

HOUSE FLOOR AMENDMENT

Second Reading

BY REPRESENTATIVE Bird

1 Amend printed bill, page 2, line 2, strike "**repeal**" and substitute
2 "**amend**".

3 Page 2, strike lines 5 through 13 and substitute "(1) In all actions brought
4 as a result of a death or an injury to person or property occasioned by the
5 tort of any other persons, where any such action is dismissed on motion
6 of the defendant prior to trial under rule 12 (b) of the Colorado rules of
7 civil procedure, such defendant shall have judgment for his reasonable
8 attorney fees in defending the action. This ~~section~~ SUBSECTION (1) ~~shall~~
9 DOES not apply if a motion under rule 12 (b) of the Colorado rules of civil
10 procedure is treated as a motion for summary judgment and disposed of
11 as provided in rule 56 of the Colorado rules of civil procedure.

12 (2) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO ANY
13 CLAIM THAT IS A GOOD FAITH, NON-FRIVOLOUS CLAIM FILED FOR THE
14 EXPRESS PURPOSE OF EXTENDING, LIMITING, MODIFYING, OR REVERSING
15 EXISTING PRECEDENT, LAW, OR REGULATION; OR FOR THE EXPRESS
16 PURPOSE OF ESTABLISHING THE MEANING, LAWFULNESS, OR
17 CONSTITUTIONALITY OF A LAW, REGULATION, OR UNITED STATES OR
18 STATE CONSTITUTIONAL RIGHT AND THE MEANING, LAWFULNESS, OR
19 CONSTITUTIONALITY HAS NOT BEEN DETERMINED BY THE COLORADO
20 SUPREME COURT, OR FOR CASES PRESENTING QUESTIONS UNDER THE
21 UNITED STATES CONSTITUTION, TO THE SUPREME COURT OF THE UNITED
22 STATES. THIS SUBSECTION (2) APPLIES SO LONG AS THE PARTY THAT
23 BROUGHT THE DISMISSED CLAIM HAS PLEADED, IN ITS COMPLAINT,
24 COUNTER-COMPLAINT, OR CROSS-COMPLAINT THAT THE DISMISSED CLAIM
25 WAS MADE FOR ONE OF THE EXPRESS PURPOSES STATED IN THIS
26 SUBSECTION (2) AND IDENTIFIED THE CONTRARY PRECEDENT OR
27 INTERPRETATION THE PARTY SEEKS TO DISTINGUISH OR OVERCOME, OR
28 WHETHER THE ISSUE TO BE DECIDED IS A MATTER OF FIRST IMPRESSION."

29 Page 2, strike lines 14 through 18.

30 Renumber succeeding section appropriately.

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