

Bill as Introduced

HB 1196 - AS INTRODUCED

2010 SESSION

10-2255

06/03

HOUSE BILL **1196**

AN ACT relative to the time period interest is charged on judgments.

SPONSORS: Rep. Nixon, Hills 17; Rep. Craig, Hills 9; Rep. McEachern, Rock 16;
Rep. T. Russell, Rock 13; Rep. DiFruscia, Rock 4

COMMITTEE: Judiciary

ANALYSIS

This bill changes the time period interest is charged on judgments.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT relative to the time period interest is charged on judgments.

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

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

2 524:1-b Interest From Date of ~~[Writ]~~ ***Event Which Gave Rise to the Action***. In all other civil
3 proceedings at law or in equity in which a verdict is rendered or a finding is made for pecuniary
4 damages to any party, whether for personal injuries, for wrongful death, for consequential damages,
5 for damage to property, business, or reputation, for any other type of loss for which damages are
6 recognized, there shall be added forthwith by the clerk of court to the amount of damages interest
7 thereon from the date of the ~~[writ or the filing of the petition to]~~ ***event which gave rise to the***
8 ***proceeding until*** the date of judgment, ***and thereafter from the date of judgment, including***
9 ***verdict, costs, and interest, until the date of payment*** even though such interest brings the
10 amount of the judgment ***or payment*** beyond the maximum liability imposed by law.

11 2 Effective Date. This act shall take effect January 1, 2011.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HB 1196

BILL TITLE: relative to the time period interest is charged on judgments.
DATE: January 28, 2010
LOB ROOM: 208 **Time Public Hearing Called to Order:** 12:15 p.m.
Time Adjourned: 1:15 p.m.

(please circle if present)

Committee Members: Reps. D. Cote, Wall, Potter, Hackel, P. Preston, G. Richardson, L. Weber, B. Browne, Nixon, Thompson, Watrous, Rowe, N. Elliott, DiFruscia, W. O'Brien, Hagan, L. Perkins, Silva, W. Smith and Mead.

Bill Sponsors: Rep. Nixon, Hills 17; Rep. Craig, Hills 9; Rep. McEachern, Rock 16; Rep. T. Russell, Rock 13, Rep. DiFruscia, Rock 4

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep David Nixon, sponsor

Summarizes bill. This will encourage earlier settlement of court cases in addition to making the victim whole.

Rep. Will Smith. Are you aware of how the rate for individuals is set? Ans. That is the subject of another bill. Treasurer (state) 10% for business: Treasurer notifies the court of the individual rate on December 1: prevailing discount interest rate over twenty-six weeks plus 2% rounded off to the nearest tenth.

Rep. Gary Richardson. Ans. Attorney for claimant would not have to file suit in order to start the interest.

Martin Honigberg, NH Medical Society - opposed

Says that under discovery rule, this could string out the interest period. Clerks could not comply. Bill uses compound interest, replacing simple interest. Does feel incentive runs either way. There is a good chance this bill will distort incentives.

Henry Veilleux, New Hampshire Federation of Independent Businesses - opposed,
Next bills can shift balance on interest. This bill shifts costs to defendant.

Davie Turret, NH BIA - opposed

Will cost businesses an increase in business insurance rates.

Rep. Anthony DiFruscia emailed his support for the bill.

Respectfully submitted,



Philip Preston, Clerk

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HB 1196

BILL TITLE: relative to the time period interest is charged on judgments.

DATE:

January 28, 2010

LOB ROOM:

208

Time Public Hearing Called to Order: 1:00 pm

Time Adjourned:

(please circle if present)

Committee Members: Reps. D. Cote, Wall, Potter, Hackel, P. Preston, G. Richardson, L. Weber, B. Browne, Nixon, Thompson, Watrous, Rowe, N. Elliott, DiFruscia, W. O'Brien, Hagan, L. Perkins, Silva, W. Santo and Mead.

Bill Sponsors: Rep. Nixon, Hills 17; Rep. Craig, Hills 9; Rep. McEachern, Rock 16; Rep. T. Russell, Rock 13, Rep. DiFruscia, Rock 4

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

FROM: Rep. Philip Preston, Clerk
DATE: Public hearing January 28, 2010
SUBJECT: Meeting minutes on HB 1196, relative to the time period
interest is charged on judgments.

HB 1196

Rep David Nixon, sponsor

Summarizes bill. This will encourage earlier settlement of court cases in addition to making the victim whole.

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Next bills can shift balance on interest. This bill shifts costs to defendant.

Davie Turret, NH BIA - opposed

Will cost businesses in increased business insurance rates.

