

State of South Dakota

EIGHTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2011

942S0658

SENATE JUDICIARY ENGROSSED NO. **SB 172** - 2/17/2011

Introduced by: Senators Cutler, Begalka, Frerichs, Hansen (Tom), Maher, Nygaard, Tieszen,
and Vehle and Representatives Gosch, Bolin, Boomgarden, Gibson, Kopp,
Russell, and Tornow

1 FOR AN ACT ENTITLED, An Act to reduce the interest rate applied for certain judgements,
2 liens, and damages.

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 rate of interest as established in § 54-3-16 from
8 and after the date of judgment and date of filing statutory lien. On all judgments arising from
9 inverse condemnation actions, personal injury actions, and actions brought under § 37-24-31,
10 interest is payable at the Category A rate of interest as established by § 54-3-16.

11 Section 2. That § 21-1-13.1 be amended to read as follows:

12 21-1-13.1. Any person who is entitled to recover damages, whether in the principal action
13 or by counterclaim, cross claim, or third-party claim, is entitled to recover interest thereon from
14 the day that the loss or damage occurred, except during such time as the debtor is prevented by



1 law, or by act of the creditor, from paying the debt. Prejudgment interest is not recoverable on
2 future damages, punitive damages, or intangible damages such as pain and suffering, emotional
3 distress, loss of consortium, injury to credit, reputation or financial standing, loss of enjoyment
4 of life, or loss of society and companionship. If there is a question of fact as to when the loss
5 or damage occurred, prejudgment interest shall commence on the date specified in the verdict
6 or decision and shall run to, and include, the date of the verdict or, if there is no verdict, the date
7 the judgment is entered. If necessary, special interrogatories shall be submitted to the jury.
8 Prejudgment interest on damages arising from a contract shall be at the contract rate, if so
9 provided in the contract; otherwise, if prejudgment interest is awarded, it shall be at the
10 Category B rate of interest specified in § 54-3-16. Prejudgment interest on damages arising from
11 inverse condemnation actions, personal injury actions, and actions brought under § 37-24-31
12 shall be at the Category A rate of interest as specified by § 54-3-16 on the day judgment is
13 entered. This section shall apply retroactively to the day the loss or damage occurred in any
14 pending action for inverse condemnation. The court shall compute and award the interest
15 provided in this section and shall include such interest in the judgment in the same manner as
16 it taxes costs.