

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

House Bill 2678

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SHOTT

[Introduced February 23, 2017; Referred to the
Committee on the Judiciary.]

1 A BILL to amend and reenact §56-6-31 of the Code of West Virginia, 1931, as amended, relating
2 to the rate of interest allowed for prejudgment and post-judgment interest; providing that
3 every judgment or decree for the payment of money entered by any court of this state shall
4 bear simple interest; providing that the court may award prejudgment interest on all or
5 some of the amount of the special or liquidated damages; defining special damages;
6 proving that if an obligation is based upon a written agreement, then the obligation bears
7 prejudgment interest at the rate and terms set forth in the written agreement until the date
8 the judgment or decree is entered; providing that the rate of prejudgment interest is two
9 percentage points above the Fifth Federal Reserve District secondary discount rate in
10 effect on January 2, of the year in which the right to bring the action has accrued; providing
11 that the court will determine that prejudgment interest rate and that the determined rate
12 shall remain constant from that date until the date of the judgment or decree; providing
13 that the rate of prejudgment interest may not exceed nine percent per annum or be less
14 than four percent per annum; requiring that the administrative office of the Supreme Court
15 of Appeals shall annually determine the prejudgment interest rate and take appropriate
16 measures to notify the courts and members of the West Virginia State Bar of the rate of
17 interest in effect; creating an exception to how prejudgment interest is calculated for cases
18 in which the right to bring the action accrued prior to 2009; providing that the rate of post-
19 judgment interest is two percentage points above the Fifth Federal Reserve District
20 secondary discount rate in effect on January 2, of the year in which the judgment or decree
21 is entered; providing that the rate of post-judgment interest may not exceed nine percent
22 per annum or be less than four percent per annum; requiring that the administrative office
23 of the Supreme Court of Appeals shall annually determine the post-judgment interest rate
24 and take appropriate measures to notify the courts and members of the West Virginia
25 State Bar of the rate of interest in effect; and stating that the amendments to this section
26 become effective January 1, 2018.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 6. TRIAL.

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

1 ~~(a) Except where it is otherwise provided by law, every judgment or decree for the~~
2 ~~payment of money, whether in an action sounding in tort, contract or otherwise, entered by any~~
3 ~~court of this state shall bear interest from the date thereof, whether it be so stated in the judgment~~
4 ~~or decree or not: *Provided*, That if the judgment or decree, or any part thereof, is for special~~
5 ~~damages, as defined below, or for liquidated damages, the amount of special or liquidated~~
6 ~~damages shall bear interest at the rate in effect for the calendar year in which the right to bring~~
7 ~~the same shall have accrued, as determined by the court and that established rate shall remain~~
8 ~~constant from that date until the date of the judgment or decree, notwithstanding changes in the~~
9 ~~federal reserve district discount rate in effect in subsequent years prior to the date of the judgment~~
10 ~~or decree. Special damages includes lost wages and income, medical expenses, damages to~~
11 ~~tangible personal property and similar out-of-pocket expenditures, as determined by the court. If~~
12 ~~an obligation is based upon a written agreement, the obligation shall bear a prejudgment interest~~
13 ~~at the rate set forth in the written agreement until the date the judgment or decree is entered and,~~
14 ~~thereafter, the judgment interest rate shall be the same rate as provided for in this section.~~

15 (a) Except where it is otherwise provided by law, every judgment or decree for the payment
16 of money, whether in an action sounding in tort, contract, or otherwise, entered by any court of
17 this state shall bear simple, not compounding, interest, whether it is stated in the judgment decree
18 or not.

19 (b) *Prejudgment* – In any judgment or decree that contains special damages, as defined
20 below, or for liquidated damages, the court may award prejudgment interest on all or some of the
21 amount of the special or liquidated damages, as calculated after the amount of any settlements.

22 Any such amounts of special or liquidated damages shall bear simple, not compounding, interest.
23 Special damages include lost wages and income, medical expenses, damages to tangible
24 personal property and similar out-of-pocket expenditures, as determined by the court. If an
25 obligation is based upon a written agreement, the obligation bears prejudgment interest at the
26 rate and terms set forth in the written agreement until the date the judgment or decree is entered
27 and, after that, the judgment interest is the same rate as provided for below in subsection (c) of
28 this section.

29 (1) Notwithstanding the provisions of section five, article six, chapter forty-seven of this
30 code, the rate of prejudgment interest is two percentage points above the Fifth Federal Reserve
31 District secondary discount rate in effect on January 2, of the year in which the right to bring the
32 action has accrued, as determined by the court and that established rate shall remain constant
33 from that date until the date of the judgement or decree, notwithstanding changes in the federal
34 reserve district discount rate in effect in subsequent years prior to the date of the judgment or
35 decree: *Provided*, That the rate of the prejudgment interest may not exceed nine percent per
36 annum or be less than four percent per annum. The administrative office of the Supreme Court of
37 Appeals shall annually determine the prejudgment interest rate to be paid upon judgment or
38 decrees for the payment of money and shall take appropriate measures to notify the courts and
39 members of the West Virginia State Bar of the rate of interest in effect for the calendar year in
40 question. Once the rate of prejudgment interest is established as provided in this section, that
41 established rate shall remain constant for the prejudgment interest for that particular judgment or
42 decree, notwithstanding changes in the Federal Reserve District discount rate in effect in
43 subsequent years.

44 (2) Notwithstanding subsection (b)(1) of this section and section five, article six, chapter
45 forty-seven of this code, for all cases in which the right to bring the action accrued prior to 2009,
46 the court may award prejudgment interest on all or some of the amount of the special or liquidated
47 damages, as calculated after the amount of any settlement, at the interest rate that was in effect

48 as of January 2, of the year in which the right to bring the action accrued.

49 ~~(b)~~ (c) Post-judgment - Notwithstanding the provisions of section five, article six, chapter
50 forty-seven of this code, the rate of post-judgment interest on judgments and decrees for the
51 payment of money, ~~including pre-judgment interest,~~ is ~~three~~ two percentage points above the Fifth
52 Federal Reserve District secondary discount rate in effect on January 2, of the year in which the
53 judgment or decree is entered: *Provided*, That the rate of ~~pre-judgment and~~ post-judgment interest
54 shall may not exceed ~~eleven~~ nine percent per annum or be less than ~~seven~~ four percent per
55 annum. The administrative office of the Supreme Court of Appeals shall annually determine the
56 post-judgment interest rate to be paid upon judgments or decrees for the payment of money and
57 shall take appropriate measures to promptly notify the courts and members of the West Virginia
58 State Bar of the rate of interest in effect for the calendar year in question. Once the rate of interest
59 is established by a judgment or decree as provided in this section that established rate shall
60 ~~thereafter~~ after that remain constant for that particular judgment or decree, notwithstanding
61 changes in the Federal Reserve District discount rate in effect in subsequent years.

62 ~~(e)~~ (d) Amendments to this section enacted by the Legislature during the ~~2006~~ 2017
63 regular session shall become effective January 1, ~~2007~~ 2018.

NOTE: The purpose of this bill is to change the amounts of pre-judgment and post-judgment interest to reflect today's economic conditions.

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