

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

M  
100

L.D. 1132

2  
4  
6  
8  
10  
12  
14  
16  
18  
20  
22  
24  
26  
28  
30  
32  
34  
36  
38  
40  
42  
44  
46

DATE: 6-9-03

(Filing No. S-261)

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE  
SENATE  
121ST LEGISLATURE  
FIRST REGULAR SESSION

SENATE AMENDMENT "A" to H.P. 835, L.D. 1132, Bill, "An Act To Simplify Calculation of Legal Interest"

Amend the bill by inserting after the title and before the enacting clause the following:

**'Emergency preamble. Whereas,** Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the unification of the District Court and the Superior Court became effective on January 1, 2001; and

**Whereas,** since that date, there has been ambiguity and confusion regarding the proper methodology for calculating prejudgment and post-judgment interest; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

**'Sec. 1. 10 MRSA §1113, sub-§4,** as enacted by PL 1993, c. 461, §1, is amended to read:

**4. Delayed payments.** Except as otherwise agreed, if any progress or final payment to a contractor is delayed beyond the

**SENATE AMENDMENT**

due date established in subsection 3, the owner shall pay the contractor interest on any unpaid balance due beginning on the 21st day, at an interest rate equal to that specified in Title 14, section ~~1602-A, subsection 2~~ 1602-C.

**Sec. 2. 10 MRSA §1114, sub-§4**, as enacted by PL 1993, c. 461, §1, is amended to read:

**4. Delayed payments.** Notwithstanding any contrary agreement, if any progress or final payment to a subcontractor or material supplier is delayed beyond the due date established in subsection 2 or 3, the contractor or subcontractor shall pay its subcontractor or material supplier interest on any unpaid balance due beginning on the next day, at an interest rate equal to that specified in Title 14, section ~~1602-A, subsection 2~~ 1602-C.

**Sec. 3. 14 MRSA §1502-D**, as amended by PL 1989, c. 360, is further amended to read:

**§1502-D. Taxing of costs; hearing**

The clerk shall set costs under section 1502-B and interest under section ~~1602~~ 1602-B to the extent they appear from the record. The prevailing party or the prevailing party's attorney may submit a bill of costs for all other costs or interest to the court not later than 10 days after entry of judgment and serve copies on all parties who have appeared and may be required to pay these costs. Any party required to pay all or any part of these costs, except a party who is defaulted and has not appeared, may, within 10 days after the date of service, challenge any items of cost or interest and request review by the court. The prevailing party shall, within 10 days after a challenge, submit to the court any vouchers or other records verifying any challenged items of cost or interest. Either side may request oral argument and submit affidavits and briefs. An evidentiary hearing on the reasonableness of costs or interest will be held only when the judge determines that there exists a substantial need for the hearing and the amount of challenged costs or interest are substantial. If the presiding judge determines that the imposition of costs will cause a significant financial hardship to any party, the judge may waive all or part of the costs with respect to that party.

**Sec. 4. 14 MRSA §1602**, as amended by PL 2001, c. 471, Pt. D, §13, is repealed.

**Sec. 5. 14 MRSA §1602-A**, as amended by PL 2001, c. 471, Pt. D, §14, is repealed.

**Sec. 6. 14 MRSA §§1602-B and 1602-C** are enacted to read:

2 **§1602-B. Interest before judgment**

4 1. In small claims. In small claims actions, prejudgment  
6 interest is not recoverable unless the rate of interest is based  
on a contract or note.

8 2. On contracts and notes. In all civil and small claims  
10 actions involving a contract or note that contains a provision  
relating to interest, prejudgment interest is allowed at the rate  
12 set forth in the contract or note.

14 3. In other civil actions. In civil actions other than  
those set forth in subsection 2, prejudgment interest is allowed  
at the United States Treasury bill rate, as published by the  
16 Board of Governors of the Federal Reserve System, on the first  
business day in January of the year in which prejudgment interest  
18 begins to accrue pursuant to subsection 5, plus 3%.

20 4. Stated rate. When prejudgment interest is awarded  
pursuant to subsection 2 or 3, the applicable rate must be stated  
22 in the judgment.

