

# As Passed by the House

125th General Assembly

Regular Session

2003-2004

Sub. H. B. No. 212

Representatives Seitz, McGregor, Setzer, Cates, C. Evans, Wagner, Schmidt,  
Gilb, Husted, Williams, Blasdel, Wolpert, Schneider, Faber, Driehaus,  
Webster, Gibbs, Reidelbach, Raussen, Collier, G. Smith, Latta, Widener,  
Harwood, Book, Allen, Aslanides, Barrett, Brown, Buehrer, Calvert,  
Carmichael, Clancy, Core, Daniels, Domenick, Flowers, Hartnett, Hoops,  
Hughes, Jolivette, Key, Niehaus, Otterman, Perry, Price, Schlichter, S. Smith,  
J. Stewart, Taylor, Woodard

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## A BILL

To amend sections 1343.03, 2325.18, and 5703.47 and 1  
to enact sections 319.19, 1901.313, 1907.202, 2  
2303.25, and 2323.57 of the Revised Code to change 3  
the rate of interest on money due under certain 4  
contracts and on judgments, to provide trial 5  
courts notification of the rate of interest, to 6  
specify that the rate of interest is that in 7  
effect on the date of the judgment in a civil 8  
action and remains in effect until the judgment is 9  
satisfied, to change the computation of the period 10  
for which prejudgment interest is due in certain 11  
civil actions, to preclude prejudgment interest on 12  
future damages, to require that the finder of fact 13  
in certain tort actions in which future damages 14  
are claimed specify the amount of past and future 15  
damages awarded, to modify the period of 16  
limitations for revivor of judgments, and to 17  
preclude the accrual of interest from the date a 18

judgment becomes dormant to the date the judgment 19  
is revived. 20

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 1343.03, 2325.18, and 5703.47 be 21  
amended and sections 319.19, 1901.313, 1907.202, 2303.25, and 22  
2323.57 of the Revised Code be enacted to read as follows: 23

Sec. 319.19. Within ten days after receiving the notification 24  
from the tax commissioner under section 5703.47 of the Revised 25  
Code of the interest rate per annum determined under that section, 26  
the auditor shall notify in writing the clerk of the court of 27  
common pleas and the clerk of each municipal court and county 28  
court in the county of that interest rate. 29

**Sec. 1343.03.** (A) In cases other than those provided for in 30  
sections 1343.01 and 1343.02 of the Revised Code, when money 31  
becomes due and payable upon any bond, bill, note, or other 32  
instrument of writing, upon any book account, upon any settlement 33  
between parties, upon all verbal contracts entered into, and upon 34  
all judgments, decrees, and orders of any judicial tribunal for 35  
the payment of money arising out of tortious conduct or a contract 36  
or other transaction, the creditor is entitled to interest at the 37  
rate ~~of ten per cent per annum, and no more~~ determined pursuant to 38  
section 5703.47 of the Revised Code, unless a written contract 39  
provides a different rate of interest in relation to the money 40  
that becomes due and payable, in which case the creditor is 41  
entitled to interest at the rate provided in that contract. 42  
Notification of the interest rate per annum shall be provided 43  
pursuant to sections 319.19, 1901.313, 1907.202, 2303.25, and 44  
5703.47 of the Revised Code. 45

(B) Except as provided in divisions (C) and (D) of this section and subject to section 2325.18 of the Revised Code, interest on a judgment, decree, or order for the payment of money rendered in a civil action based on tortious conduct or a contract or other transaction, including, but not limited to a civil action based on tortious conduct or a contract or other transaction that has been settled by agreement of the parties, shall be computed from the date the judgment, decree, or order is rendered to the date on which the money is paid and shall be at the rate determined pursuant to section 5703.47 of the Revised Code that is in effect on the date the judgment, decree, or order is rendered. That rate shall remain in effect until the judgment, decree, or order is satisfied.

~~(C) Interest on a judgment, decree, or order for the payment of money rendered in a civil action based on tortious conduct and not settled by agreement of the parties, shall be computed from the date the cause of action accrued to the date on which the money is paid if (1) If, upon motion of any party to the a civil action that is based on tortious conduct, that has not been settled by agreement of the parties, and in which the court has rendered a judgment, decree, or order for the payment of money,~~ the court determines at a hearing held subsequent to the verdict or decision in the action that the party required to pay the money failed to make a good faith effort to settle the case and that the party to whom the money is to be paid did not fail to make a good faith effort to settle the case, interest on the judgment, decree, or order shall be computed as follows:

(a) In an action in which the party required to pay the money has admitted liability in a pleading, from the date the cause of action accrued to the date on which the order, judgment, or decree was rendered;

(b) In an action in which the party required to pay the money

engaged in the conduct resulting in liability with the deliberate 78  
purpose of causing harm to the party to whom the money is to be 79  
paid, from the date the cause of action accrued to the date on 80  
which the order, judgment, or decree was rendered; 81

