



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB0184

Introduced 2/3/2009, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-1303.1 new

Amends the Code of Civil Procedure. Provides that prejudgment interest must be awarded in an action at law or in arbitration from the date the party from whom damages are sought is given written notice of the claim for money damages or the action or arbitration is filed, whichever is earlier, until the award or judgment is entered. Provides that the notice must refer to the statute and be tendered by personal service by the sheriff or a private process server; certified mail, return receipt requested; or any documented method considered an accepted business practice. The notice may be sent by the party seeking money damages or his or her attorney to the party from whom money damages are sought, that party's attorney, or that party's liability insurer. Provides that the monthly prejudgment interest rate shall be calculated by the Comptroller and published on his or her website each month. Provides that the monthly prejudgment interest rate shall be calculated by adding 2% to the interest rate of the one-year Treasury constant maturity stated in the last H15 report of the previous month, published by the Federal Reserve System. Provides that a defendant may avoid paying prejudgment interest by making a written offer of settlement to the plaintiff any time after that defendant files an answer, but no later than 120 days after filing an answer. Provides that if the plaintiff does not accept that offer of settlement in writing within 30 days of receipt, and the plaintiff's award or judgment against that defendant is less than or equal to that offer of settlement, no prejudgment interest may be awarded against that defendant. The parties may agree in writing to extend the 120-day period. Provides that these provisions do not apply to: (1) A unit of local government, school district, community college district, or other governmental entity. (2) An action in small claims. (3) A claim for punitive damages. (4) If the action is governed by a more specific State statute, including but not limited to the Interest Act, or preemptive federal law. Provides that these provisions apply only to causes of action accruing on or after the effective date. Effective January 1, 2010.

LRB096 04725 AJO 14788 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by adding
5 Section 2-1303.1 as follows:

6 (735 ILCS 5/2-1303.1 new)

7 Sec. 2-1303.1. Prejudgment interest.

8 (a) If a party seeks money damages in an action at law or
9 in arbitration, prejudgment interest must be awarded from the
10 date the party from whom money damages are sought is given
11 written notice of the claim for money damages or the action or
12 arbitration is filed, whichever is earlier, until the award or
13 judgment is entered. Actions at law include counter claims,
14 third party actions, and claims for contribution. The written
15 notice of the claim for money damages must reference this
16 Section and be tendered by (1) personal service by the sheriff
17 or private process server; (2) certified mail, return receipt
18 requested; or (3) any method in which delivery is documented
19 and tracked by accepted business practices. The written notice
20 may be tendered by the party seeking money damages or his or
21 her attorney and may be tendered to the party from whom money
22 damages are sought, that party's attorney, or that party's
23 liability insurer.

1 (b) The monthly prejudgment interest rate shall be
2 calculated by the Comptroller and published on his or her
3 website each month. The monthly prejudgment interest rate shall
4 be calculated by adding 2% to the interest rate of the one-year
5 Treasury constant maturity stated in the last H15 report of the
6 previous month, published by the Federal Reserve System.

7 (c) The prejudgment interest rate to be applied to an award
8 or judgment is the monthly prejudgment interest rate calculated
9 and published by the comptroller in the month preceding the
10 date that the award or judgment is entered.

11 (d) Any defendant may avoid paying prejudgment interest by
12 making a written offer of settlement to the plaintiff at any
13 time after that defendant has filed an answer to a complaint,
14 petition, or demand for arbitration but no later than 120 days
15 after filing an answer. If the plaintiff does not accept that
16 offer of settlement in writing within 30 days of his or her
17 receipt of it, and the plaintiff's award or judgment against
18 that defendant is less than or equal to that offer of
19 settlement, no prejudgment interest may be awarded against that
20 defendant. The parties may agree in writing to extend the
21 120-day period for defendant to make a written offer of
22 settlement.

23 (e) This Section does not apply to any of these parties,
24 claims, or circumstances:

25 (1) A unit of local government, as defined Section 1 of
26 Article VII of the Constitution, a school district, a

1 community college district, or any other governmental
2 entity.

3 (2) An action in small claims.

4 (3) A claim for punitive damages.

5 (4) If the action is governed by a more specific State
6 statute, including but not limited to the Interest Act, or
7 preemptive federal law.

8 (f) This Section applies only to causes of action accruing
9 on or after the effective date of this amendatory Act of the
10 96th General Assembly.

11 Section 99. Effective date. This Act takes effect January
12 1, 2010.