

ENROLLED ACT NO. 114, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING  
2009 GENERAL SESSION

AN ACT relating to establishment of private roads; specifying procedures for hearings; providing for access to the district court; and providing for an effective date.

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

**Section 1.** W.S. 24-9-101(h), (k) and (m) is amended to read:

**24-9-101. Petition; initial hearing; appointment of viewers and appraisers; bond; rules; certification to district court.**

(h) If at the completion of the hearing the board finds that the applicant has satisfied the requirements of this section and access is necessary because the applicant has no legally enforceable access, the board shall within thirty (30) days of the completion of the hearing enter its order so finding and certify the application directly to the district court unless the board elects to retain jurisdiction. If the application is certified the court shall proceed as provided in subsection (m) of this section. If the board elects to retain jurisdiction it shall proceed with the application as provided in this subsection, subsections (j) through (k) of this section and W.S. 24-9-103. The board shall appoint three (3) disinterested freeholders and electors of the county, as viewers and appraisers. Before entering upon their duties the viewers shall take and subscribe to an oath that they will faithfully and impartially perform their duties under their appointment as viewers and appraisers. The board shall cause an order to be issued directing them to meet on a day named in the order on the proposed road, and view and appraise any damages and make a recommendation to the board. Prior to meeting on-site to view the proposed road,

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the viewers shall give notice in writing to the applicant and affected parties of the lands through which the proposed road or any alternative road may pass, of the time and place where the viewers will meet, at least ten (10) days before viewing the road, at which time and place all persons interested may appear and be heard by the viewers. The viewers and appraisers shall then proceed to locate and mark out a private road and alternative routes as they deem appropriate, provided the location of the road shall not be marked out to cross the lands of any affected party who was not given notice under subsection (e) of this section. The viewers and appraisers shall recommend the most reasonable and convenient route, provided that access shall be along section and boundary lines whenever practical. The viewers and appraisers may recommend specific conditions that the board place on the road as the board deems necessary, including provisions for maintenance and limitations on the amount and type of use. The proposed road shall not exceed thirty (30) feet in width from a certain point on the land of the applicant to some certain point on the public road, and shall be located so as to do the least possible damage to the lands through which the private road is located. The viewers and appraisers shall also appraise any damages sustained by the owner over which the road is to be established and make full and true returns, with a plat of the road to the board of county commissioners. The viewers and appraisers shall also determine whether or not any gates or cattleguards shall be placed at proper points on the road, and appraise any damages in accordance with that determination.

(k) All hearings conducted by the board of county commissioners under this section and W.S. 24-9-103 shall be held in accordance with the Wyoming Administrative Procedure Act, as it applies to a contested case. The

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board shall enforce the provisions of this article in accordance with the Wyoming Administrative Procedure Act.

(m) ~~If at the completion of the hearing the board finds that the applicant has satisfied the requirements of this section and access is necessary because the applicant has no legally enforceable access, the board shall, within twenty (20) days of so finding, certify~~ certifies the application directly to the district court ~~unless the board elects to retain jurisdiction. the board shall within twenty (20) days of entering its order send notice of the board's certification shall be made~~ in writing to the clerk of the district court and to all affected parties having an interest in the lands through which the proposed road or any alternative road may pass. ~~The district court shall treat the certified application as a newly filed civil action certification shall be filed as a civil action in district court~~ upon payment of a filing fee by the applicant as provided in W.S. 5-3-206(a)(i). The certification shall be an interlocutory decision by the board. The certification and order finding necessity shall not be subject to appellate nor de novo review by the district court. The court shall proceed with the matter in the manner provided in and consistent with subsections (h) and (j) of this section and W.S. 24-9-103, except that the case shall be conducted in accordance with the rules of civil procedure, the court shall act in place of the board of county commissioners, and the provisions of the Wyoming Administrative Procedure Act shall not apply. Entry of a final order by the court shall constitute a final decision of the board under the Wyoming Administrative Procedure Act and the Wyoming Rules of Appellate Procedure and a final order of the court under the Wyoming Rules of Civil Procedure and the Wyoming Administrative Procedure Act.

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**Section 2.** This act is effective July 1, 2009.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk