EXHIBIT 1
DATE 2/16/2011
HB 341

2011 Montana Legislature

HOUSE BILL NO. 341 IF SPONSOR AMENDMENTS ARE ADOPTED

INTRODUCED BY C. SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE INTEREST THAT MAY BE AWARDED ON CIVIL JUDGMENTS; CLARIFYING THAT THE CHANGE IN RATE DOES NOT APPLY TO SITUATIONS OTHER THAN CIVIL JUDGMENTS; AMENDING SECTIONS 25-9-205 AND 27-1-210, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 25-9-205, MCA, is amended to read:

"**25-9-205. Amount of interest.** (1) Except as provided in ~~subsection (2)~~ subsections (2) and (3), interest is payable on judgments recovered in the courts of this state and on the cost incurred to obtain or enforce a judgment at the rate of 10% per year. The interest may not be compounded.

(2) Interest on a judgment recovered in the courts of this state involving a contractual obligation that specifies an interest rate must be paid at the rate specified in the contractual obligation.

(3) Interest on a judgment obtained in an action for recovery on an injury, as defined in 27-1-106, must be paid from the date the judgment is entered at a rate equal to the prime rate published by the federal reserve system in its statistical release H.15 Selected Interest Rates, or in any publication that may supersede it, plus 1%.

Section 2. Section 27-1-210, MCA, is amended to read:

"**27-1-210. Interest on torts.** (1) Subject to subsection (2), in an action for recovery on an injury as defined in 27-1-106, a prevailing claimant is entitled to interest at a rate ~~of 10%~~ equal to the prime rate published by the federal reserve system in its statistical release H.15 Selected Interest Rates, or in any publication that may supersede it, on the day judgment is entered, plus

1% on any claim for damages awarded that are capable of being made certain by calculation, beginning from the date 30 days after the claimant presented a written statement to the opposing party or the party's agent stating the claim and how the specific sum was calculated.

(2) The interest provisions of subsection (1) do not apply to damages not capable of being made certain by calculation, including but not limited to future damages until the damages are incurred and damages for:

(a) pain and suffering;

(b) injury to credit, reputation, or financial standing;

(c) mental anguish or suffering;

(d) exemplary or punitive damages;

(e) loss of established way of life;

(f) loss of consortium; and

(g) attorney fees.

(3) The jury is to be advised by the court that the court will determine the amount of prejudgment interest due, if any, on any judgment rendered.

(4) Any payment by a party of a claim or interest on a claim as set forth in subsection (1) is not an admission of liability and may not be made known to the jury."

NEW SECTION. **Section 3. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 4. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 6. Applicability.** [This act] applies to contractual obligations regarding the payment of interest that are entered into on or after [the effective date of this act].

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