

State of South Dakota

EIGHTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2013

708U0665

HOUSE BILL NO. 1231

Introduced by: Representatives Hajek, Erickson, Gibson, Hansen, Hickey, Lust, Magstadt,
and Wick and Senators Krebs, Begalka, Kirkeby, and Tieszen

1 FOR AN ACT ENTITLED, An Act to change the rate and manner of calculation of
2 pre-judgment and post-judgment interest.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 54-3-5.1 be amended to read as follows:

5 54-3-5.1. Interest is payable on all judgments and statutory liens, exclusive of real estate
6 mortgages and security agreements under Title 57A, ~~and exclusive of support debts or~~
7 ~~judgments under § 25-7A-14~~, at the ~~Category B~~ Category H rate of interest as established in
8 § 54-3-16 from and after the date of judgment and date of filing statutory lien. On all judgments
9 arising from inverse condemnation actions, interest is payable at the Category A rate of interest
10 as established by § 54-3-16.

11 Section 2. That § 25-7A-14 be amended to read as follows:

12 25-7A-14. The Department of Social Services or any support obligee may collect interest
13 on the unpaid principal balance of a support debt or judgment for support at the ~~Category D~~
14 Category H rate of interest as established in § 54-3-16.

15 Section 3. That § 21-1-13.1 be amended to read as follows:



1 21-1-13.1. Any person who is entitled to recover damages, whether in the principal action
2 or by counterclaim, cross claim, or third-party claim, is entitled to recover interest thereon from
3 the day that the loss or damage occurred, except during such time as the debtor is prevented by
4 law, or by act of the creditor, from paying the debt. Prejudgment interest is not recoverable on
5 future damages, punitive damages, or intangible damages such as pain and suffering, emotional
6 distress, loss of consortium, injury to credit, reputation or financial standing, loss of enjoyment
7 of life, or loss of society and companionship. If there is a question of fact as to when the loss
8 or damage occurred, prejudgment interest shall commence on the date specified in the verdict
9 or decision and shall run to, and include, the date of the verdict or, if there is no verdict, the date
10 the judgment is entered. If necessary, special interrogatories shall be submitted to the jury.
11 Prejudgment interest on damages arising from a contract shall be at the contract rate, if so
12 provided in the contract; otherwise, if prejudgment interest is awarded, it shall be at the
13 ~~Category B~~ Category H rate of interest specified in § 54-3-16. Prejudgment interest on damages
14 arising from inverse condemnation actions shall be at the Category A rate of interest as specified
15 by § 54-3-16 on the day judgment is entered. This section shall apply retroactively to the day
16 the loss or damage occurred in any pending action for inverse condemnation. The court shall
17 compute and award the interest provided in this section and shall include such interest in the
18 judgment in the same manner as it taxes costs.

19 Section 4. That § 54-3-16 be amended to read as follows:

20 54-3-16. The official state interest rates, as referenced throughout the South Dakota Codified
21 Laws, are as follows:

- 22 (1) Category A rate of interest is four and one-half percent per year;
- 23 (2) Category B rate of interest is ten percent per year;
- 24 (3) Category C rate of interest is twelve percent per year;

- 1 (4) Category D rate of interest is one percent per month or fraction thereof;
- 2 (5) Category E rate of interest is four percent per year;
- 3 (6) Category F rate of interest is fifteen percent per year; ~~and~~
- 4 (7) Category G rate of interest is five-sixth percent per month or fraction thereof; and
- 5 (8) Category H rate of interest is a rate equal to three percentage points above the prime
- 6 rate in effect on January first of each year as reported by the federal reserve board in
- 7 federal reserve statistical release H.15 and published by the state court administrator
- 8 on the unified judicial system website.