

Senator Stephen H. Urquhart proposes the following substitute bill:

**PREJUDGMENT INTEREST REVISIONS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen H. Urquhart**

House Sponsor: \_\_\_\_\_

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**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



26 **Utah Code Sections Affected:**

27 AMENDS:

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

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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 if for cases classified as tier 1, pursuant to the Utah Rules of Civil  
45 Procedure, the plaintiff tenders:

46 (a) a written settlement demand; and

47 (b) the amount of the demand does not exceed 1-1/3 of the amount of the judgment  
48 eventually awarded at trial.

49 (3) A defendant may preclude a plaintiff's right to recover any prejudgment interest on  
50 a tier 1 claim, as defined by the Utah rules of Civil Procedure, by tendering a written settlement  
51 offer no later than 90 days after the defendant has received the claimant's written settlement  
52 demand, or no later than 60 days after the claimant has filed initial disclosures, whichever time  
53 frame comes last, and the offer is at least 2/3 of the amount of the judgment award.

54 (4) Any prejudgment interest shall be computed as simple interest accruing from the  
55 date of the occurrence.

56 (5) For special damages occurring in successive years, prejudgment interest shall be

57 calculated from January 1 of each year special damages occurred. The court shall calculate  
58 prejudgment interest using a per annum rate, which is two percentage points above the prime  
59 rate, as published by the Board of Governors of the Federal Reserve System on the first  
60 business day in January of the calendar year in which the judgment is entered, although the  
61 prejudgment interest rate applied may not be lower than 5% or higher than 10%.

62 (6) Cases classified as tier 2 or tier 3 by the Utah Rules of Civil Procedure may not be  
63 subject to the requirements outlined in Subsections (2) and (3).

64 (7) For special damages occurring in successive years, prejudgment interest shall be  
65 calculated from January 1 of each year special damages occurred. Upon judgment, the court  
66 shall calculate prejudgment interest on special damages for cases classified as tier 2 or tier 3 by  
67 the Utah Rules of Civil Procedure on a per annum rate which is two percentage points above  
68 the prime rate, as published by the Board of Governors of the Federal Reserve System on the  
69 first business day in January of the calendar year, although the prejudgment interest rate may  
70 not be lower than 5% or higher than 10%.

71 ~~[(3)]~~ (8) As used in this section, "special damages actually incurred" does not include  
72 damages for future medical expenses, loss of future wages, or loss of future earning capacity.