

HOUSE BILL REPORT

HB 1412

As Reported By House Committee On:
Judiciary

Title: An act relating to prejudgment interest.

Brief Description: Changing provisions relating to prejudgment interest.

Sponsors: Representatives R. Meyers, Padden, Dellwo and Scott.

Brief History:

Reported by House Committee on:
Judiciary, February 24, 1993, DPS.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Campbell; Chappell; Johanson; Locke; Long; Mastin; H. Myers; Riley; Schmidt; Scott; and Wineberry.

Minority Report: Do not pass. Signed by 3 members: Representatives Ballasiotes, Assistant Ranking Minority Member; Forner; and Tate.

Staff: Bill Perry (786-7123).

Background: When a judgment is entered in a civil lawsuit, interest begins to run on the amount of the judgment. That interest, sometimes referred to as "postjudgment interest," will continue to accumulate until the judgment is paid or the statute of limitations for enforcing the judgment has run.

Prejudgment interest may be awarded if the damages in the case are "liquidated," i.e., not subject to any dispute regarding amount. As a practical matter, however, case law seems to limit prejudgment interest to cases involving contracts.

Often, it may be many months, or even years from the time a cause of action arises until judgment is entered. Especially in periods of substantial inflation and depending

on the nature of the damages incurred by the plaintiff, having interest begin only after a judgment may provide little incentive for a defendant to expedite trial or settlement. On the other hand, proposals to have "prejudgment interest" run from the moment a cause of action arises have been criticized for exactly the same reason with respect to a plaintiff's decisions about filing a claim, beginning negotiations and proceeding to trial.

Summary of Substitute Bill: Interest on a judgment runs from the time a claimant gives written notice of a claim or initiates a lawsuit, whichever occurs first.

If the judgment debtor has made an offer of settlement that is not accepted by the judgment creditor, no prejudgment interest may be awarded if the judgment does not exceed the offer.

Interest on any prejudgment payment ends when the payment is made. No prejudgment interest may be awarded for future damages.

If the judgment creditor has sought a continuance after a trial date was set, then interest does not run during the continuance.

Prejudgment interest may not be used to pay the judgment creditor's attorney fees.

These provisions regarding prejudgment interest do not apply to judgment debtors that are governmental entities.

Substitute Bill Compared to Original Bill: The original bill contained a provision that would have dealt with offers of settlement in a different way. Prejudgment interest would have been limited to the portion of a judgment that exceeded an offer if the offer was at least 75 percent of the judgment.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The current system provides an incentive for defendants to delay trials and settlements. Lack of interest before judgment means that a judgment creditor does not get a full recovery.

Testimony Against: The bill will not encourage settlements. Plaintiffs control information regarding the amount of damages, and therefore defendants often cannot make an early

offer of settlement. Juries already tend to factor in interest when setting judgment amounts.

Witnesses: Dave Middaugh, Washington State Trial Lawyers Association (pro); Gary Morse, Physicians Insurance (con); Craig McGee, PEMCO Insurance Companies (con); and Matt Thomas, Washington Association of Prosecuting Attorneys (con).