

## LEGISLATIVE BILL 1183

Approved by the Governor April 7, 1994

Introduced by Wickersham, 49

AN ACT relating to interest; to amend sections 45-103 to 45-103.04, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to interest on judgments and other legal actions; and to repeal the original sections.

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. ~~Judgment interest~~ 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. That section 45-103.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-103.01. ~~Judgment interest~~ Interest as provided in section 45-103 shall accrue on decrees and judgments for the payment of money from the date of rendition of judgment until satisfaction of judgment.

Sec. 3. That section 45-103.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-103.02. (1) Except as provided in section 45-103.04, ~~judgment interest as provided in section 45-103~~ shall also accrue on decrees and judgments for the payment of money the unpaid balance of unliquidated claims 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:

- (a) (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;
- (b) (2) The offer is made not less than ten days prior to the commencement of the trial;
- (c) (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
- (d) (4) The offer is not accepted prior to trial or within thirty days of the date of the offer, whichever occurs first.

(2) Except as provided in section 45-103.04, interest as provided in section 45-104 shall accrue on the unpaid balance of liquidated claims from the date the cause of action arose until the rendition of judgment.

Sec. 4. That section 45-103.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-103.03. All payments made prior to trial by or on behalf of the defendant shall be subtracted from the judgment before ~~judgment interest as provided in subsection (1) of section 45-103.02~~ is added.

Sec. 5. That section 45-103.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-103.04. ~~Judgment interest~~ Interest as provided in section 45-103.02 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. That original sections 45-103 to 45-103.04, Reissue Revised Statutes of Nebraska, 1943, are repealed.