



Oregon Should Adopt Legislation Providing for Reasonable Interest on Big Judgments – Support HB 2556

Lawsuit plaintiffs in Oregon who win large verdicts receive a sizeable damages windfall due to an outdated interest rate built into Oregon's judgment interest statute. Oregon allows plaintiffs to receive post-judgment interest on their award to compensate for the lost time value of that money while the defendant appeals the case or pursues other post-judgment action. However, the rate that Oregon uses to calculate judgment interest – a fixed 9% – has no connection to the current real-world economic situation.

It is impossible to say that 9% interest is fair compensation for the lost time value of money when the interest rates on mortgages, savings accounts, and government bonds have hovered below 4% for several years. Interest that high amounts to a bonus to the plaintiff and an unfair penalty to defendants who exercise their right to appeal. When the judgment awarded exceeds \$1 million, the unfair windfall amounts to tens of thousands of dollars.

Other jurisdictions show just how extreme Oregon's judgment interest rate has become. A litigant in federal court pays post-judgment interest at a rate equal to the one-year constant maturity Treasury yield – presently just 0.15%. In Utah state courts, 2% is added to the federal rate. Idaho adds 5% to the Treasury yield, while Washington and Nevada compute interest using the federal prime rate plus 2%. In total, twenty-five states have recognized that linking the judgment interest rate to market conditions provides a more equitable solution than an arbitrary fixed rate, which is quickly rendered obsolete by changes to the economic climate.

In fact, Oregon itself already employs a capped floating post-judgment interest rate, computed at the lesser of five percent or the Federal discount rate plus 3%, to civil judgments obtained in medical malpractice lawsuits. Since Oregon considers that rate to be fair to injured parties in malpractice cases, there is no reason that same rate should not also be applied to other types of judgments. This approach fulfills the purpose of judgment interest in compensating a plaintiff for the lost time value of their expenditures, but without granting a windfall resulting from the use of a high fixed rate disconnected from current economic conditions.

The Oregon Liability Reform coalition represents individuals, businesses and organizations committed to fairness in our civil justice system, and urge your support of HB 2556.

Jurisdictions with Variable Postjudgment Interest Rate Pegged to Market Conditions

Federal courts – Rate equal to the weekly average 1-year constant rate maturity Treasury yield. Presently that rate is 0.15%, and it has not exceeded 3% since January of 2008.

Maine – Treasury rate plus 6%

Idaho – Treasury rate plus 5%

Delaware – Fed discount rate plus 5%

Missouri – Fed funds rate plus 5%

Texas – Fed prime rate, but cannot fall below 5% or go above 15%

Florida – Fed discount rate plus 4%

Kansas – Fed discount rate plus 4%

South Carolina – Fed prime rate plus 4%

Louisiana – Fed discount rate plus 3.25%

Alaska – Fed discount rate plus 3%

North Dakota – Fed prime rate plus 3%

Ohio – Fed prime rate plus 3%

Utah – Federal postjudgment interest rate plus 2%

New Jersey – NJ Cash Management Fund return, plus 2%

Nevada – Nevada bank prime rate plus 2%

Iowa – Treasury rate plus 2%

Nebraska – Treasury rate plus 2%

New Hampshire – Treasury rate plus 2%

Colorado – Fed discount rate plus 2% (if judgment is appealed, otherwise 9%)

Oklahoma – Fed prime rate plus 2%

Washington – Fed prime rate plus 2%

Wisconsin – Fed prime rate plus 1% (if offer of settlement extended)

Michigan – Treasury rate plus 1%

Arizona – Fed prime rate plus 1%, not to exceed 10%

Tennessee – Formula based on Fed prime rate

West Virginia – Fed discount rate plus 3%, but must be between 7% and 11%