

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

Senate Bill No. 308

(By Senators Trump and Carmichael)

[Introduced January 26, 2015; referred to the Committee on the Judiciary.]

A BILL to amend and reenact §56-6-31 of the Code of West Virginia, 1931, as amended, relating to the rate of interest allowed for prejudgment and post-judgment interest.

Be it enacted by the Legislature of West Virginia:

That §56-6-31 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 6. TRIAL.

§56-6-31. Interest on judgment or decree.

(a) Except where it is otherwise provided by law, every judgment or decree for the payment of money, whether in an action sounding in tort, contract or otherwise, entered by any court of this state shall bear interest from the date thereof, whether it ~~be so~~ is stated in the judgment or decree or not: *Provided*, That if the judgment or decree, or any part thereof, is for special damages, as defined below, or for liquidated damages, the amount of special or liquidated damages shall bear interest at the rate in effect for the calendar year in which the right to bring the same ~~shall have~~ has accrued, as determined by the court and that established rate shall remain constant from that date until the date

1 of the judgment or decree, notwithstanding changes in the federal reserve district discount rate in
2 effect in subsequent years prior to the date of the judgment or decree. Special damages includes lost
3 wages and income, medical expenses, damages to tangible personal property and similar
4 out-of-pocket expenditures, as determined by the court. If an obligation is based upon a written
5 agreement, the obligation shall bear a prejudgment interest at the rate set forth in the written
6 agreement until the date the judgment or decree is entered and, thereafter, the judgment interest rate
7 shall be the same rate as provided ~~for~~ in this section.

8 (b) Notwithstanding the provisions of section five, article six, chapter forty-seven of this
9 code, the rate of interest on judgments and decrees for the payment of money, including prejudgment
10 interest, is three percentage points above the Fifth Federal Reserve District secondary discount rate
11 in effect on January 2, of the year in which the judgment or decree is entered: *Provided*, That the
12 rate of prejudgment and post-judgment interest ~~shall~~ may not exceed eleven percent per annum or
13 be less than ~~seven~~ three percent per annum. The Administrative Office of the Supreme Court of
14 Appeals shall annually determine the interest rate to be paid upon judgments or decrees for the
15 payment of money and shall take appropriate measures to promptly notify the courts and members
16 of the West Virginia State Bar of the rate of interest in effect for the calendar year in question. Once
17 the rate of interest is established by a judgment or decree as provided in this section, that established
18 rate shall thereafter remain constant for that particular judgment or decree, notwithstanding changes
19 in the Federal Reserve District discount rate in effect in subsequent years.

20 (c) Amendments to this section enacted by the Legislature during the ~~2006~~ 2015 Regular
21 Session ~~shall~~ become effective January 1, ~~2007~~ 2016.

NOTE: The purpose of this bill is to change the minimum amount of prejudgment and post-judgment interest to bring the minimum closer to today's economic conditions.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.