

## CHAPTER 253

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**TRANSPORTATION**

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**HOUSE BILL 02-1417**

BY REPRESENTATIVE(S) Mitchell, Hoppe, Rhodes, Rippy, Smith, Spradley, and Stengel;  
also SENATOR(S) Thiebaut, Anderson, Arnold, Epps, Hillman, Nichol, Takis, Taylor, and Teck.

**AN ACT****CONCERNING CLARIFICATION OF CIRCUMSTANCES FOR AWARDING AN OWNER RECOVERABLE LITIGATION EXPENSES IN A HIGHWAY CONDEMNATION ACTION.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1. Legislative declaration.** It is the intent of the general assembly to clarify the language in section 43-4-506 (1) (h) (II) (B), Colorado Revised Statutes, regarding the amount of a judgement a court must award to an owner in relation to the last written offer received prior to filing a condemnation action, in order to collect reasonable litigation costs, including attorney fees. It is not the intent of the general assembly to make a substantive change to section 43-4-506 (1) (h) (II) (B), Colorado Revised Statutes, but rather to provide additional guidance as to the meaning of this section. The legislative history applicable to this section prior to the effective date of House Bill 02-1417 establishes a clear intent to award reasonable costs, including attorney fees, to an owner who receives an award that exceeds the government's best offer by thirty percent or more. A construction of section 43-4-506 (1) (h) (II) (B), Colorado Revised Statutes, that requires an award of two hundred thirty percent is an absurd result.

**SECTION 2.** 43-4-506 (1) (h) (II) (B), Colorado Revised Statutes, is amended to read:

**43-4-506. Powers of the authority - inclusion or exclusion of property - determination of public highway alignment.** (1) In addition to any other powers granted to the authority pursuant to this part 5, the authority has the following powers:

(h) (II) To the extent applicable, in addition to any compensation awarded the owner in an eminent domain proceeding pursuant to the requirements of subparagraph

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(I) of this paragraph (h), and any benefits that may be due the owner pursuant to article 56 of title 24, C.R.S., the authority shall additionally reimburse the owner whose property is being acquired or condemned by such authority the following:

(B) In connection with proceedings for the authority's acquisition or condemnation of property pursuant to this part 5 in which the final value of the property as determined by the court exceeds ten thousand dollars, the court shall award the owner all of such owner's reasonable attorney fees and the reasonable costs of the litigation incurred by such owner where the award by the court in such proceedings EQUALS OR exceeds ~~by~~ one hundred thirty percent ~~or more~~ OF the last written offer given to the property owner prior to the filing of the condemnation action. For purposes of this sub-subparagraph (B), the reasonable costs of litigation shall include, but not be limited to, those items includable as costs in accordance with section 13-16-122, C.R.S.

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 2002