

ENROLLED ACT NO. 81, SENATE

SIXTY-SECOND LEGISLATURE OF THE STATE OF WYOMING  
2013 GENERAL SESSION

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

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

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

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

(d) A condemnor shall prove each requirement of subsection (a) of this section by a preponderance of the evidence. Failure of the condemnor to prove any requirement of subsection (a) of this section shall result in dismissal of the condemnation action without prejudice.

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

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

(j) If a court or jury finds that the fair market value of the property sought by the condemnor is more than one hundred fifteen percent (115%) of the final offer required by subsection (e) of this section, the condemnor shall reimburse the condemnee for all reasonable litigation

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expenses incurred after the condemnee's receipt of the final offer.

(k) Attorney's fees and other expenses awarded under this section from a public entity to a condemnee shall be reported by the public entity which paid the fees, to the Wyoming attorney general within sixty (60) days of the award. The Wyoming attorney general shall collect this data and report annually to the governor on the amount of all taxpayer funded fee awards, beginning July 31, 2014. The report shall identify the name of each party to whom an award was made, the name of each counsel of record representing each party to whom an award was made, the public agency which paid each award and the total amount of each award.

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

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

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

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

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

(END)

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

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

\_\_\_\_\_  
Governor

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

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

I hereby certify that this act originated in the Senate.

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