

Representative Mike K. McKell proposes the following substitute bill:

PREJUDGMENT INTEREST REVISIONS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor: Mike K. McKell

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 two percentage point above the prime rate; and
- ▶ sets 5% and 10% as the limits on the rates 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 27629

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, including a
 36 counterclaim plaintiff ~~↔~~ **↔** or a crossclaim plaintiff ~~↔~~ **↔**, in the complaint may claim interest on
 36a special damages actually
 37 incurred [~~from the date of the occurrence of the act 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, including a counterclaim plaintiff ~~↔~~ **↔** or a crossclaim plaintiff ~~↔~~ **↔**,
 43a seeking to recover damages for
 44 personal injury or wrongful death may claim prejudgment interest if for cases classified as tier
 45 1, pursuant to the Utah Rules of Civil Procedure, the plaintiff tenders:

46 (a) a written settlement demand, including settlement demands under Utah Rule of
 47 Civil Procedure 68; and

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

50 (3) For purposes of this statute, the determining offer and counteroffer shall be the last
 51 written offer or counteroffer timely tendered by a party, provided that the offer or counteroffer
 52 is tendered at least 60 days before trial.

53 (4) Cases classified as tier 2 or tier 3 by the Utah Rules of Civil Procedure or submitted
 54 to binding arbitration in accordance with Sections 18-1-4 and 31A-22-321 are not subject to the
 55 requirements outlined in Subsection (2).

56 (5) (a) Any prejudgment interest shall be computed as simple interest. For first special

57 damages incurred during the year of the occurrence of the act giving rise to the cause of action,
58 any prejudgment interest shall be computed as simple interest accruing from the date on which
59 the first date special damages were actually incurred.

60 (b) For special damages incurred in successive years, prejudgment interest shall be
61 calculated from January 1 of each year special damages were incurred. The court shall
62 calculate prejudgment interest using a per annum rate, which is two percentage points above
63 the prime rate, as published by the Board of Governors of the Federal Reserve System on the
64 first business day in January of the calendar year in which the judgment is entered. The
65 prejudgment interest rate applied to all cases may not be lower than 5% or higher than 10%.

66 [~~3~~] (6) As used in this section, "special damages actually incurred" does not include
67 damages for future medical expenses, loss of future wages, or loss of future earning capacity.

68 (7) This section applies to any cause of action arising on or after July 1, 2014.