Rep. Anthony DiFruscia emailed his support for the bill.

1:27 pm

Testimony

January 28, 2010

William L. Chapman
George W. Roussos
Howard M. Moffett
James E. Morris
John A. Malmberg
Martha Van Oot
Douglas L. Patch
James P. Bassett
Emily Gray Rice
Steven L. Winer
Peter F. Burger
Lisa Snow Wade
Susan S. Geiger
Richard Y. Uchida
Jennifer A. Eber
Michael D. Ramsdell
Jeffrey C. Spear
Connie Boyles Lane
Judith A. Fairclough
Todd C. Fahey
Vera B. Buck
James F. Labou
Robert S. Carey
John M. Zaremba
Courtney Curran Vore
Justin M. Boothby
Heidi S. Cole
Jeremy D. Eggleton
Rachel A. Goldwasser
Joshua M. Pantesco
John L. Arnold
Michael T. Cretella

Maureen D. Smith
(Of Counsel)

HAND DELIVERED

The Honorable David E. Cote, Chairman
House Judiciary Committee
Legislative Office Building, Room 208
Concord, New Hampshire 03301

Re: HB 1196

Dear Representative Cote:

On behalf of my clients, the New Hampshire Association of Domestic Insurance Companies ("NHADIC") and the American Insurance Association ("AIA"), I am writing to express concern with the provisions of HB 1196, which proposes to amend the law governing payment of interest on judgments. Under current law, when there is a judgment in a case, interest is added to the judgment from the date the lawsuit is filed to the date of judgment. Under this bill, interest would start to run much earlier "on the date of the event which gave rise to the proceeding", for example, the date of the accident.

The policy behind payment of interest is to compensate the plaintiff for loss of the use of money during the lawsuit. This bill violates that policy by awarding interest on amounts which the plaintiff has not lost, such as medical bills not yet incurred, wages not yet lost, future loss of earnings, and other elements which make up a judgment.

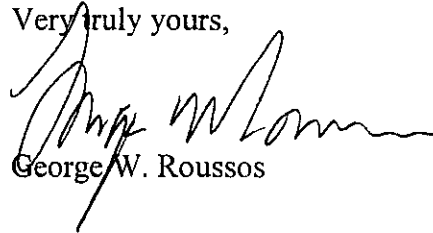
This is an expansion of tort law which, in our view, does not advance any sound public policy, but which will increase costs of litigation.

Also, although the purpose of this bill may be to increase awards in personal injury cases, it should be noted that the bill, as drafted, would apply to any civil proceeding in which a finding is made for pecuniary damages to any party for any type of loss for which damages are recognized.

The Honorable David E. Cote, Chairman
January 28, 2010
Page 2

We believe the current system of awarding interest is fair to both plaintiff and defendant and should not be changed. Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read "George W. Roussos", written over the typed name below.

George W. Roussos

GWR/dlc

cc: Hon. Janet G. Wall, Chair
Hon. Frances Potter
Hon. Paul L. Hackel
Hon. Philip Preston
Hon. Gary B. Richardson
Hon. Lucy McVitty Weber
Hon. Brendan Browne
Hon. David Nixon
Hon. Robert Thompson
Hon. Rick Watrous
Hon. Robert Rowe
Hon. Nancy J. Elliott
Hon. Anthony R. DiFruscia
Hon. William O'Brien
Hon. Joseph Hagan
Hon. Lawrence Perkins
Hon. Peter Silva
Hon. William Smith

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January 28, 2010

Representative David E. Cote, Chair
House Judiciary Committee
Legislative Office Building
Room 208
Concord, NH 03301

Re: HB 1196 (extending the time period interest is charged on judgments)

Dear Representative Cote:

On behalf of the Greater Nashua Chamber of Commerce, I am writing to register our opposition to HB 1196.

Currently, interest on judgments is measured from the date of the writ. Under HB 1196, interest would be calculated from the date of the event that gave rise to the action.

Given the current three-year statute of limitations in civil actions, HB 1196 would effectively add an additional three years onto the time period during which interest might be calculated. Indeed, the effect of this bill undoubtedly would be even more drastic than that, because of the so-called discovery rule in tort actions, which permits lawsuits to be filed *more* than three years after an event if the plaintiff does not discover the injury within that period. Thus, in contrast to the current law, which provides for a date certain when the interest calculation begins, HB 1196 would create an open-ended time period.

Therefore, HB 1196 would dramatically increase the amount of money that unsuccessful defendants potentially would have to pay in civil actions. Such an outcome seems likely to increase the number of lawsuits brought against defendants like businesses, which often are perceived to have deep pockets. The bill also seems tailor-made to increase insurance costs in general and in particular the costs of medical malpractice insurance and healthcare.

