

HOUSE BILL No. 1137

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-52-1-1.

Synopsis: Legal costs and attorney's fees. Provides that a court shall award costs and attorney's fees to a prevailing party if the court grants a motion to dismiss due to a claim not having a basis in law or fact.

Effective: July 1, 2012.

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January 9, 2012, read first time and referred to Committee on Judiciary.

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PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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HOUSE BILL No. 1137



A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-52-1-1 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) In all civil
 3 actions, the party recovering judgment shall recover costs, except in
 4 those cases in which a different provision is made by law.
 5 (b) **Except as provided in subsection (c)**, in any civil action, the
 6 court may award attorney's fees as part of the cost to the prevailing
 7 party, if the court finds that either party:
 8 (1) brought the action or defense on a claim or defense that is
 9 frivolous, unreasonable, or groundless;
 10 (2) continued to litigate the action or defense after the party's
 11 claim or defense clearly became frivolous, unreasonable, or
 12 groundless; or
 13 (3) litigated the action in bad faith.
 14 (c) **In a civil action in which the court grants a motion to**
 15 **dismiss, in whole or in part, due to a claim not having a basis in law**
 16 **or fact, the court shall award costs and attorney's fees to the**
 17 **prevailing party.**



1 (e) **(d)** The award of fees under subsection (b) **or (c)** does not
2 prevent a prevailing party from bringing an action against another party
3 for abuse of process arising in any part on the same facts. However, the
4 prevailing party may not recover the same attorney's fees twice.

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