

Statutory Interest Rates: A Changing Trend in Legislative Intentions

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The trend in Florida over the last thirty years has been changing from simple static interest rates for judgments entered in this state towards a more complex variable rate. A recent amendment to the state law dictating statutory interest rates has many wondering what prompted such a drastic change to the norm. Now, instead of the statutory interest rate changing once per year it will change four times per year. Further, the rate of interest on a judgment is no longer established by the rate at the time it was entered. It appears that the trend in Florida is now shifting away from the simplicity it once knew.

Florida set the first statutory interest rate in 1981 at 12%. The interest rate was intended to provide a uniform interest rate when a written contract did not provide for one. The original language of Fla. Stat. § 55.03 was simple:

A judgment or decree entered on or after October 1, 1981, shall bear interest at the rate of 12 percent a year unless the judgment or decree is rendered on a written contract or obligation providing for interest at a lesser rate, in which case the judgment or decree bears interest at the rate specified in such written contract or obligation.

It is clear from the language of the statute that when a written contract did provide for an interest rate, the rate in the contract was controlling unless it was higher than 12%. It appears the legislature was attempting to control interest rates in Florida by setting a ceiling for judgment interest rates. It also provided for a uniform number in those limited situations where one did not exist.

In 1994, the Florida legislature took interest rates one step further by amending Fla. Stat. § 55.03 to allow the state Comptroller to change the interest rate annually dependent upon economic trends. The amended statute provided in part:

On December 1 of each year beginning December 1, 1994, the Comptroller of the State of Florida shall set the rate of interest that shall be payable on judgments or decrees for the year beginning January 1 by averaging the discount rate of the Federal Reserve Bank of New York for the preceding year, then adding 500 basis points to the averaged federal discount rate.

This new language makes it apparent that state officials were attempting to protect judgment debtors by allowing for lower interest rates on judgments entered at times when the American economy was less stable. The legislature was making a statement that it was moving away from honoring a set rate in favor of transitory rates dependent upon the state of economic trends.

It appears that the recent state of the economy in America has prompted the Florida legislature to yet again adjust statutory interest rates. This time the changes made are more dramatic than any previous amendments. The new language of Fla. Stat. § 55.03 reads as follows:

(1) On December 1, March 1, June 1, and September 1 of each year, the Chief Financial Officer shall set the rate of interest that shall be payable on judgments or decrees for the calendar quarter beginning January 1 and adjust the rate quarterly on April 1, July 1, and October 1 by averaging the discount rate of the Federal Reserve Bank of New York for the preceding 12 months, then adding 400 basis points to the averaged federal discount rate. The Chief Financial Officer shall inform the clerk of the courts and chief judge for each judicial circuit of the rate that has been established for the upcoming quarter. The interest rate established by the Chief Financial Officer shall take effect on the first day of each following calendar quarter. Judgments obtained on or after January 1, 1995, shall use the previous statutory rate for time periods before January 1, 1995, for which interest is due and shall apply the rate set by the Chief Financial Officer for time periods after January 1, 1995, for which interest is due. Nothing contained herein shall affect a rate of interest established by written contract or obligation.

(2) Any judgment for money damages or order for a judicial sale and any process or writ directed to a sheriff for execution shall bear, on its face, the rate of interest that is payable on the judgment. The rate of interest stated in the judgment, as adjusted in subsection (3), accrues on the judgment until it is paid.

(3) The interest rate is established at the time a judgment is obtained and such interest rate shall be adjusted annually on January 1 of each year in accordance with the interest rate in effect on that date as set by the Chief Financial Officer until the judgment is paid, except for judgments entered by the clerk of the court pursuant to ss. 55.141, 61.14, 938.29, and 938.30, which shall not be adjusted annually.

The new rule, which took effect July 1, 2011, requires the Comptroller of the State to set the interest rate four times per year instead of only once per year. However, that is not the most surprising change made to the law. Judgment interest rates will no longer be set at the rate effective on the date of entry of the judgment and remain that rate until it expires. Now the interest rate on every judgment entered after enactment of the new language will change annually on the first of the year until the judgment expires.

It is obvious that Florida state officials believe this change was absolutely necessary given the current state of the economy. House Bill 567, sponsored by House Representative Matthew Hudson, passed first in the House of Representatives on April 29, 2011 with a vote of 114 to 2 and subsequently passed the Senate on May 6, 2011 with a unanimous vote. An incredible 153 people out of 155 believed that this amendment was what was best for the citizens of Florida.

It is clear that the new language of the statute will benefit judgment debtors by giving them the benefit of a lower interest rate during times when the economy is suffering. However, criticisms have been made regarding the judicial efficiency of the new system. Changing interest rates four times per year and maintaining an archive of the history of those rates for each judgment will inevitably cause additional confusion among judgment creditors and the courts. Only time will tell if these changes will help or hurt the current status of executing on judgments in Florida.