

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas As Engrossed: H3/14/17 H3/16/17

2 91st General Assembly

A Bill

3 Regular Session, 2017

HOUSE BILL 2202

4

5 By: Representative Tucker

6

7

For An Act To Be Entitled

8

AN ACT CONCERNING THE NEW BUSINESS RULE AND THE

9

ABILITY OF A BUSINESS TO RECOVER LOST PROFITS IN

10

LITIGATION; AND FOR OTHER PURPOSES.

11

12

13

Subtitle

14

CONCERNING THE NEW BUSINESS RULE AND THE

15

ABILITY OF A BUSINESS TO RECOVER LOST

16

PROFITS IN LITIGATION.

17

18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20

21 *SECTION 1. DO NOT CODIFY. Legislative findings.*

22 *The General Assembly finds that:*

23 *(1) Courts in this state and others may have perceived Arkansas*

24 *as a "new business rule" state concerning the exclusion of lost profit*

25 *damages for a newly established business;*

26 *(2) Damages have been recoverable in this state if they can be*

27 *established with a reasonable degree of certainty; and*

28 *(3) The question of damages, both as to measure or amount, is a*

29 *question of fact, and thus Arkansas has not applied a rigid "new business*

30 *rule" to bar the award of future lost profits in tort or breach of contract*

31 *cases.*

32

33 *SECTION 2. DO NOT CODIFY. Legislative intent.*

34 *The General Assembly intends to:*

35 *(1) Annul the application of the "new business rule" on any*

36 *action for damages consisting of lost profits; and*



