



**KANSAS
TRIAL LAWYERS
ASSOCIATION**

To: Representative Fred Patton, Chair
Members of the House Judiciary Committee

From: Callie Jill Denton, Executive Director
Kansas Trial Lawyers Association

Date: March 14, 2023

RE: SB 75 Interest on judgments in civil actions – (Proponent with adoption of KTLA Amendment)

Thank you for the opportunity to present testimony on SB 75 as Amended by the Senate, a bill relating to interest on judgments in civil actions.

The Kansas Trial Lawyers Association (KTLA) appreciates the efforts undertaken by the proponents of SB 75 to address many of the issues raised in the testimony we offered before the Senate Judiciary Committee, including restoring the flat default interest rate for contract disputes as it exists in current law.

However, after carefully reviewing the amendment in section 1 (b) that was made during Senate committee deliberation, we believe SB 75 should be further amended.

The purpose of KTLA's amendment is to provide greater clarity and instruction for the courts on how and when to apply pre-judgment interest to civil tort actions. KTLA's amendment will assure pre-judgment interest is applied uniformly from court to court and case to case and the law is fair to both victorious plaintiffs and defendants.

KTLA respectfully offers the following amendment for consideration should there be further deliberations on SB 75 (see also attached balloon):

Strike existing Section (1)(b) and replace with the following:

(b) In all civil tort actions filed on and after July 1, 2023, under chapter 60 of the Kansas Statutes Annotated, and amendments thereto, in which the trial court enters a judgment for damages, the court shall add pre-judgment interest on the judgment. Pre-judgment interest will begin to accrue from the date suit is filed to the earlier of either the date a judgment is accepted by the trial court as expressly stated in the judgment or the date it is filed with the court clerk. If exemplary or punitive damages are awarded, the pre-judgment interest for that amount will begin to accrue from the date the pleading for such damages is filed, or the amended pleading is approved by the court, to the date the court enters an award for such damages. Pre-judgment interest is the prime rate as of the date the suit is filed plus two percentage points.

On behalf of the members of the Kansas Trial Lawyers Association, thank you for your consideration and I respectfully request your support for KTLA's amendment.

Kansas Trial Lawyers Association

Proposed amendment 3.14.23

As Amended by Senate Committee

Session of 2023

SENATE BILL No. 75

By Committee on Judiciary

1-20

1 AN ACT concerning the legal rate of interest; relating to the percentage
2 rate used to calculate interest; amending K.S.A. 16-201 and repealing
3 the existing section.

4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 16-201 is hereby amended to read as follows: 16-
7 201. (a) **Except as provided in subsection (b)**, creditors shall be allowed to
8 receive interest at the rate of ten percent **of 10%** per annum ~~of two~~
9 ~~percentage points below the rate per annum specified in K.S.A. 16-204(e)~~
10 ~~(1), and amendments thereto~~; when no other rate of interest is agreed upon,
11 for any money after it becomes due; for money lent or money due on
12 settlement of account, from the day of liquidating the account and
13 ascertaining the balance; for money received for the use of another and
14 retained without the owner's knowledge of the receipt; for money due and
15 withheld by an unreasonable and vexatious delay of payment or settlement
16 of accounts; for all other money due and to become due for the
17 forbearance of payment whereof an express promise to pay interest has
18 been made; and for money due from corporations and individuals to their
19 daily or monthly employees, from and after the end of each month, unless
20 paid within fifteen 15 days thereafter.

21 (b) ~~In all civil tort actions filed under chapter 60 of the Kansas~~
22 ~~Statutes Annotated, and amendments thereto, in which the court~~
23 ~~determines that prejudgment interest shall be awarded, the judgment~~
24 ~~creditor shall be allowed to receive interest at the rate per annum of two~~
25 ~~percentage points below the rate per annum specified in K.S.A. 16-~~
26 ~~204(e)(1), and amendments thereto.~~

27 Sec. 2. K.S.A. 16-201 is hereby repealed.

28 Sec. 3. This act shall take effect and be in force from and after its
29 publication in the statute book.

Page: 1

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In all civil tort actions filed under chapter 60 of the Kansas Statutes Annotated, and amendments thereto, in which the court determines that prejudgment interest shall be awarded, the judgment creditor shall be allowed to receive interest at the rate per annum of two percentage points below the rate per annum specified in K.S.A. 16-204(e)(1), and amendments thereto.

Inserted Text

- (1) In all civil tort actions filed on and after July 1, 2023 under chapter 60 of the Kansas Statutes Annotated, and amendments thereto, in which the trial court enters a judgment for damages, the court shall add pre-judgment interest on the judgment.
- (2) Pre-judgment interest will begin to accrue from the date suit is filed to the earlier of either the date a judgment is accepted by the trial court as expressly stated in the judgment or the date it is filed with the court clerk. If exemplary or punitive damages are awarded, the pre-judgment interest for that amount will begin to accrue from the date the pleading for such damages is filed, or the amended pleading is approved by the court, to the date the court enters an award for such damages.
- (3) Pre-judgment interest is prime rate as of the date the suit is filed plus two percentage points.