

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 1132

H.P. 835

House of Representatives, March 4, 2003

### An Act To Simplify Calculation of Legal Interest

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Reference to the Committee on Judiciary suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative MILLS of Cornville.  
Cosponsored by Representative NORBERT of Portland.

2 **Be it enacted by the People of the State of Maine as follows:**

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

6 **4. Delayed payments.** Except as otherwise agreed, if any  
8 progress or final payment to a contractor is delayed beyond the  
10 due date established in subsection 3, the owner shall pay the  
12 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~~.

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

16 **4. Delayed payments.** Notwithstanding any contrary  
18 agreement, if any progress or final payment to a subcontractor or  
20 material supplier is delayed beyond the due date established in  
22 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~~.

24 **Sec. 3. 14 MRSA §1602, sub-§1**, as amended by PL 2001, c. 471,  
Pt. D, §13, is repealed and the following enacted in its place:

26 **1. Prejudgment interest; rate; avoidance.** In all civil  
28 actions, except those actions involving a contract or note that  
30 contains a provision relating to interest, prejudgment interest  
32 must be assessed at a rate of 6%. The Supreme Judicial Court may  
34 review the prejudgment interest rate no more than once per year  
36 and, if there has been a substantial change in market interest  
rates, may order a change in the prejudgment interest rate to  
accurately reflect the market rate. If the Supreme Judicial  
Court orders a change in the prejudgment interest rate pursuant  
to this section, the rate must be roughly 50% of the rate set in  
section 1602-A.

38 Prejudgment interest accrues from the time of notice of claim  
40 setting forth under oath the cause of action, served personally  
42 or by registered or certified mail upon the defendant until the  
44 date on which an order of judgment is entered. If no notice of  
46 claim has been given to the defendant, prejudgment interest  
48 accrues from the date on which the complaint is filed. If the  
50 prevailing party at any time requests and obtains a continuance  
for a period in excess of 30 days, interest must be 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.

2           **Sec. 4. 14 MRSA §1602-A, first ¶**, as repealed and replaced by  
PL 1987, c. 646, §4, is repealed and the following enacted in its  
4 place:

6           From and after the date of entry on an order of judgment,  
7 including the period of the pendency of an appeal, interest is  
8 allowed at a rate of 10%. The Supreme Judicial Court may review  
9 the rate of interest after judgment no more than once per year  
10 and, if there has been a substantial change in market interest  
11 rates, may order a change of the rate in this section to  
12 accurately reflect the market rate. If the Supreme Judicial  
13 Court orders a change in the interest rate under this section,  
14 the rate must be roughly 167% of the rate set in section 1602.

16           **Sec. 5. 14 MRSA §1602-A, sub-§1**, as amended by PL 1989, c.  
17 502, Pt. B, §15, is repealed.

18           **Sec. 6. 14 MRSA §1602-A, sub-§2**, as amended by PL 2001, c.  
19 471, Pt. D, §14, is repealed.

22           **Sec. 7. 18-A MRSA §3-806, sub-§(d)**, as amended by PL 1997, c.  
23 202, §1, is further amended to read:

24           (d) Unless otherwise provided in any judgment in another  
25 court entered against the personal representative, allowed claims  
26 bear prejudgment interest at the rate specified in Title 14,  
27 section 1602, ~~sub-section 1, paragraph A~~ for the period commencing  
28 60 days after the time for original presentation of the claim has  
29 expired unless based on a contract making a provision for  
30 interest, in which case they bear interest in accordance with  
31 that provision.

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

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

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## SUMMARY

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This bill sets prejudgment interest rates at 6% and postjudgment interest rates at 10% for all court actions. This bill also allows the Supreme Judicial Court to review the rates once yearly and change the rates to accurately reflect market rates if interest rates substantially change, roughly keeping the 6/10 ratio of prejudgment interest rates to postjudgment interest rates.

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