

Senate Bill No. 442

(By Senator Carmichael)

[Introduced February 9, 2015; referred to the Committee on the Judiciary.]

A BILL to amend and reenact §56-6-31 of the Code of West Virginia, 1931, as amended, relating to interest on judgments or decrees; specifying interest is simple interest, not compounding; and modifying rates.

Be it enacted by the legislature of West Virginia:

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

ARTICLE 6. TRIAL.

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

(a) Except where it is otherwise provided by law, every judgment or decree for the payment of money, whether in an action sounding in tort, contract or otherwise, entered by any court of this state shall bear simple interest, not compounding, from the date thereof, whether it ~~be so~~ is stated in the judgment or decree or not: *Provided*, That if the judgment or decree, or any part thereof, is for special damages, as defined below, or for liquidated damages, the court may order that some amount of the special or liquidated damages, as calculated after the amount of any settlements, bear

1 interest. The amounts of special or liquidated damages shall bear simple interest, not compounding,
2 at the rate in effect for the calendar year in which the right to bring the ~~same shall have~~ action
3 accrued, as determined by the court and that established rate shall remain constant from that date
4 until the date of the judgment or decree, notwithstanding changes in the federal reserve district
5 discount rate in effect in subsequent years prior to the date of the judgment or decree. Special
6 damages includes lost wages and income, medical expenses, damages to tangible personal property
7 and similar out-of-pocket expenditures, as determined by the court. If an obligation is based upon
8 a written agreement, the obligation shall bear a prejudgment interest at the rate and terms set forth
9 in the written agreement until the date the judgment or decree is entered and, thereafter, the judgment
10 interest rate shall be the same rate as provided ~~for~~ in this section.

11 (b) Notwithstanding the provisions of section five, article six, chapter forty-seven of this
12 code, the rate of interest on judgments and decrees for the payment of money, including prejudgment
13 interest, is ~~three~~ two percentage points above the Fifth Federal Reserve District secondary discount
14 rate in effect on January 2, of the year in which the judgment or decree is entered: *Provided*, That
15 the rate of prejudgment and post-judgment interest ~~shall~~ may not exceed ~~eleven~~ seven percent per
16 annum or be less than ~~seven~~ three percent per annum. The Administrative Office of the Supreme
17 Court of Appeals shall annually determine the interest rate to be paid upon judgments or decrees for
18 the payment of money and shall take appropriate measures to promptly notify the courts and
19 members of the West Virginia State Bar of the rate of interest in effect for the calendar year in
20 question. Once the rate of interest is established by a judgment or decree as provided in this section,
21 that established rate shall thereafter remain constant for that particular judgment or decree,
22 notwithstanding changes in the Federal Reserve District discount rate in effect in subsequent years.

1 (c) Amendments to this section enacted by the Legislature during the ~~2006~~ 2015 regular
2 session ~~shall~~ become effective January 1, ~~2007~~ 2015.

NOTE: The purpose of this bill is to modify the statutory provision addressing interest on judgments or decrees. It specifies that the interest is simple interest, not compounding and modifies rates.

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