

SENATE BILL REPORT

SB 5456

As Reported by Senate Committee On:
Financial Institutions & Insurance, February 14, 2017

Title: An act relating to unpaid accounts.

Brief Description: Concerning unpaid accounts.

Sponsors: Senators Braun and Bailey.

Brief History:

Committee Activity: Financial Institutions & Insurance: 2/02/17, 2/14/17 [DPS, DNP].

Brief Summary of Substitute Bill

- Provides that where a forbearance concerns accounts receivable or goods and services that are not accounts receivable, the obligations are deemed liquidated and, in the absence of an agreement which provides a date on which the moneys become due, specifies when interest begins to accrue.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: That Substitute Senate Bill No. 5456 be substituted therefor, and the substitute bill do pass.

Signed by Senators Angel, Chair; Mullet, Ranking Minority Member; Fain, Fortunato and Hobbs.

Minority Report: Do not pass.

Signed by Senator Kuderer.

Staff: Jeff Olsen (786-7428)

Background: Statutes of Limitation. A plaintiff must commence an action within the statute of limitations for that particular type of action or else the action is barred. The statute of limitation for an action upon an account receivable is six years. For purposes of this statute of limitation, account receivable means any obligation for payment incurred in the ordinary course of the claimant's business or profession, whether arising from one or more transactions, and whether or not earned by performance.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

There are a variety of other statute of limitations, including:

- three years for:
 - a. an action upon a contract or liability, express or implied, which is not in writing and does not arise out of any written instrument;
 - b. waste or trespass upon real property; and
 - c. an action for taking, detaining, or injuring personal property, including for recovery of the property.
- six years for:
 - a. an action upon a contract in writing, or liability arising out of a written agreement; and
 - b. the rents and profits or for the use and occupation of real estate.

Prejudgment Interest. Prejudgment interest is intended to make a plaintiff whole by compensating for the use value of damages incurred from the time of the loss until the date of judgment. A prejudgment award may be made when an amount claimed is liquidated or when the amount of an unliquidated claim is for an amount due upon a specific contract for the payment of money. The amount due is determinable by computation with reference to a fixed standard contained in the contract, without reliance on opinion or discretion. Conversely, a prejudgment award is not available where the exact amount of the sum to be allowed cannot be definitely fixed from the data or facts proved, but depends upon the opinion or discretion of the trier of fact.

Every loan or forbearance of money, goods, or thing in action bears interest at the rate of 12 percent per year where no different rate is agreed to in writing between the parties. If an agreement in writing between the parties provides for the payment of money at the end of an agreed period of time, or in installments over an agreed period of time, then the agreement constitutes a writing.

Summary of Bill (First Substitute): For purposes of the six year statute of limitations on an account receivable, the definition of account receivable is clarified to specifically include obligations "whether or not reduced to oral or written contract, and whether or not disputed." Account receivable includes, but is not limited to, obligations for medical or other professional services and damage to real or personal property.

For purposes of the prejudgment interest statute, the term account receivable has the same meaning. Where a forbearance concerns an account receivable, or goods or services that are not accounts receivable, the obligations are deemed liquidated. In the absence of an agreement which specifies the date on which the moneys become due, interest begins to accrue:

- on an account receivable, from the date of the last charge or transaction;
- on goods or services provided that are not accounts receivable, on the payment due date provided in any written invoice, bill, account statement, or other form of writing; or
- on obligations for medical services, when the debt is transferred to a collection agency or 120 days from the due date specified in any demand for payment from the medical provider or facility, whichever occurs later, provided that no interest may

accrue or be charged on any portion of the obligation for medical services that is subsequently covered by charity care.

The act applies to all accounts receivable and goods and services that are not accounts receivable, whether or not they were in existence before or after the effective date.

EFFECT OF CHANGES MADE BY FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE (First Substitute):

- Adds that for medical services obligations that are past due, interest begins to accrue when the debt is transferred to a collection agency or 120 days from the due date specified by the medical provider or facility.
- Prohibits interest charges on medical obligations subsequently covered by charity care.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Recently there has been a number of lawsuits regarding past due medical bills, and the goal is to establish clear definitions for accounts receivables to clarify existing practices. Businesses are already struggling with reimbursement rates, and the additional costs of going to court are putting additional stress on the system. A weakness in the law has allowed the courts to allow a departure from past practice and it creates ambiguity. By clarifying past practices and being consistent with when interest is charged and how to deal with unpaid debt. There has been a challenge with determining when a claim is liquidated. For example, if an ambulance is used, there is generally not time to formulate a written contract, but the assumption is that there will be payment for the services provided. If they are unable to charge interest on their claim because they are determined unliquidated, that is a challenge for the provider.

CON: Persons already struggling with medical bills will be negatively impacted. Health care providers and debt collectors could add prejudgment interest before the amounts due can be computed. For example, with medical services, there is usually not a price list, there is an insurance and billing process that must occur, and in some cases charity care that need to be processed before a medical debt can be determined. There would also be the ability for debt collectors to sue with less evidence of the debt. No one chooses to incur medical debt, and this would make it more difficult for consumers.

Persons Testifying: PRO: Senator John Braun, Prime Sponsor; Jason Woehler, Washington Collectors Assn.

CON: Kim Gunning, Columbia Legal Services.

Persons Signed In To Testify But Not Testifying: No one.