24 5. Accrual; suspension; waiver. Prejudgment interest  
accrues from the time of notice of claim setting forth under oath  
26 the cause of action, served personally or by registered or  
certified mail upon the defendant until the date on which an  
28 order of judgment is entered. If a notice of claim has not been  
given to the defendant, prejudgment interest accrues from the  
30 date on which the complaint is filed. In actions involving a  
contract or note that contains a provision relating to interest,  
32 the rate of interest is fixed as of the time the notice of claim  
is given or, if a notice of claim has not been given, as of the  
34 date on which the complaint is filed. If the prevailing party at  
any time requests and obtains a continuance for a period in  
36 excess of 30 days, interest is suspended for the duration of the  
continuance. On petition of the nonprevailing party and on a  
38 showing of good cause, the trial court may order that interest  
awarded by this section be fully or partially waived.

40 6. Effect on post-judgment interest. This section does not  
42 affect post-judgment interest imposed by section 1602-C.  
Prejudgment interest may not be added to the judgment amount in  
44 determining the sum upon which post-judgment interest accrues.

46 **§1602-C. Interest after judgment**

100

SENATE AMENDMENT "A" to H.P. 835, L.D. 1132

2  
4  
6  
8  
10  
12  
14  
16  
18  
20  
22  
24  
26  
28  
30  
32  
34  
36  
38  
40  
42  
44  
46  
48  
50

1. Rate. In all civil and small claims actions, post-judgment interest is allowed at a rate equal to:

A. In actions involving a contract or note that contains a provision relating to interest, the rate set forth in the contract or note or the rate in paragraph B, whichever is greater; and

B. In all other actions, the United States Treasury bill rate, as published by the Board of Governors of the Federal Reserve System, on the first business day in January of the year in which post-judgment interest begins to accrue pursuant to subsection 2, plus 6%.

The applicable post-judgment interest rate must be stated in the judgment, except for judgments for small claims actions.

2. Accrual; suspension; waiver. Post-judgment interest accrues from and after the date of entry of judgment, including during the pendency of an appeal. In actions involving a contract or note that contains a provision relating to interest, the rate of interest is fixed as of the date of judgment. If the prevailing party at any time requests and obtains a continuance for a period in excess of 30 days, interest is suspended for the duration of the continuance. On petition of the nonprevailing party and on a showing of good cause, the trial court may order that interest awarded by this section be fully or partially waived.

**Sec. 7. 14 MRSA §7487**, as enacted by PL 1999, c. 109, §1, is amended to read:

**§7487. Interest**

A person who is awarded a money judgment in a small claims action is entitled to post-judgment interest in accordance with section 1602-A 1602-C.

**Sec. 8. 14 MRSA §8115, sub-§2**, as enacted by PL 1977, c. 2, §2, is amended to read:

**2. Subdivision's plan for payment.** In the event that a political subdivision has not procured insurance, the trial judge may accept a reasonable plan for the payment of the amount of the judgment. A payment plan shall may not exceed 5 years, and may include interest at the rate provided in section 1602 1602-C.

**Sec. 9. 18-A MRSA §3-806, sub-§(d)**, as amended by PL 1997, c. 202, §1, is further amended to read:

(d) Unless otherwise provided in any judgment in another court entered against the personal representative, allowed claims bear prejudgment interest at the rate specified in Title 14, section ~~1602, subsection 1, paragraph A~~ 1602-B for the period commencing 60 days after the time for original presentation of the claim has expired unless based on a contract making a provision for interest, in which case they bear interest in accordance with that provision.

(1) Interest may not accrue on any allowed claims, however allowed, against an insolvent estate, except to the extent that insurance coverage or other nonprobate assets are available to pay the claim in full. This paragraph is effective for estates of decedents who die on or after October 1, 1997.

(2) To the extent that an allowed claim against an insolvent estate is secured by property, the value of which, as determined under section 3-809, is greater than the amount of the claim, the holder of the claim may receive interest on the principal amount of the claim and any reasonable fees, costs or charges provided for under an agreement under which the claim arose. This paragraph is effective for estates of decedents who die on or after October 1, 1997.

