

SB0069S03 compared with SB0069S02

~~{deleted text}~~ shows text that was in SB0069S02 but was deleted in SB0069S03.

inserted text shows text that was not in SB0069S02 but was inserted into SB0069S03.

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~~{Senator Stephen H}~~Representative Mike K. ~~{Urquhart}~~McKell proposes the following substitute bill:

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;

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- ▶ 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 ~~{rate}~~rates the court uses.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

(2) A plaintiff, including a counterclaim plaintiff, seeking to recover damages for personal injury or wrongful death may claim prejudgment interest if for cases classified as tier 1, pursuant to the Utah Rules of Civil Procedure, the plaintiff tenders:

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

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

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~~{ (3) A defendant may preclude a plaintiff's right to recover any prejudgment interest on a tier 1 claim, as defined by the Utah Rules of Civil Procedure, by tendering a written settlement offer, including settlement offers under Utah Rule of Civil Procedure 68 and the last offer is made no later than 90 days after the defendant has received the plaintiff's written settlement demand, or no later than 60 days after the plaintiff has filed initial disclosures, whichever time frame comes last, and the offer is at least 2/3 of the amount of the judgment award.~~

~~(4) Any qualifying counteroffer from the defendant shall be left open for 10 days.~~

~~{ (5)3} For purposes of this statute, the determining offer and counteroffer shall be the last written offer or counteroffer timely tendered by a party, provided that the offer or counteroffer is tendered at least ~~{120}60~~ days before trial~~{ or arbitration}~~.~~

~~{6}4) Cases classified as tier 2 or tier 3 by the Utah Rules of Civil Procedure ~~{may not be}~~ or submitted to binding arbitration in accordance with Sections 18-1-4 and 31A-22-321 are not subject to the requirements outlined in ~~{Subsections}Subsection (2) and (3)}~~.~~

~~{7}5) (a) Any prejudgment interest shall be computed as simple interest. For first special damages incurred during the year of the occurrence of the act giving rise to the cause of action, any prejudgment interest shall be computed as simple interest accruing from the date on which the first date special damages were actually incurred.~~

~~(b) For special damages incurred in successive years, prejudgment interest shall be calculated from January 1 of each year special damages were incurred. The court shall calculate prejudgment interest for tier 2 and tier 3 cases using a per annum rate, which is two percentage points above the prime rate, as published by the Board of Governors of the Federal Reserve System on the first business day in January of the calendar year in which the judgment is entered~~{, although the}~~. The prejudgment interest rate applied to tier 2 or tier 3 cases may not be lower than 5% or higher than 10%.~~

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

~~{3} {8}7) As used in this section, "special damages actually incurred" does not include damages for future medical expenses, loss of future wages, or loss of future earning capacity.~~

~~{9}8) This section applies to any cause of action arising on or after July 1, 2014.~~