

ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda--underwritten by global corporations--includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

ALEC's Corporate Board --in recent past or present

- AT&T Services, Inc.
- centerpoint360
- UPS
- Bayer Corporation
- GlaxoSmithKline
- Energy Future Holdings
- Johnson & Johnson
- Coca-Cola Company
- PhRMA
- Kraft Foods, Inc.
- Coca-Cola Co.
- Pfizer Inc.
- Reed Elsevier, Inc.
- DIAGEO
- Peabody Energy
- Intuit, Inc.
- Koch Industries, Inc.
- ExxonMobil
- Verizon
- Reynolds American Inc.
- Wal-Mart Stores, Inc.
- Salt River Project
- Altria Client Services, Inc.
- American Bail Coalition
- State Farm Insurance

For more on these corporations, search at www.SourceWatch.org.

DID YOU KNOW? Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

& MEETINGS MO

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Prejudgment and Post-Judgment Act

Did you know that Victor Schwartz--a lawyer who represents companies in product litigation--was the corporate co-chair in 2011?

Summary

The Model Prejudgment and Post-judgment Interest Act provides for the reform of statutory interest rates for both prejudgment and post-judgment interest. The Act also provides a six month exception to prejudgment interest and a provision encouraging offers of settlement.

Model Legislation

Section 1. {Short Title} This Act may be referred to as the Prejudgment and Post-judgment Award Act.

Section 2. {Interest on Contracts.}

A. Interest on an award of damages rendered on a written instrument without a specified interest rate shall be calculated for the period of time elapsed between the date of the filing of the action and the date of satisfaction of the judgment or award at a rate equal to the coupon issue yield equivalent, as determined by the U.S. Secretary of the Treasury, of the average accepted auction price for the last auction of 52-week U.S. Treasury bills settled immediately preceding the date of the filing of the action.

B. Interest on an award of damages rendered on a written instrument specifying a rate of interest shall be calculated for the period of time elapsed between the date of the filing of the action and the date of satisfaction of the final judgment or award at the rate specified in the instrument if that rate was lawful at the time the instrument was executed.

Section 3. {Interest on Judgments for Personal Injury or Wrongful Death.}

A. Interest on a judgment or award of damages rendered in a personal injury or wrongful death action shall be calculated at a rate equal to the coupon issue yield equivalent, as determined by the U.S. Secretary of the Treasury, of the average accepted auction price for the last auction of 52-week U.S. Treasury bills settled immediately preceding the date of the filing of the action.

B. The rate of interest determined according to section (3)(A) shall be applicable to the award of both prejudgment and post-judgment interest.

C. Post-judgment interest shall be calculated for the period of time elapsed between the date of the final judgment and the date of satisfaction of the final judgment. Provided that post-judgment interest shall not be calculated for the period of time elapsed during the prosecution of a post-judgment appeal initiated solely by the plaintiff.

Section 4. {6 Month Exception to Prejudgment Interest Awards.}

Notwithstanding any other provision of this Act, prejudgment interest shall not be awarded for the 6 month period following the date of the injury or the accrual of the action, whichever is later.

Section 5. {Offers of Judgment.}

A. The period of time for which prejudgment interest shall be awarded to the plaintiff shall begin to run as soon after the 6 month exception period as the plaintiff serves upon the defendant a written settlement demand, if and only if, that settlement demand is not more than 115 percent of the award of damages, provided that for purposes of this subsection the award of damages must have first been adjusted in accordance with any determination of comparative negligence, additur, remittitur, set-off or credit.

B. The period of time for which prejudgment interest shall be awarded to the plaintiff shall stop running, even if it never began to run, as soon after the 6 month limitation period as the defendant serves upon the plaintiff an offer of settlement, if and only if, that offer of settlement is not less than 85 percent of the award of the damages; provided that for purposes of this subsection the award of damages must have first been adjusted in accordance with any determination of comparative negligence, additur, remittitur, set-off or credit. Otherwise, the period of time for which prejudgment interest shall be awarded shall stop running on the date of the entry of the final judgment.

C. In order to determine the consequences of the plaintiff's demands and the defendant's offers of settlement following the delivery of the award of damages, all such demands and offers must be submitted, in writing, to the court prior to the delivery of the award of

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damages. Subsequent to the delivery of the award of damages and prior to the entry of the final judgment, the judge shall determine the award of prejudgment interest and include it within the final judgment in accordance with this Act. Interest shall be calculated only upon awards of damages that have been adjusted in accordance with any determination of comparative negligence, additur, remittitur, set-off or credit. Evidence of the demands or offers of settlement shall not be admissible except in a proceeding to determine awards of prejudgment interest.

D. All settlement demands or offers of settlement shall remain open for acceptance by the opposing party for at least 60 days.

E. This section does not require an award of prejudgment interest in a judgment arising from the acceptance of an offer to settle made under this Act.

Section 6. {Subsequent Demands and Offers.}

Subsequent settlement demands or offers of settlement are permissible and shall have no effect, for the purposes of determining awards of prejudgment interest, upon the prior demands or offers of any party to the litigation.

Section 7. {Prejudgment Interest Limitations.}

Prejudgment interest shall be awarded for past economic damages only. Prejudgment interest shall not be awarded for past non-economic damages, punitive damages, or future damages.

Section 8. {Final Judgment Adjustments.}

Interest shall be calculated only upon awards of damages that have been adjusted in accordance with any determination of comparative negligence, additur, remittitur, set-off or credit.

Section 9. {Jury Instructions.}

In every civil action subject to an award of either prejudgment or post-judgment interest, the jury shall be instructed that both prejudgment and post-judgment interest will be added to the jury verdict in accordance with applicable state law. The jury shall be further instructed that additional awards of either prejudgment or post-judgment interest by the jury are expressly prohibited.

Section 10. {Severability Clause.}

Section 11. {Repealer Clause.}

Section 12. {Effective Date.}

ALEC's Sourcebook of American State Legislation 1995

About Us and ALEC EXPOSED. The Center for Media and Democracy reports on corporate spin and government propaganda. We are located in Madison, Wisconsin, and publish www.PRWatch.org, www.SourceWatch.org, and now www.ALECExposed.org. For more information contact: editor@prwatch.org or 608-260-9713.

Center for Media and
Democracy's quick summary

This bill regulates interest on payments owed to successful plaintiffs in personal injury or wrongful death lawsuits, or for contract disputes. It would limit the financial liability of corporate defendants.