

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

### **Introduced**

## **House Bill 4499**

By Delegates Funkhouser, Canterbury, Masters,  
Ridenour, Roop, Street, Hillenbrand, Coop-Gonzalez,  
B. Ward, Chiarelli, and Flanigan

[Introduced January 19, 2026; referred to the  
Committee on the Judiciary]

1 A BILL to amend and reenact §54-2-9a of the Code of West Virginia, 1931, as amended; and to  
2 amend said code by adding two new sections, designated §54-2-9b and §54-2-9c, all  
3 relating to eminent domain; legislative findings; providing for enhanced compensation for  
4 property owners that is equal to twice the fair market value of the property taken, plus  
5 damages to any remaining property; and providing for how the enhanced compensation is  
6 determined.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE****2.****PROCEDURE.****§54-2-9a. Separate findings of compensation and damages and purpose.**

1 (a) If the report of the commissioners includes any sum for damages, in addition to the sum  
2 for just compensation for the property, or interest or right therein, proposed to be taken, the  
3 commissioners shall, if the owner or owners of the property request the same, state in their report  
4 what sum has been fixed as damages in the manner provided for in §54-2-9b and §54-2-9c of this  
5 code.

6 (b) The Legislature finds that the current standard of just compensation in eminent domain  
7 proceedings, while constitutionally adequate, does not fully account for the involuntary nature of  
8 property transfers and the disruption caused to property owners. The West Virginia Constitution  
9 requires that private property shall not be taken or damaged for public use without just  
10 compensation W. Va. Const. Art. III, § 9. The market value of condemned property in eminent  
11 domain proceedings has been defined as "the price for which the land could be sold in the market  
12 by a person desirous of selling to a person wishing to buy, both freely exercising prudence and  
13 intelligent judgment as to its value, and unaffected by compulsion of any kind" W. Va. Dep't of  
14 Highways v. Roda, 177 W. Va. 383, 352 S.E.2d 134 (1986). Both the United States and West  
15 Virginia Constitutions require the State to provide just compensation to the owner of an interest in  
16 real estate taken through the State's exercise of the power of eminent domain W. Va. DOT, Div. of  
17 Highway v. W. Pocahontas Props., Ltd. P'ship, 236 W. Va. 50, 777 S.E.2d 619 (2015). The

18 Legislature hereby determines that enhanced compensation equal to twice the fair market value  
19 better serves the constitutional mandate of just compensation and provides appropriate  
20 recognition of the involuntary nature of eminent domain takings.

**§54-2-9b. Enhanced compensation standard for eminent domain takings.**

1 (a) Notwithstanding any other provision of this code, in any eminent domain proceeding  
2 commenced after the effective date of this amendment, the compensation awarded to a property  
3 owner whose property is taken or damaged for public use shall be equal to twice the fair market  
4 value of the property taken, plus damages to any remaining property.

5 (b) For purposes of this section, fair market value shall be determined in accordance with  
6 existing law and shall be valued as of the date on which the property is lawfully taken by the  
7 commencement of appropriate legal proceedings Edwin Miller Invs., L.L.C. v. CGP Dev. Co., 232  
8 W. Va. 474, 752 S.E.2d 901 (2013).

9 (c) This enhanced compensation standard applies to all eminent domain proceedings,  
10 regardless of whether the condemning authority is the State of West Virginia, any political  
11 subdivision thereof, or any company incorporated for purposes of internal improvement.

**§54-2-9c. Application of enhanced compensation.**

1 (a) The enhanced compensation provided in §54-2-9b of this code shall be determined  
2 using the same procedures currently established for determining just compensation under existing  
3 law.

4 (b) In proceedings where the condemning authority seeks immediate possession under  
5 the expedited-entry provisions of this code, the initial payment into court shall be equal to twice the  
6 condemning authority's estimate of fair market value.

7 (c) If the final determination of fair market value differs from the initial estimate, the property  
8 owner may be entitled to payment of twice the difference, plus applicable interest as provided by  
9 law.

10 (d) The provisions of enhanced compensation apply only to eminent domain proceedings

- 11 commenced on or after the effective date of the amendments to this article.

NOTE: The purpose of this bill is to provide for enhanced compensation for property owners that is equal to twice the fair market value of the property taken, plus damages to any remaining property; and providing for how the enhanced compensation is determined.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.