

Senate Bill No. 401

(By Senators K. Facemyer, Hall, Barnes, Boley and Nohe)

[Introduced February 3, 2011; referred to the Committee on the
Judiciary; and then to the Committee on Finance.]

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

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 interest 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 amount of
special or liquidated damages shall bear interest at the rate in
effect for the calendar year in which the right to bring the same
~~shall have~~ has accrued, as determined by the court and that

1 established rate shall remain constant from that date until the
2 date of the judgment or decree, notwithstanding changes in the
3 federal reserve district discount rate in effect in subsequent
4 years prior to the date of the judgment or decree. Special damages
5 includes lost wages and income, medical expenses, damages to
6 tangible personal property and similar out-of-pocket expenditures,
7 as determined by the court. If an obligation is based upon a
8 written agreement, the obligation shall bear a prejudgment interest
9 at the rate set forth in the written agreement until the date the
10 judgment or decree is entered and, thereafter, the judgment
11 interest rate shall be the same rate as provided ~~for~~ in this
12 section.

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

1 that established rate shall thereafter remain constant for that
2 particular judgment or decree, notwithstanding changes in the
3 Federal Reserve District discount rate in effect in subsequent
4 years.

5 (c) Amendments to this section enacted by the Legislature
6 during the ~~2006~~ 2011 regular session ~~shall~~ become effective January
7 1, ~~2007~~ 2012.

NOTE: The purpose of this bill is to change the minimum amount of prejudgment and post-judgment interest to bring the minimum closer to today's economic conditions.

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