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68th Legislature 2023 SB 279.1

SENATE BILL NO. 279

2 INTRODUCED BY S. FITZPATRICK 3 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE APPLICABILITY OF OFFER OF SETTLEMENT 4 5 LAW TO ACTIONS OR CLAIMS FOR \$3 MILLION; AND AMENDING SECTION 25-7-105, MCA." 6 7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 8 9 Section 1. Section 25-7-105, MCA, is amended to read: 10 "25-7-105. Offer of settlement. (1) (a) At any time more than 60 days after service of the complaint 11 and more than 30 days before a trial in district court begins, a party may serve upon the adverse party a written 12 offer to settle a claim for the money or property or to the effect specified in the offer. 13 (b) At any time after commencement of an action and more than 10 days before a trial in a court of 14 limited jurisdiction begins, a party may serve upon the adverse party a written offer to settle a claim for the 15 money or property or to the effect specified in the offer. 16 If within 10 days after the service of the offer, the adverse party serves written notice that the (c) 17 offer is accepted, either party may then file the offer and notice of acceptance together with proof of service of 18 the offer and notice of acceptance with the clerk of court and the court shall enter judgment. An offer not 19 accepted is considered withdrawn and evidence of the offer is not admissible except in a proceeding to 20 determine costs. If the final judgment is less favorable to the offeree than the offer, the offeree shall pay the 21 costs incurred by the offeror after the offer was made. The fact that an offer is made but not accepted does not 22 preclude a subsequent offer. 23 (2) When the liability of one party to another has been determined by verdict, order, or judgment, 24 but the amount or extent of the liability remains to be determined by further proceedings, either party may make 25 a written offer of settlement. The offer has the same effect as an offer before trial, and the applicable provisions 26 of subsection (1) apply if the offer is served within a reasonable time not less than 10 days prior to the 27 commencement of a hearing to determine the amount or extent of liability. 28 (3)For the purposes of this section, costs include reasonable attorney fees.

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1 (4) This section applies only to an action or claim for which the amount contained in a pleading is
2 \$\frac{\$50,000}{3} \frac{\$3 \text{ million}}{3}\$ or less, exclusive of costs, interest, and service charges, and the action or claim:
3 (a) arises from contract or breach of contract, other than a contract of insurance, bond, surety, or
4 warranty; or
5 (b) involves real property."
6 - END -

