

LEGISLATIVE BILL 298

Approved by the Governor February 28, 1986

Introduced by Hall, 7

AN ACT relating to interest rates; to amend section 45-103, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the rate and payment of interest on certain decrees and judgments; to provide exceptions; to provide an operative date; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 45-103, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-103. Interest on all decrees and judgments for the payment of money shall be from the date of the rendition thereof at the rate specified in section 45-104-01, as such rate may from time to time be adjusted by the Legislature until the same shall be paid; PROVIDED, if such judgment or decree shall be founded upon any contract, either verbal or written, by the terms of which a greater rate of interest, not exceeding the amount allowed by law, than the rate specified in section 45-104-01, as such rate may from time to time be adjusted by the Legislature, shall have been agreed upon, the rate of interest upon such judgment or decree shall be the same as provided for by the terms of the contract upon which the same was founded. Interest on a judgment appealed to the district court shall be determined in accordance with subsection (3) of section 24-541-06. Judgment interest on decrees and judgments for the payment of money shall be fixed at a rate equal to one percentage point above the bond equivalent yield, as published by the Secretary of the Treasury of the United States, of the average accepted auction price for the last auction of fifty-two-week United States Treasury bills in effect on the date of judgment. The State Court Administrator shall distribute notice of such rate and any changes to it to all Nebraska judges to be in effect two weeks after the date the auction price is published by the Secretary of the Treasury of the United States. This interest rate shall not apply to:

(1) An action in which the judgment interest

rate is specifically provided by law; or

(2) An action founded upon an oral or written contract in which the parties have agreed to a rate of interest other than that specified in this section.

Sec. 2. Judgment interest shall accrue on decrees and judgments for the payment of money from the date of rendition of judgment until satisfaction of judgment.

Sec. 3. Except as provided in section 5 of this act, judgment interest shall also accrue on decrees and judgments for the payment of money from the date of the plaintiff's first offer of settlement which is exceeded by the judgment until the rendition of judgment if all of the following conditions are met:

(1) The offer is made in writing upon the defendant by certified mail, return receipt requested, to allow judgment to be taken in accordance with the terms and conditions stated in the offer;

(2) The offer is made not less than ten days prior to the commencement of the trial;

(3) A copy of the offer and proof of delivery to the defendant in the form of a receipt signed by the party or his or her attorney is filed with the clerk of the court in which the action is pending; and

(4) The offer is not accepted prior to trial or within thirty days of the date of the offer, whichever occurs first.

Sec. 4. All payments made prior to trial by or on behalf of the defendant shall be subtracted from the judgment before judgment interest is added.

Sec. 5. Judgment interest shall not accrue prior to the date of rendition of judgment for:

(1) Any action arising under Chapter 42; or

(2) Any action involving the state, a political subdivision of the state, or any employee of the state or any of its political subdivisions for any negligent or wrongful act or omission accruing within the scope of such employee's office or employment.

Sec. 6. This act shall be operative for all causes of action accruing on or after January 1, 1987.

Sec. 7. That original section 45-103, Reissue Revised Statutes of Nebraska, 1943, is repealed.