

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2678

BY DELEGATES ANDERSON, ARVON, OVERINGTON, G.

FOSTER, R. ROMINE, HOUSEHOLDER, UPSON AND SHOTT

[Passed March 17, 2017; in effect January 1, 2018.]

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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FILED

HB2678

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[Passed March 17, 2017; in effect January 1, 2018.]

1 AN ACT to amend and reenact §56-6-31 of the Code of West Virginia, 1931, as amended, relating
2 to the rate of interest allowed for prejudgment and post-judgment interest; providing that
3 every judgment or decree for the payment of money entered by any court of this state shall
4 bear simple interest; providing that the court may award prejudgment interest on all or
5 some of the amount of the special or liquidated damages; defining special damages;
6 proving that if an obligation is based upon a written agreement, then the obligation bears
7 prejudgment interest at the rate and terms set forth in the written agreement until the date
8 the judgment or decree is entered; providing that the rate of prejudgment interest is two
9 percentage points above the Fifth Federal Reserve District secondary discount rate in
10 effect on January 2, of the year in which the right to bring the action has accrued; providing
11 that the court will determine that prejudgment interest rate and that the determined rate
12 shall remain constant from that date until the date of the judgment or decree; providing
13 that the rate of prejudgment interest may not exceed nine percent per annum or be less
14 than four percent per annum; requiring that the administrative office of the Supreme Court
15 of Appeals shall annually determine the prejudgment interest rate and take appropriate
16 measures to notify the courts and members of the West Virginia State Bar of the rate of
17 interest in effect; creating an exception to how prejudgment interest is calculated for cases
18 in which the right to bring the action accrued prior to 2009; providing that the rate of post-
19 judgment interest is two percentage points above the Fifth Federal Reserve District
20 secondary discount rate in effect on January 2, of the year in which the judgment or decree
21 is entered; providing that the rate of post-judgment interest may not exceed nine percent
22 per annum or be less than four percent per annum; requiring that the administrative office
23 of the Supreme Court of Appeals shall annually determine the post-judgment interest rate
24 and take appropriate measures to notify the courts and members of the West Virginia
25 State Bar of the rate of interest in effect; and stating that the amendments to this section
26 become effective January 1, 2018.

Be it enacted by the Legislature of West Virginia:

1 That §56-6-31 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 6. TRIAL.

§56-6-31. Interest on judgment or decree.

1 (a) Except where it is otherwise provided by law, every judgment or decree for the
2 payment of money, whether in an action sounding in tort, contract, or otherwise, entered by any
3 court of this state shall bear simple, not compounding, interest, whether it is stated in the judgment
4 decree or not.

5 (b) *Prejudgment* – In any judgment or decree that contains special damages, as defined
6 below, or for liquidated damages, the court may award prejudgment interest on all or some of the
7 amount of the special or liquidated damages, as calculated after the amount of any settlements.
8 Any such amounts of special or liquidated damages shall bear simple, not compounding, interest.
9 Special damages include lost wages and income, medical expenses, damages to tangible
10 personal property and similar out-of-pocket expenditures, as determined by the court. If an
11 obligation is based upon a written agreement, the obligation bears prejudgment interest at the
12 rate and terms set forth in the written agreement until the date the judgment or decree is entered
13 and, after that, the judgment interest is the same rate as provided for below in subsection (c) of
14 this section.

15 (1) Notwithstanding the provisions of section five, article six, chapter forty-seven of this
16 code, the rate of prejudgment interest is two percentage points above the Fifth Federal Reserve
17 District secondary discount rate in effect on January 2, of the year in which the right to bring the
18 action has accrued, as determined by the court and that established rate shall remain constant
19 from that date until the date of the judgment or decree, notwithstanding changes in the federal
20 reserve district discount rate in effect in subsequent years prior to the date of the judgment or
21 decree: *Provided*, That the rate of the prejudgment interest may not exceed nine percent per

22 annum or be less than four percent per annum. The administrative office of the Supreme Court of
23 Appeals shall annually determine the prejudgment interest rate to be paid upon judgment or
24 decrees for the payment of money and shall take appropriate measures to notify the courts and
25 members of the West Virginia State Bar of the rate of interest in effect for the calendar year in
26 question. Once the rate of prejudgment interest is established as provided in this section, that
27 established rate shall remain constant for the prejudgment interest for that particular judgment or
28 decree, notwithstanding changes in the Federal Reserve District discount rate in effect in
29 subsequent years.

30 (2) Notwithstanding subsection (b)(1) of this section and section five, article six, chapter
31 forty-seven of this code, for all cases in which the right to bring the action accrued prior to 2009,
32 the court may award prejudgment interest on all or some of the amount of the special or liquidated
33 damages, as calculated after the amount of any settlement, at the interest rate that was in effect
34 as of January 2, of the year in which the right to bring the action accrued.

35 (c) *Post-judgment* - Notwithstanding the provisions of section five, article six, chapter forty-
36 seven of this code, the rate of post-judgment interest on judgments and decrees for the payment
37 of money is two percentage points above the Fifth Federal Reserve District secondary discount
38 rate in effect on January 2, of the year in which the judgment or decree is entered: *Provided*, That
39 the rate of post-judgment interest may not exceed nine percent per annum or be less than four
40 percent per annum. The administrative office of the Supreme Court of Appeals shall annually
41 determine the post-judgment interest rate to be paid upon judgments or decrees for the payment
42 of money and shall take appropriate measures to promptly notify the courts and members of the
43 West Virginia State Bar of the rate of interest in effect for the calendar year in question. Once the
44 rate of interest is established by a judgment or decree as provided in this section that established
45 rate shall after that remain constant for that particular judgment or decree, notwithstanding
46 changes in the Federal Reserve District discount rate in effect in subsequent years.

47 (d) Amendments to this section enacted by the Legislature during the 2017 regular session
48 become effective January 1, 2018.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

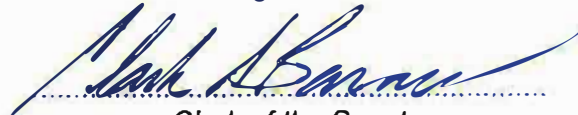

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Chairman, House Committee

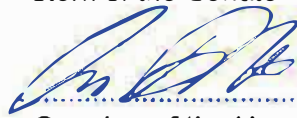

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Chairman, Senate Committee

Originating in the House.

In effect January 1, 2018.



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Clerk of the House of Delegates


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Clerk of the Senate


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Speaker of the House of Delegates


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President of the Senate

The within is approved this the 30th
March day of, 2017.


.....
Governor

PRESENTED TO THE GOVERNOR

MAR 24 2017

Time 4:39 pm