**Sec. 10. 22 MRSA §2172, sub-§3, ¶B,** as enacted by PL 1991, c. 837, Pt. A, §49, is amended to read:

B. Licensees that are fined pursuant to this chapter are required to pay the department the amount of the penalties. If a licensee has not paid any collectible fine by the time of license renewal, the department may collect the fine by requiring payment prior to the processing of any license renewal application. An appeal of the department's decision to fine a licensee stays the collection of the fine. Interest accrues on a fine at the rate specified in Title 14, section ~~1602~~ 1602-B prior to the completion of any appeal. After the completion of any appeal process or after any appeal period has passed, interest accrues pursuant to Title 14, section ~~1602-A~~ 1602-C.

**Sec. 11. 22 MRSA §2498, sub-§3, ¶B,** as enacted by PL 1991, c. 591, Pt. J, §5, is amended to read:

B. Licensees that are fined pursuant to this chapter are required to pay the department the amount of the penalties. If a licensee has not paid any collectible fines by the time of its license renewal, the department may collect such fines by requiring their payment prior to the processing of

**ROS**

SENATE AMENDMENT "A" to H.P. 835, L.D. 1132

2  
4  
6  
8  
10  
12  
14  
16  
18  
20  
22  
24  
26  
28  
30  
32  
34  
36  
38  
40  
42  
44  
46

any license renewal application. An appeal of the department's decision to fine a licensee stays the collection of any fine. Interest must accrue on fines at a rate described in Title 14, section 1602 1602-B prior to the completion of any appeal. After the completion of any appeal process or after any appeal period has passed, interest must accrue pursuant to Title 14, section 1602-A 1602-C.

**Sec. 12. 22 MRSA §7946, sub-§2**, as amended by PL 1989, c. 747, §2, is further amended to read:

**2. Collection of penalties; interest.** Long-term care facilities that are fined pursuant to this chapter are required to pay the department the amount of the penalties. Penalties may be collected by the department by the offset of any reimbursement due the facility, or by any other method authorized by law. An appeal of the department's decision to penalize a long-term care facility stays the collection of any penalties. All penalties are to be assessed for each day that the facility is or was out of compliance and are to be collected with interest accruing at the rate set by Title 14, section 1602-A 1602-C. An appeal of the department's decision to penalize a long-term care facility does not stay the assessment of any penalties or interest as long as the long-term care facility continues to be in violation of any requirement of section 7943.

**Sec. 13. Application.** This Act applies to post-judgment interest on or after July 1, 2003. For prejudgment interest, this Act applies as follows:

- A. For complaints filed prior to July 1, 2003 and when judgment is less than \$30,000, 8%;
- B. For complaints and notices of damages filed prior to July 1, 2003 and when judgment is over \$30,000, United States Treasury bill rate plus 1%; and
- C. For complaints filed on or after July 1, 2003, in accordance with the Maine Revised Statutes, Title 14, section 1602-B.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.'

**SENATE AMENDMENT**

SENATE AMENDMENT "A" to H.P. 835, L.D. 1132

**SUMMARY**

2

4 This amendment incorporates Committee Amendment "A," House  
6 Amendment "A" and Senate Amendment "B" except that this amendment  
8 amends the judicial rates of interest to equal the United States  
Treasury bill rate for prejudgment interest and post-judgment  
interest rather than leaving them equal to the bank prime loan  
interest rate.

10

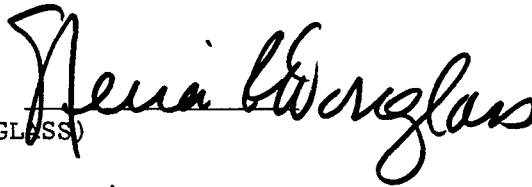
12 The amendment also applies the changes in prejudgment and  
post-judgment interest rates to complaints filed on or after July  
1, 2003.

14

16

SPONSORED BY:

(Senator DOUGLASS)



18

COUNTY: Androscoggin

20