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Promoting Fairness and Equity in Wisconsin's Civil Justice System

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Store Association*

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*Wisconsin Restaurant
Association*

To: Members, Wisconsin Legislature
From: R.J. Pirlot
Date: February 17, 2016
Re: **Please oppose AB 95, relating to increasing interest rates on judgments in small claims actions.**

Plaintiffs in Wisconsin who win favorable verdicts are usually entitled to recover interest on the damages awarded to them. Some of this is in the form of post-judgment interest, which is meant to compensate the plaintiff for loss of the use of money while a defendant appeals a judgment. Plaintiffs may also be awarded pre-judgment interest, which runs from the date the plaintiff makes an offer of settlement, rather than from the time damages are awarded by a court.

September 2011 Special Session [Senate Bill 14](#), signed into law by Governor Scott Walker as 2011 Wisconsin Act 69 (Act 69), reformed Wisconsin's then high pre- and post-judgment interest rate from 12 percent to the prime rate set by the Federal Reserve Board, plus one percent. This ensures that plaintiffs do not receive a windfall, while also ensuring that defendants pay a reasonable interest rate.

Assembly Bill 95 (AB 95) would, as amended by committee, change the interest rate on judgments for the recovery of money in small claims actions to 8 percent per year. This bill also changes the interest rate on amounts recovered by a party who prevails in a small claims action after that party made an offer of settlement that was rejected back to 8 percent per year from the day on which the offer of settlement is made until the amount is paid. In short, AB 95 seeks to partially undo one of the first civil justice reform measures signed into law by Governor Walker.

An 8 percent interest rate is excessive and unfair. A defendant should not be required to pay an amount far above the current market rate, nor should the plaintiff receive a windfall and be unjustly enriched by such a high interest rate. Act 69 ensured that the interest rate is fair to both plaintiffs and defendants and its reforms should be untouched.

Status

AB 95 was recommended for passage by the Assembly Committee on Judiciary on a 5-4 vote (all Democrats and Rep. Heaton voting "no"). MMAC, NFIB, Wisconsin Builders Association, Wisconsin Civil Justice Council, Wisconsin Defense Counsel, Wisconsin Insurance Alliance, and WMC, among others, are registered opposed.

Action Requested

Act 69 was touted as a key victory by the broader business community, represented by the Wisconsin Civil Justice Council. The Wisconsin Civil Justice Council respectfully requests you oppose AB 95.

If you have any questions or comments, please contact R.J. Pirlot at 608-258-9506.

Assembly Bill 95, regarding interest rates on judgments

Supporters

Apartment Association of South Central Wisconsin

Professional Insurance Agents of Wisconsin

Wisconsin Collectors Association, Inc.

Wisconsin Independent Businesses, Inc.

Wisconsin Rental Housing Legislative Council

Opponents

Altria Client Services LLC

American Family Insurance Group

Associated General Contractors of Wisconsin Inc.

Koch Companies Public Sector, LLC, and Affiliates

Legal Action of Wisconsin, Inc.

Metropolitan Milwaukee Association of Commerce

Midwest Equipment Dealers Association Inc.

Midwest Food Processors Association Inc.

National Federation of Independent Business

Sentry Insurance

Wisconsin Builders Association

Wisconsin Civil Justice Council, Inc.

Wisconsin Defense Counsel

Wisconsin Economic Development Association

Wisconsin Insurance Alliance

Wisconsin Manufacturers & Commerce

Wisconsin Petroleum Marketers & Convenience Store Association

Undisclosed

Midwest Hardware Association, Inc.

Wisconsin Association for Justice

Senate Bill 14, September 2011 Special Session, regarding interest rates on judgments

From the Assembly Journal, November 3, 2011:

Senate Bill 14, September 2011 Special Session having been read three times, shall the bill be concurred in?

The roll was taken.

The result follows:

Ayes - Representatives August, Ballweg, Bernier, Bies, Brooks, Craig, Endsley, Farrow, Honadel, Jacque, Kapenga, Kaufert, Kerkman, Kestell, Kleefisch, Klenke, Knilans, Knodl, Knudson, Kooyenga, Kramer, Krug, Kuglitsch, T. Larson, LeMahieu, Litjens, Loudenbeck, Marklein, Meyer, Mursau, Murtha, Nass, Nerison, Nygren, A. Ott, J. Ott, Petersen, Petrowski, Petryk, Pridemore, Ripp, Rivard, Severson, Spanbauer, Steineke, Stone, Strachota, Stroebel, Suder, Tauchen, Thiesfeldt, Tiffany, Tranel, Van Roy, Vos, Weininger, Wynn, Ziegelbauer and Speaker Fitzgerald - 59.

Noes - Representatives Barca, Berceau, Bernard Schaber, Bewley, Clark, E. Coggs, D. Cullen, Danou, Doyle, Fields, Grigsby, Hintz, Hulsey, Jorgensen, Kessler, Krusick, Milroy, Molepske Jr, Pasch, Pocan, Pope-Roberts, Radcliffe, Richards, Ringhand, Roys, Seidel, Sinicki, Staskunas, Steinbrink, C. Taylor, Toles, Turner, Vruwink, Young, Zamarripa and Zepnick - 36.

Paired for - Representative Williams - 1.

Paired against - Representative Hebl - 1.

Absent or not voting - Representative Mason - 1.

Motion carried.