

**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: \_\_\_\_\_

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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 two percentage point above the prime rate; and
- ▶ sets 5%, 7.5%, 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 276



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, in the complaint may claim interest on 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, 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 for tier 2 and tier 3 cases using a per annum rate, which is two  
63 percentage points above the prime rate, as published by the Board of Governors of the Federal  
64 Reserve System on the first business day in January of the calendar year in which the judgment  
65 is entered. The prejudgment interest rate applied to tier 2 or tier 3 cases may not be lower than  
66 5% or higher than 10%.

67 (6) The prejudgment interest rate applied to tier 1 cases shall be 7.5%.

68 [~~(7)~~] (7) As used in this section, "special damages actually incurred" does not include  
69 damages for future medical expenses, loss of future wages, or loss of future earning capacity.

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