Bill as Introduced

27jan00.....3109h

2000 SESSION

00-2126
09/01

HOUSE BILL *1233*

AN ACT relative to interest on judgments.

SPONSORS: Rep. Soltani, Merr 10

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill establishes that simple interest on judgments shall be imposed from the date the action is commenced to the date of payment of the judgment.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 1233 – AS AMENDED BY THE HOUSE

27jan00.....3109h

00-2126
09/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand

AN ACT relative to interest on judgments.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Simple Interest on Judgments. Amend the section heading and paragraph I of RSA 336:2 to read as ~~follows~~:

336:2 Time of Effective Rate; ***Accrual of Simple Interest.***

I. The rate paid on judgments shall be the rate in effect at the time the verdict is rendered or a finding for pecuniary damages is made, as certified by the clerk of court. ***Simple interest on judgments shall be imposed from the date the action is commenced to the date the judgment is paid.***

2 Simple Interest on Executions in Civil Actions. Amend RSA 527:10 to read as follows:

527:10 Interest. Simple interest is payable on executions in civil actions [~~from the time of judgment rendered~~] ***in a manner consistent with the provisions of RSA 336:2, I.***

3 Effective Date. This act shall take effect January 1, 2001.

Amendments

Senate Judiciary
May 4, 2000
2000-4378s
09/10

Amendment to HB 1233

Amend the bill by replacing all after the enacting clause with the following:

1 Interest From Date of Writ. Amend RSA 524:1-b to read as follows:

524:1-b Interest from Date of Writ. In all other civil proceedings at law or in equity in which a verdict is rendered or a finding is made for pecuniary damages to any party, whether for personal injuries, for wrongful death, for consequential damages, for damage to property, business or reputation, for any other type of loss for which damages are recognized, there shall be added forthwith by the clerk of court to the amount of damages interest thereon from the date of the writ or the filing of the petition to the date of [~~such verdict or finding~~] even ***judgment*** though such interest brings the amount of the verdict or findings beyond the maximum liability imposed by law.

2 Effective Date. This act shall take effect January 1, 2001.

2000-4378s

AMENDED ANALYSIS

This bill establishes that simple interest on judgments shall be imposed from the date of the writ or the filing of the petition to the date of judgment.

Committee Minutes

Date: March 28, 2000
Time: 10:35 a.m.
Room: Room 103, State House

The Senate Committee on Judiciary held a hearing on the following:

HB 1233 relative to interest on judgments

Members of Committee:

Senator Pignatelli
Senator Gordon
Senator Wheeler
Senator Squires
Senator Brown
Senator Trombly
Senator Cohen
Senator Fernald

The Chair, Senator Pignatelli, opened the hearing on HB 1233, by calling on Representative Soltani, the prime sponsor, to provide testimony.

Representative Soltani: Thank you, Madam Chairman. The bill itself is rather simple and it is in a category of a housekeeping bill rather than anything else. In order to understand what the bill is trying to do, we have to establish the three facts, the three events, in a lawsuit that would have to do with interest.

One is commencement of the action or the filing of the writ, whichever way you want to call it. That would be event number one. Event number two is the rendering of a verdict that happens after a trial has occurred or maybe a summary judgment has been entered. Event number three would be the judgment itself. The plaintiff, the winning side, is entitled to a judgment thirty days after a verdict has been rendered.

Currently, New Hampshire law allows for interest on judgments, simple interest on judgments, according to a rate, which is established by the Treasurer, from the date of the injury or the action until the return of the verdict. That would be one.

Another statute allows the interest to be accrued from the date that an execution is taken. Now, execution could be taken on any date after judgment has been entered. So, from the thirty-first day on, a lawyer who is on the winning side, could come in and take out an execution and start accruing interest pending an appeal. Presently, though practice contradicts what the statute says, in all of our eleven Superior Courts, if you have a judgment or you have a verdict, even though we have no statutory authority, we just calculate interest from the date the action is entered up to the date that the judgment is paid.

There is a gap of thirty days or more between the time that a verdict is entered and the time that the execution is taken and there is no authority to impose interest on that day, but we do it anyway. In fact, if you look at the New Hampshire Practice series, it says that we do it because the two statutes impose interest pre this date and post this date and it couldn't be that the Legislature didn't mean to exclude that period of time.

This statute creates continuity from the date of action until the time of the tender of the verdict and that is all it does. It maintains the rate of interest the same as it has been. That is all it is.

Senator Pignatelli: Are there any questions? I don't see any. Thank you for your testimony.

Representative Soltani: Thank you.

