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# SENATE BILL No. 170

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 34-51-4.

**Synopsis:** Prejudgment interest. Requires the payment of prejudgment interest. Makes changes in the rate and commencement date for prejudgment interest. Specifies that prejudgment interest is not payable if a written offer of settlement is made before the completion of alternative dispute resolution proceedings ordered by the court.

**Effective:** July 1, 2000.

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January 10, 2000, read first time and referred to Committee on Judiciary.

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Second Regular Session 111th General Assembly (2000)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

# SENATE BILL No. 170



A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 34-51-4-5 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. This chapter does not
- 3 apply if:
- 4 (1) **either:**
- 5 (A) within nine (9) months after a claim is filed in the court,
- 6 or any longer period determined by the court to be necessary
- 7 upon a showing of good cause; **or**
- 8 (B) **before the conclusion of a mediation proceeding to**
- 9 **which the claim is referred by the court under Alternative**
- 10 **Dispute Resolution Rule 2.2 adopted by the supreme court;**
- 11 one (1) or more of the parties against whom the claim is filed
- 12 makes a written offer of settlement to the party receiving a
- 13 judgment;
- 14 (2) the terms of the offer include payment within sixty (60) days
- 15 after the offer is accepted; and
- 16 (3) the amount of the offer is at least two-thirds (2/3) of the
- 17 amount of the judgment award.

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1 SECTION 2. IC 34-51-4-6 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. This chapter does not  
 3 apply if:

4 (1) **either:**

5 (A) within one (1) year after a claim is filed in the court, or  
 6 any longer period determined by the court to be necessary  
 7 upon a showing of good cause; **or**

8 (B) **before the conclusion of a mediation proceeding to**  
 9 **which the claim is referred by the court under Alternative**  
 10 **Dispute Resolution Rule 2.2 adopted by the supreme court;**

11 the party who filed the claim fails to make a written offer of  
 12 settlement to the party or parties against whom the claim is filed;

13 (2) the terms of the offer fail to provide for payment of the  
 14 settlement offer within sixty (60) days after the offer is accepted;  
 15 or

16 (3) the amount of the offer exceeds one and one-third (1 1/3) of  
 17 the amount of the judgment awarded.

18 SECTION 3. IC 34-51-4-7 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. The court ~~may~~ **shall**  
 20 award prejudgment interest as part of a judgment.

21 SECTION 4. IC 34-51-4-8 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) ~~If the court~~  
 23 ~~awards prejudgment interest, In awarding prejudgment interest,~~ the  
 24 court shall determine the period during which prejudgment interest  
 25 accrues. However, the period may not exceed forty-eight (48) months.  
 26 Prejudgment interest begins to accrue ~~on the latest of the following~~  
 27 ~~dates:~~

28 (1) fifteen (15) months after the cause of action accrued.

29 (2) ~~Six (6) months after the claim is filed in the court if IC~~  
 30 ~~34-18-8 and IC 34-18-9 do not apply.~~

31 (3) ~~One hundred eighty (180) days after a medical review panel~~  
 32 ~~is formed to review the claim under IC 34-18-10 (or IC 27-12-10~~  
 33 ~~before its repeal).~~

34 (b) The court shall exclude from the period in which prejudgment  
 35 interest accrues any period of delay that the court determines is caused  
 36 by the party petitioning for prejudgment interest.

37 SECTION 5. IC 34-51-4-9 IS AMENDED TO READ AS  
 38 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9. The court shall  
 39 compute the prejudgment interest at ~~the simple rate of interest~~  
 40 ~~determined by the court. The rate set by the court may not be less than~~  
 41 ~~six percent (6%) per year and not more than ten percent (10%) per~~  
 42 ~~year. at the same rate as postjudgment interest.~~



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1           SECTION 6. [EFFECTIVE JULY 1, 2000] **IC 34-51-4-7,**  
2           **IC 34-51-4-8, and IC 34-51-4-9, all as amended by this act, apply**  
3           **only to causes of action that are pending on July 1, 2000, or**  
4           **commenced after June 30, 2000.**

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