In view of the economic times we are facing, and the need to support the New Hampshire business community, which is the job-creating engine in the state, we ask that the Judiciary Committee recommend that HB 1196 be voted inexpedient to legislate.

Thank you for your consideration. Please let me know if you have any questions.

Respectfully,



J. Christopher Williams
President & CEO

cc: Committee Members

Voting Sheets

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HB 1196

BILL TITLE: relative to the time period interest is charged on judgments.

DATE: February 16, 2010

LOB ROOM: 208

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Nixon

Seconded by Rep. Wall

Vote: 14-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 14-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Philip Preston, Clerk

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HB 1196

BILL TITLE: relative to the time period interest is charged on judgments.

DATE: February 16, 2010

LOB ROOM: 208

Amendments:

Sponsor: Rep. OLS Document #:
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Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Nixon

Seconded by Rep. Wall

Vote: 14/6 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

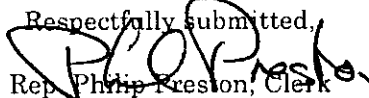
Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Philip Preston, Clerk

JUDICIARY

Bill #: HB 1196 Title: _____

PH Date: ____/____/____

Exec Session Date: 02 / 16 / 10

Motion: ITL

Amendment #: _____

MEMBER	YEAS	NAYS
Cote, David E, Chairman	Y	
Wall, Janet G, V Chairman	Y	
Potter, Frances D	Y	
Hackel, Paul L	Y	
Preston, Philip, Clerk	Y	
Richardson, Gary B	Y	
Weber, Lucy M	Y	
Browne, Brendon S <i>Read, Robin</i> ←		
Nixon, David L	Y	
Thompson, Robert B	Y	
Watrous, Rick H	Y	
Rowe, Robert H	Y	
Elliott, Nancy J		
DiFruscia, Anthony R		
Mead, Robert D	Y	
O'Brien, William L	Y	
Hagan, Joseph M		
Perkins, Lawrence B		
Silva, Peter L		
Smith, William B	Y	

TOTAL VOTE:

14 0

Committee Report

CONSENT CALENDAR

February 17, 2010

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on JUDICIARY to which was referred

HB1196,

AN ACT relative to the time period interest is charged on judgments. Having considered the same, report the same with the following Resolution: RESOLVED, That it is INEXPEDIENT TO LEGISLATE.

Rep. David L Nixon

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	JUDICIARY
Bill Number:	HB1196
Title:	relative to the time period interest is charged on judgments.
Date:	February 17, 2010
Consent Calendar:	YES
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

House Bill 1196 as originally introduced would change the date of interest accumulation on verdicts from the date of the writ to the date of the event which gave rise to the proceeding involved. The sponsor recommended that the bill be reported as inexpedient to legislate since existing law, RSA 524:1-b provides for interest accumulation from the date of filing of the writ, as has been the case for decades. The committee believes that the problem of insufficient interest on judgments to accomplish the purposes of such provision, to encourage settlement of disputed matter, and fairly compensate victims of wrongdoing, were better achieved by other legislation.

Vote 14-0.

Rep. David L Nixon
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

JUDICIARY

HB1196, relative to the time period interest is charged on judgments. **INEXPEDIENT TO LEGISLATE**.

Rep. David L Nixon for JUDICIARY. House Bill 1196 as originally introduced would change the date of interest accumulation on verdicts from the date of the writ to the date of the event which gave rise to the proceeding involved. The sponsor recommended that the bill be reported as inexpedient to legislate since existing law, RSA 524:1-b provides for interest accumulation from the date of filing of the writ, as has been the case for decades. The committee believes that the problem of insufficient interest on judgments to accomplish the purposes of such provision, to encourage settlement of disputed matter, and fairly compensate victims of wrongdoing, were better achieved by other legislation. **Vote 14-0**.

Original: House Clerk
Cc: Committee Bill File

HB 1196, relative to the time period interest is charged on judgments.

Consent Calendar Vote: 14-0 ITL

House Bill 1196 as originally introduced would change the date of interest accumulation on verdicts from the date of the writ to the date of the event which gave rise to the proceeding involved. The sponsor recommended that the bill be reported as inexpedient to legislate since existing law, RSA 524:1-b provides for interest accumulation from the date of filing of the writ, as has been the case for decades. The committee believes that the problem of insufficient interest on judgments to accomplish the purposes of such provision, to encourage settlement of disputed matters, and fairly compensate victims of wrongdoing, were better achieved by other legislation.

Rep. David L. Nixon