Senator Pignatelli: Jim Demers?

Jim Demers: Thank you, Madam Chairman. For the record, my name is James Demers and I am here today on behalf of the New Hampshire Trial Lawyers Association. We support the direction and the concept that Representative Soltani wishes to address. Our concern is that the amending language has consequences that we think substitute language might address.

As Representative Soltani indicated, there is a period of time, usually thirty days, where interest is not earned. The interest chapters on judgments in New Hampshire, there are two. One deals with prejudgment interest and one deals with post-judgment interest. Section 524:1-b says that, when a judgment is rendered, included in the judgment will be interest going back to when the case was filed. So, if there is a $100,000 award that is awarded and it took a year and there is a 5% interest rate in effect, the real judgment is going to be $105,000. You are going to get interest going back to when that case was filed.

Then, New Hampshire has a second chapter, which deals with post-judgment interest, which allows interest to be charged from the time the verdict is rendered until it is actually paid. So, an individual who would receive $105,000 will then receive 5% interest on $105,000 until it is actually paid.

The way the language is written in this bill, that compounding affect would be eliminated, that you would actually have the judgment paid from the date that the case was filed until it is paid. We think that, rather than jeopardize the way that the two chapters work today, a better approach would be to amend Section 524:1-b, which I have given you a copy of. That is the section that deals with the prejudgment interest. By eliminating the words "such verdict or finding" and replacing that with the word "judgment", it eliminates the thirty day period that there wouldn't be interest charged and which would address Representative Soltani's concern and would allow the individual to collect interest as they are now, both prejudgment and post-judgment, without that thirty day penalty and, if the act was passed as it is, you actually lose that compounding affect and that incentive to encourage the paying party to pay in a timely fashion.

So, we think the amendment that you have before you addresses the issue that he has raised, but also doesn't jeopardize the two-tiered interest system that we have today.

Please see "TITLE 53, Proceedings in Court, Chapter 524 Judgments, Section 524:1-b", attached hereto and referred to as Attachment #1.

Senator Pignatelli: Jim, did you raise this issue in the House when it was before the House Committee?

Mr. Demers: We did not. As a matter of fact, the Trial Lawyers, it wasn't until yesterday that they figured out what kind of language might address the concerns that were being raised after this bill passed the House. At that point, it was decided that the changing of the words "such verdict or finding" to "judgment" would do that and the Chairman of the Trial Lawyers Legislative Committee did try to reach Representative Soltani and was not able to to discuss it last night. So, he is not aware of this amending language that is being presented to you today.

Senator Pignatelli: Senator Wheeler?

Senator Wheeler: Thank you. Mr. Demers, are you proposing to replace the entire bill with this amendment? The amendment would be simply to replace "such verdict or finding" with the word "judgment"?

Mr. Demers: Correct. In 524:1-b.

Senator Pignatelli: Any further questions? Thank you.

Mr. Demers: Thank you.

Senator Pignatelli: Is there anyone else who would like to testify on HB 1233? I don't see anyone. Mr. McLaughlin?

Attorney Mike McLaughlin: For the record, I am Attorney Mike McLaughlin and I represent the NAII, which is the National Association of Independent Insurers. We haven't seen the amendment, but we did not speak against the bill in the House and weren't prepared to oppose the bill in the Senate as it passed the House. So, we would just like to reserve our comments until we see the amendment. We had no knowledge of the amendment and did not oppose the bill in the House. But, just to be on the record, we would like to review it before we make any position.

Senator Pignatelli: Alright. Senator Wheeler has a question.

Senator Wheeler: I just want to clarify that you said that, even though you didn't speak in the House, you are now opposing the bill as it passed the House?

Attorney McLaughlin: No, that is not what I said. I said we didn't oppose it and we weren't prepared to oppose it in the Senate as passed by the House. We haven't seen the amendment.

Senator Wheeler: So, just to clarify, you were neutral on this? You just wanted a little time to look at the amendment?

Attorney McLaughlin: Right. The compound interest issue was something that the House bill seemed to be simple interest from judgment forward. I haven't seen the amendment.

Senator Pignatelli: Is there anyone else who would like to testify on this bill? I don't see anyone. Thank you very much.

Hearing concluded at 10:45 a.m.

