

Hall of the House of Representatives

91st General Assembly - Regular Session, 2017

Amendment Form

Subtitle of House Bill No. 2202

CONCERNING THE NEW BUSINESS RULE AND THE ABILITY OF A BUSINESS TO RECOVER LOST PROFITS IN LITIGATION.

Amendment No. 1 to House Bill No. 2202

Amend House Bill No. 2202 as originally introduced:

Delete everything after the enacting clause and substitute the following:

"SECTION 1. DO NOT CODIFY. Legislative findings.

The General Assembly finds that:

(1) Courts in this state and others may have perceived Arkansas as a "new business rule" state concerning the exclusion of lost profit damages for a newly established business;

(2) Damages have been recoverable in this state if they can be established with a reasonable degree of certainty; and

(3) The question of damages, both as to measure or amount, is a question of fact, and thus Arkansas has not applied a rigid "new business rule" to bar the award of future lost profits in tort or breach of contract cases.

SECTION 2. DO NOT CODIFY. Legislative intent.

The General Assembly intends to:

(1) Annul the application of the "new business rule" on any action for damages consisting of lost profits; and

(2) Prohibit the recognition of the "new business rule" in a court in this state.

SECTION 3. Arkansas Code Title 16, Chapter 64, is amended to add an additional section to read as follows:

16-64-131. New business rule – Damages.

In a case involving a recognized tort or breach of contract, there is no absolute denial of damages for lost profits to a newly established business."



The Amendment was read _____

By: Representative Tucker

BPG/TDW - 03-13-2017 10:38:57

BPG517

Chief Clerk