

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~~ or (iii), or that the
12 project fails to meet any one (1) or more of the
13 requirements of W.S. 1-26-504(a)(i).

14
15 (j) If a court or jury finds that the fair market
16 value of the property sought by the condemnor is greater
17 than the final offer required by subsection (e) of this
18 section, the condemnor shall reimburse the condemnee for
19 all reasonable litigation expenses incurred after the
20 condemnee's receipt of the final offer.

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

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)