Recorded by Laurel Hanlon
Transcribed by L. Gail Brown
8/6/02
1 Attachment

ATTACHMENT #1

TITLE 53
Proceedings In Court

CHAPTER 524
Judgments

SECTION 524:1-b

§ 524:1-b Interest from Date of Writ. – In all other civil proceedings at law or in equity in which a verdict is rendered or a finding is made for pecuniary damages to any party, whether for personal injuries, for wrongful death, for consequential damages, for damage to property, business or reputation, for any other type of loss for which damages are recognized, there shall be added forthwith by the clerk of court to the amount of damages interest thereon from the date of the writ or the filing of the petition to the date of ~~such verdict or finding~~ judgment even though such interest brings the amount of the verdict or findings beyond the maximum liability imposed by law.

Source. 1957, 201:1. 1963, 293:1. 1967, 407:1. 1969, 187:2, eff. Aug. 1, 1969; 358:1, eff. Aug. 1, 1969.

pre-judgement

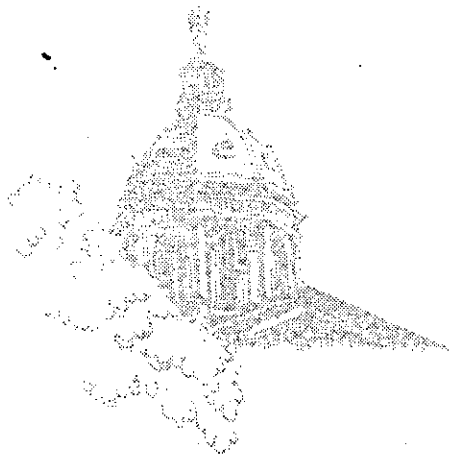
judgement

Speakers

HB 1233 Senate Judiciary Hearing Sign In

APPEARING: IN FAVOR	APPEARING: TO OPPOSE	DATE: MARCH 29, 2000 TIME: 10:20 AM NAME / REPRESENTING	WISH TO SPEAK?
		~~[illegible]~~	~~✓~~
	Amend	Jim Demers N.H. Trial Lawyers Association	✓
✓		Rep. Soltani Merr. 10	✓

Testimony



The **Demers Group** Inc.

Date: March 29, 2000

To: Senate Judiciary Committee Members

From: Jim Demers

Re: HB1233, Interest on Judgments

As a follow-up to today's hearing on HB1233, attached is the amendment proposed by the New Hampshire Trial Lawyers Association. We believe this amendment will more readily address Rep. Soltani's and the House Judiciary Committee's concerns about the possible loss of interest on judgments during the 30 day "gap" which occurs between the jury's verdict and the effective date of the judgment. As has been discussed, the confusion or misinterpretation which has resulted in this gap arises out of the construction of RSA 524:1-b rather than RSA 36:2 and RSA 527:10. By simply changing the reference to "verdict or finding" in that section to "judgment", the gap is eliminated without potentially adversely impacting upon the post judgement interest as the current version of HB1233 would do.

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Jim Demers

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand

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2 Effective Date. This act shall take effect January 1, 2001.

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: **MAY 11, 2000**

THE COMMITTEE ON **Judiciary**

to which was referred **House Bill 1233**

AN ACT ***relative to interest on judgments.***

file copy

VOTE: **5 / 0**

AMENDMENT: **# 00-4378s**

Having considered the same, report the same with the following amendment and recommend that the bill: **AS AMENDED OUGHT TO PASS.**

Senator Mark Fernald
For the Committee

|HB1233 Docket

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Bill Title: relative to interest on judgments.

Date	Body	Description
1/5/2000	**H**	Introduced and ref to Judiciary; HJ5, p92
1/5/2000	**H**	Copy to Chairman on 12/22/1999
1/5/2000	**H**	Hearing Jan 12 10:30 RM208,LOB
1/19/2000	**H**	Maj Report OTP/AM for Jan 27 (vote 14-0;CC)
1/19/2000	**H**	Prop Comm Am{3109}; HC9, p249
1/27/2000	**H**	Passed with Am (Cons Cal, 2/3VV); HJ12, p294 + 309
2/3/2000	**S**	Introduced and Ref. to Judiciary
3/22/2000	**S**	Hearing March 29, Room 103, SH, 10:20 a.m., SC18, Pg.24
5/10/2000	**S**	Committee Report Ought to Pass with amendment{4378}, 05/11/2000, SC28, Pg.28
5/11/2000	**S**	Committee Report Ought to Pass with Amendment {4378}; AA, VV; Sen. Fernald floor Amendment {4483},
5/11/2000	**S**	AA, VV; OT3rdg, MA, VV; SJ 14, Pg.380-381
5/17/2000	**H**	House Nonconcurred with Sen Am, Rep Mock MA VV; HJ45, p1365

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Docket Abbreviations