

SECOND REGULAR SESSION

SENATE BILL NO. 894

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MUNZLINGER.

Read 1st time February 19, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

6062S.011

AN ACT

To repeal section 408.040, RSMo, and to enact in lieu thereof one new section relating to judgment interest rates.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 408.040, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 408.040, to read as follows:

408.040. 1. In all nontort actions, interest shall be allowed on all money
2 due upon any judgment or order of any court from the date judgment is entered
3 by the trial court until satisfaction be made by payment, accord or sale of
4 property; all such judgments and orders for money upon contracts bearing more
5 than [nine] **five** percent interest shall bear the same interest borne by such
6 contracts, and all other judgments and orders for money shall bear [nine
7 percent] per annum **the adjusted rate of interest established by the
8 director of revenue pursuant to section 32.065 plus two percent, or five
9 percent, whichever is less**, until satisfaction is made as aforesaid.

10 2. Notwithstanding the provisions of subsection 1 of this section, in tort
11 actions, interest shall be allowed on all money due upon any judgment or order
12 of any court from the date of judgment is entered by the trial court until full
13 satisfaction. All such judgments and orders for money shall bear a per annum
14 interest rate equal to [the intended Federal Funds Rate, as established by the
15 Federal Reserve Board, plus five percent] **the adjusted rate of interest
16 established by the director of revenue pursuant to section 32.065, plus
17 two percent**, until full satisfaction is made. **In no case shall the per annum
18 interest rate on any judgement or order exceed five percent.** The
19 judgment shall state the applicable interest rate, which shall not vary once

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 entered. In tort actions, if a claimant has made a demand for payment of a claim
21 or an offer of settlement of a claim, to the party, parties or their representatives,
22 and to such party's liability insurer if known to the claimant, and the amount of
23 the judgment or order exceeds the demand for payment or offer of settlement,
24 then prejudgment interest shall be awarded, calculated from a date ninety days
25 after the demand or offer was received, as shown by the certified mail return
26 receipt, or from the date the demand or offer was rejected without counter offer,
27 whichever is earlier. In order to qualify as a demand or offer pursuant to this
28 section, such demand must:

29 (1) Be in writing and sent by certified mail return receipt requested; and

30 (2) Be accompanied by an affidavit of the claimant describing the nature
31 of the claim, the nature of any injuries claimed and a general computation of any
32 category of damages sought by the claimant with supporting documentation, if
33 any is reasonably available; and

34 (3) For wrongful death, personal injury, and bodily injury claims, be
35 accompanied by a list of the names and addresses of medical providers who have
36 provided treatment to the claimant or decedent for such injuries, copies of all
37 reasonably available medical bills, a list of employers if the claimant is seeking
38 damages for loss of wages or earning, and written authorizations sufficient to
39 allow the party, its representatives, and liability insurer if known to the claimant
40 to obtain records from all employers and medical care providers; and

41 (4) Reference this section and be left open for ninety days.

42 Unless the parties agree in writing to a longer period of time, if the claimant fails
43 to file a cause of action in circuit court prior to a date one hundred twenty days
44 after the demand or offer was received, then the court shall not award
45 prejudgment interest to the claimant. If the claimant is a minor or incompetent
46 or deceased, the affidavit may be signed by any person who reasonably appears
47 to be qualified to act as next friend or conservator or personal representative. If
48 the claim is one for wrongful death, the affidavit may be signed by any person
49 qualified pursuant to section 537.080 to make claim for the death. Nothing
50 contained herein shall limit the right of a claimant, in actions other than tort
51 actions, to recover prejudgment interest as otherwise provided by law or contract.

52 3. In tort actions, a judgment for prejudgment interest awarded pursuant
53 to this subsection [should] **may** bear interest at a per annum interest rate equal
54 [to the intended Federal Funds Rate, as established by the Federal Reserve
55 Board, plus three percent] **the adjusted rate of interest established by the**

56 **director of revenue pursuant to section 32.065, plus two percent. In no**
57 **case shall the per annum interest rate on any judgment for**
58 **prejudgment interest exceed five percent.** The judgment shall state the
59 applicable interest rate, which shall not vary once entered.

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Unofficial

Bill

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