(c) In all other actions, for the longer of the following 82  
periods: 83

(i) From the date on which the party to whom the money is to 84  
be paid gave the first notice described in division (C)(1)(c)(i) 85  
of this section to the date on which the judgment, order, or 86  
decree was rendered. The period described in division (C)(1)(c)(i) 87  
of this section shall apply only if the party to whom the money is 88  
to be paid made a reasonable attempt to determine if the party 89  
required to pay had insurance coverage for liability for the 90  
tortious conduct and gave to the party required to pay and to any 91  
identified insurer, as nearly simultaneously as practicable, 92  
written notice in person or by certified mail that the cause of 93  
action had accrued. 94

(ii) From the date on which the party to whom the money is to 95  
be paid filed the pleading on which the judgment, decree, or order 96  
was based to the date on which the judgment, decree, or order was 97  
rendered. 98

(2) No court shall award interest under division (C)(1) of 99  
this section on future damages, as defined in section 2323.56 of 100  
the Revised Code, that are found by the trier of fact. 101

(D) ~~Divisions~~ Division (B) of this section does not apply to 102  
a judgment, decree, or order rendered in a civil action based on 103  
tortious conduct or a contract or other transaction, and division 104  
(C) of this section ~~de~~ does not apply to a judgment, decree, or 105  
order rendered in a civil action based on tortious conduct, if a 106  
different period for computing interest on it is specified by law, 107  
or if it is rendered in an action against the state in the court 108

of claims, or in an action under Chapter 4123. of the Revised Code. 109  
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Sec. 1901.313. Upon receiving the notification of the interest rate per annum from the county auditor pursuant to section 319.19 of the Revised Code, the clerk of a municipal court shall post or cause to be posted notice of that interest rate per annum in a conspicuous and public location in or near the office of the clerk of the court in the courthouse or building in which the municipal court is located. 111  
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Sec. 1907.202. Upon receiving the notification of the interest rate per annum from the county auditor pursuant to section 319.19 of the Revised Code, the clerk of a county court shall post or cause to be posted notice of that interest rate per annum in a conspicuous and public location in or near the office of the clerk of the court in the courthouse or building in which the county court is located. 118  
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Sec. 2303.25. Upon receiving the notification of the interest rate per annum from the county auditor pursuant to section 319.19 of the Revised Code, the clerk of the court of common pleas shall post or cause to be posted notice of that interest rate per annum in a conspicuous and public location in or near the office of the clerk of the court in the courthouse or building in which the court of common pleas is located. 125  
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Sec. 2323.57. In any tort action to which section 2323.55 or 2323.56 of the Revised Code does not apply, if a plaintiff makes a good faith claim against a defendant for future damages, the trier of fact shall return a general verdict and, if that verdict is in favor of the plaintiff, answers to interrogatories or findings of fact that specify both of the following: 132  
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(A) The past damages recoverable by that plaintiff; 138

(B) The future damages recoverable by that plaintiff. 139

**Sec. 2325.18.** (A) An action to revive a judgment can only be 140  
brought within ~~twenty-one~~ ten years from the time it became 141  
dormant, unless the party entitled to bring ~~such~~ that action, at 142  
the time the judgment became dormant, was within the age of 143  
minority, of unsound mind, or imprisoned, in which cases the 144  
action may be brought within ~~fifteen~~ ten years after ~~such~~ the 145  
disability is removed. 146

(B) For the purpose of calculating interest due on a revived 147  
judgment, interest shall not accrue and shall not be computed from 148  
the date the judgment became dormant to the date the judgment is 149  
revived. 150

**Sec. 5703.47.** (A) As used in this section, "federal 151  
short-term rate" means the rate of the average market yield on 152  
outstanding marketable obligations of the United States with 153  
remaining periods to maturity of three years or less, as 154  
determined under section 1274 of the "Internal Revenue Code of 155  
1986," 100 Stat. 2085, 26 U.S.C.A. 1274, for July of the current 156  
year. 157

(B) On the fifteenth day of October of each year, the tax 158  
commissioner shall determine the federal short-term rate. For 159  
purposes of any section of the Revised Code requiring interest to 160  
be computed at the rate per annum required by this section, the 161  
rate determined by the commissioner under this section, rounded to 162  
the nearest whole number per cent, plus three per cent shall be 163  
the interest rate per annum used in making the computation for 164  
interest that accrues during the following calendar year. 165

(C) Within ten days after the interest rate per annum is 166  
determined under this section, the tax commissioner shall notify 167

the auditor of each county in writing of that rate of interest.

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**Section 2.** That existing sections 1343.03, 2325.18, and  
5703.47 of the Revised Code are hereby repealed.

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**Section 3.** The interest rate provided for in division (A) of  
section 1343.03 of the Revised Code, as amended by this act,  
applies to actions pending on the effective date of this act. In  
the calculation of interest due under section 1343.03 of the  
Revised Code, in actions pending on the effective date of this  
act, the interest rate provided for in section 1343.03 of the  
Revised Code prior to the amendment of that section by this act  
shall apply up to the effective date of this act, and the interest  
rate provided for in section 1343.03 of the Revised Code as  
amended by this act shall apply on and after that effective date.

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