



House Bill 03-1089

**By Representative(s)
Mitchell**

**By Senator(s)
Taylor**

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

2 **SECTION 1. Legislative declaration.** (1) The general
assembly

3 determines and declares that the purpose and intent of this
act is to

4 encourage condemning entities to make fair and reasonable
offers to

5 owners of property subject to condemnation. Determining the
amount of

6 an offer to purchase is within the discretion and authority of
the

7 condemning entity, and such entities will be liable for owners'
costs and

8 fees only where a court or jury has determined that the fair value is at
least

9 thirty percent higher than the condemning entity's last offer.

10 (2) The general assembly therefore determines that the
purposes

11 of this act will be most fully served by directing all affected state
agencies,

12 divisions, and subdivisions to implement this act within their

existing

13 resources.

14 **SECTION 2.** [38-1-122](#), Colorado Revised Statutes, is amended BY

15 THE ADDITION OF A NEW SUBSECTION to read:

16 [38-1-122](#). **Attorney fees.** ((1.5)) { } IN CONNECTION WITH

17 PROCEEDINGS FOR THE ACQUISITION OR CONDEMNATION OF PROPERTY IN

18 WHICH THE AWARD DETERMINED BY THE COURT EXCEEDS TEN THOUSAND

19 DOLLARS, IN ADDITION TO ANY COMPENSATION AWARDED TO THE OWNER

20 IN AN EMINENT DOMAIN PROCEEDING, THE CONDEMNING AUTHORITY

21 SHALL REIMBURSE THE OWNER WHOSE PROPERTY IS BEING ACQUIRED OR

22 CONDEMNED FOR ALL OF THE OWNER'S REASONABLE ATTORNEY FEES { } {

23 } INCURRED BY THE OWNER WHERE THE AWARD BY THE COURT IN THE

24 PROCEEDINGS EQUALS OR EXCEEDS ONE HUNDRED THIRTY PERCENT OF THE

25 {LAST WRITTEN OFFER GIVEN TO THE PROPERTY OWNER PRIOR TO THE

26 FILING OF THE CONDEMNATION ACTION. THE PROVISIONS OF THIS

27 SUBSECTION (1.5) SHALL NOT APPLY TO ANY CONDEMNATION PROCEEDING

1 SEEKING TO ACQUIRE RIGHTS-OF-WAY UNDER ARTICLE 4, 5, OR 5.5
OF THIS

2 TITLE, ARTICLE 45 OF TITLE 37, C.R.S., OR SECTION 7 OF ARTICLE
XVI OF

3 THE COLORADO CONSTITUTION.} { } { }

4 **SECTION {3.} Effective date - applicability.** This act
shall take

5 effect July 1, 2003, and shall apply to actions filed on or after said date.

6 **SECTION {4.} Safety clause.** The general assembly
hereby finds,

7 determines, and declares that this act is necessary for the
immediate

8 preservation of the public peace, health, and
safety.