

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 301

BY SENATORS FERNS, GAUNCH, MULLINS AND TAKUBO

[Introduced January 15, 2016;

Referred to the Committee on the Judiciary.]

1 A BILL to amend and reenact §56-6-31 of the Code of West Virginia, 1931, as amended, relating
 2 to rate of interest allowed for prejudgment and post-judgment interest.

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 payment
 2 of money, whether in an action sounding in tort, contract or otherwise, entered by any court of
 3 this state shall bear simple interest, not compounding, from the date ~~thereof~~ of the judgment or
 4 decree, whether it ~~be so~~ is stated in the judgment or decree or not: *Provided,* That if the judgment
 5 or decree, or any part ~~thereof~~ of it is for special damages, as defined below, or for liquidated
 6 damages, the court may order that some amount of the special or liquidated damages, ~~shall as~~
 7 calculated after the amount of any settlements, bear interest. Any such amounts of special or
 8 liquidated damages shall bear simple interest, not compounding, at the rate in effect for the
 9 calendar year in which the right to bring the ~~same shall have~~ action has accrued, as determined
 10 by the court and that established rate shall remain constant from that date until the date of the
 11 judgment or decree, notwithstanding changes in the federal reserve district discount rate in effect
 12 in subsequent years prior to the date of the judgment or decree. Special damages includes lost
 13 wages and income, medical expenses, damages to tangible personal property and similar out-of-
 14 pocket expenditures, as determined by the court. If an obligation is based upon a written
 15 agreement, the obligation ~~shall bear a~~ bears prejudgment interest at the rate and terms set forth
 16 in the written agreement until the date the judgment or decree is entered and, ~~thereafter~~ after that,
 17 the judgment interest rate ~~shall be~~ is the same rate as provided ~~for~~ in this section.

18 (b) Notwithstanding the provisions of section five, article six, chapter forty-seven of this
 19 code, the rate of interest on judgments and decrees for the payment of money, including

20 pre-judgment interest, is ~~three~~ two percentage points above the Fifth Federal Reserve District
21 secondary discount rate in effect on January 2, of the year in which the judgment or decree is
22 entered: *Provided*, That the rate of pre-judgment and post-judgment interest ~~shall~~ may not exceed
23 ~~eleven~~ seven percent per annum or be less than ~~seven~~ three percent per annum. The
24 Administrative Office of the Supreme Court of Appeals shall annually determine the interest rate
25 to be paid upon judgments or decrees for the payment of money and shall take appropriate
26 measures to promptly notify the courts and members of the West Virginia State Bar of the rate of
27 interest in effect for the calendar year in question. Once the rate of interest is established by a
28 judgment or decree as provided in this section that established rate shall ~~thereafter~~ after that
29 remain constant for that particular judgment or decree, notwithstanding changes in the Federal
30 Reserve District discount rate in effect in subsequent years.

31 (c) Amendments to this section enacted by the Legislature during the ~~2006~~ 2016 regular
32 session ~~shall~~ become effective January 1, ~~2007~~ 2017.

NOTE: The purpose of this bill is to change the amounts of pre-judgment and post-judgment interest to reflect today's economic conditions.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.