



**House  
Legislative  
Analysis  
Section**

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**CIVIL JUDGMENT INTEREST**

**House Bill 4437 (Substitute H-3)  
First Analysis (3-9-94)**

**Sponsor: Rep. Kirk Profit  
Committee: Judiciary**

***THE APPARENT PROBLEM:***

As part of the tort reforms of 1986, the interest rate on money judgments was lowered from an annual rate of 12 percent to one percent above the five-year Treasury bill (T-bill) rate. The rate is adjusted twice a year based on the average five-year T-bill rate of the previous six months, and, according to the Department of Treasury, is currently 5.025 percent. Although the new rate calculation reduced insurers' costs, it also applied to all money judgments, not just those issued in tort actions; at least partly in response to creditors' concerns that the newly-lowered interest rates gave debtors an incentive to postpone payment, the interest rate for judgments involving written instruments was in 1987 restored to its pre-1986 level of twelve percent or the rate specified in the instrument, whichever was higher, up to 13 percent per year.

Complaints have continued, however, regarding the provisions on payment of judgment interest. Many find the use of the T-bill formula to be cumbersome and confusing, as it calls for the interest rate on a judgment to be adjusted every six months, thus complicating calculations. Confusion is heightened by the existence of separate interest rate structures for tort judgments and judgments involving written instruments. Many have urged that the provisions for judgment interest be simplified.

***THE CONTENT OF THE BILL:***

The bill would amend the Revised Judicature Act to revise the calculation of interest on money judgments. Starting October 1, 1994, the interest rate on a money judgment would be one percent over the five-year T-bill rate for the previous six months; however, if the judgement was rendered on a written instrument having a higher rate of interest, interest would be calculated at the rate specified in the instrument (up to 13 percent per year), providing it was legal at the time the instrument was executed.

For complaints filed on or after October 1, 1994, the interest would be calculated based on the applicable rate on the date the complaint was filed. For complaints filed between January 1, 1987 and October 1, 1994, the interest rate on the balance of the judgment would be calculated as provided for post-October complaints.

The bill would take effect October 1, 1994.

MCL 600.6013

***FISCAL IMPLICATIONS:***

There is no fiscal information at present. (3-8-94)

***ARGUMENTS:***

***For:***

The bill would simplify the calculation of interest on money judgments, striking a balance between low rates, which tend to discourage prompt payment but minimize undue costs for defendants (such as insurance companies), and high rates, which tend to encourage prompt payment but also increase costs for defendants with genuine disputes.

***Against:***

The bill may fail to address the legitimate needs of creditors. Many consider the use of the T-bill formula to be unnecessarily confusing, and would prefer a return to the flat statutory rate that preceded the 1986 tort reforms. More importantly, the rate should be higher to remove a debtor's incentive to delay payment; as it stands, a debtor can carry judgment interest at less than it would cost to borrow money. Further, the cost to a creditor to carry the bad debt would be well in excess of one percent over the T-bill rate; one estimate put the amount needed to cover the cost of borrowing on the commercial market at six percent over the T-bill rate. To deal with deadbeats and be fair to creditors, the bill should allow a higher rate of

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interest, preferably something that approximates the market cost of credit.

***Response:***

A higher rate of interest would tend to increase costs for everyone, because it would increase costs for insurer-defendants, who then would have to pass their higher costs on to consumers through higher premiums for policyholders. Moreover, for bad debts stemming from loan defaults, the bill would allow the rate of interest provided in the loan document, up to thirteen percent. Finally, there is a danger that if interest rates are too high, debtors will choose bankruptcy over paying their debts.

***Against:***

The bill may not be fully clear in specifying how interest is to be calculated on judgment balances existing on the bill's effective date. The bill says that interest on a balance is to be calculated according to the new provisions, but those provisions link the applicable rate to the date the judgment was filed. For existing judgments, it would seem to make more sense to use the rate that would be in effect on October 1, 1994.

***POSITIONS:***

The Michigan Insurance Federation supports Substitute H-3. (3-8-94)

The Michigan Association of Collection Agencies supports the bill as an improvement over current law, but would have preferred a higher allowable interest rate. (3-8-94)