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PREJUDGMENT INTEREST REVISIONS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor: _____

LONG TITLE

General Description:

This bill requires that in order for a plaintiff to receive prejudgment interest, the plaintiff shall have tendered an offer of settlement.

Highlighted Provisions:

This bill:

- ▶ requires a plaintiff to have tendered an offer of settlement before claiming prejudgment interest on a verdict;
- ▶ provides that prejudgment interest is only calculated from the date of a qualifying offer;
- ▶ sets limits on the award of prejudgment interest based upon the offer of settlement amount vis-a-vis the verdict amount;
- ▶ sets the percentage rate the court shall use to calculate prejudgment interest at one percentage point above the prime rate; and
- ▶ sets 5% and 10% as the limits on the rate the court uses.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



28 **78B-5-824**, as last amended by Laws of Utah 2009, Chapter 276
29

30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section **78B-5-824** is amended to read:

32 **78B-5-824. Personal injury judgments -- Interest authorized.**

33 (1) In all actions brought to recover damages for personal injuries sustained by any
34 person, caused by the negligence or willful intent of another person, corporation, association,
35 or partnership, and whether the injury was fatal or otherwise, the plaintiff in the complaint may
36 claim interest on special damages actually incurred from the date of the occurrence of the act
37 giving rise to the cause of action.

38 [~~(2) It is the duty of the court, in entering judgment for plaintiff in that action, to add to~~
39 ~~the amount of special damages actually incurred that are assessed by the verdict of the jury, or~~
40 ~~found by the court, prejudgment interest on that amount calculated at 7.5% simple interest per~~
41 ~~annum, from the date of the occurrence of the act giving rise to the cause of action to the date~~
42 ~~of entering the judgment, and to include it in that judgment.]~~

43 (2) A plaintiff seeking to recover damages for personal injury or wrongful death may
44 claim prejudgment interest only by submitting an offer of settlement to the defendant. The
45 plaintiff may recover prejudgment interest, only on special damages actually incurred, if the
46 claimant tenders to the defendant a written offer of settlement no later than 30 days prior to the
47 commencement of trial and the amount of that offer does not exceed 1-1/3 of the amount of the
48 judgment eventually awarded at trial. A defendant may preclude a plaintiff's right to recover
49 any prejudgment interest by tendering a written offer of settlement that is at least 2/3 of the
50 amount of the judgment award.

51 (3) Any prejudgment interest shall be computed as simple interest accruing during the
52 period from the date that the first qualifying written offer of settlement was extended to the
53 date of entering the judgment. The court shall calculate prejudgment interest using a per
54 annum rate, which is one percentage point above the prime rate, as published by the Board of
55 Governors of the Federal Reserve System on the first business day in January of the calendar
56 year in which the judgment is entered, although the prejudgment interest rate applied may not
57 be lower than 5% or higher than 10%.

58 [~~(3)~~] (4) As used in this section, "special damages actually incurred" does not include

59 damages for future medical expenses, loss of future wages, or loss of future earning capacity.

Legislative Review Note
as of 2-11-14 8:40 AM

Office of Legislative Research and General Counsel