

# **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.]



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*

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The within ..... this the.....  
day of ....., 2017.

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*Governor*