO. SF0118

Eminent domain-2.

Sponsored by: Senator(s) Driskill, Christensen, Hicks,
Hines, Landen, Meier and Schiffer and
Representative(s) Barlow, Brown, Hunt and
Jaggi

A BILL

for

1 AN ACT relating to eminent domain; specifying burden of
2 proof in eminent domain proceedings; adding provision for
3 litigation expenses; clarifying determination of fair
4 market value; and providing for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 1-26-504 by creating a new subsection
9 (d), 1-26-509(g) and by creating a new subsection (j) and
10 1-26-704(a)(iii)(B) and (C) are amended to read:

11

12 **1-26-504. Requirements to exercise eminent domain.**

13

14 (d) A condemnor shall prove each requirement of
15 subsection (a) of this section by a preponderance of the

1 evidence. Failure of the condemnor to prove any requirement
2 of subsection (a) of this section shall result in dismissal
3 of the condemnation action.

4
5 **1-26-509. Negotiations; scope of efforts to purchase.**

6
7 (g) The condemnor shall reimburse the condemnee for
8 all reasonable litigation expenses if a court finds the
9 condemnor failed to negotiate in good faith as required
10 under subsections (b) through (e) of this section, or to
11 comply with ~~W.S. 1-26-504(a)(ii) and (iii)~~ any requirements
12 of W.S. 1-26-504(a).

13
14 (j) If a court or jury finds that the fair market
15 value of the property sought by the condemnor is not more
16 than ten percent (10%) greater than the final offer
17 required by subsection (e) of this section, the condemnor
18 shall reimburse the condemnee for all reasonable litigation
19 expenses incurred after the condemnee's receipt of the
20 final offer.

21
22 **1-26-704. Fair market value defined.**

23

1 (a) Except as provided in subsection (b) of this
2 section:

3

4 (iii) The determination of fair market value
5 shall use generally accepted appraisal techniques and may
6 include:

7

8 (B) The price paid for other comparable
9 easements, surface use agreements, surface damage
10 agreements or leases of comparable type, size and location
11 on the same or similar property;

12

13 (C) Values paid for transactions of
14 comparable type, size and location by other companies
15 public or private entities in arms length transactions for
16 comparable transactions on the same or similar property.

17

18 **Section 2.** This act is effective July 1, 2013.

19

20

(END)