

3601 Vincennes Road, Indianapolis, Indiana 46268  
Phone: 317.875.5250 | Fax: 317.879.8408

[www.namic.org](http://www.namic.org)

122 C Street N.W., Suite 540, Washington, D.C. 20001  
Phone: 202.628.1558 | Fax: 202.628.1601

May 6, 2016

Colorado State Legislature  
House State, Veterans, & Military Affairs Committee  
200 East Colfax Ave.  
Denver, CO 80203

*sent via email to:*  
[julia.jackson@state.co.us](mailto:julia.jackson@state.co.us)

**RE: NAMIC's Written Testimony in Support of SB 184, Market-Based Interest Rates in Lawsuits**

Dear Representative Su Ryden, Chair; Representative Susan Lontine, Vice Chair; and honorable members of the committee:

Thank you for affording the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to the House State, Veterans, & Military Affairs Committee's public hearing on SB 184, Market-Based Interest Rates in Lawsuits.

NAMIC is the largest property/casualty insurance trade association in the country, with more than 1,400 member companies. NAMIC supports regional and local mutual insurance companies on main streets across America and many of the country's largest national insurers. NAMIC members represent 40 percent of the total property/casualty insurance market, serve more than 170 million policyholders, and write nearly \$225 billion in annual premiums. NAMIC has 160 members who write property/casualty and workers' compensation insurance in the State of Colorado, which represents 44% of the insurance marketplace.

NAMIC is pleased to support this common-sense, sound public policy legislation designed to eliminate the unfairness associated with the current judgment interest law, which encourages and rewards plaintiffs for rejecting reasonable settlement offers and delaying adjudication of their legal disputes, so that they can earn a pre- and post-judgment interest rate of 9%.

Forty-one years ago, the Colorado General Assembly set the civil judgment interest rate at 9%, which at the time was on par with widespread inflationary forces in the country. The interest rate was set at a level intended to be fair to both defendants and plaintiffs and to reflect the actual time value of money from the filing of the lawsuit to the final resolution of the legal dispute. However, economic times have changed over the last half-century and the judgment interest law needs to be updated so that it continues to reflect the purpose and intent of the original legislation.

As the Colorado Supreme Court held in 2008, "[i]n keeping with precedent, we hold that the legislative purpose behind awarding interest under section 13-21-101 is to compensate the plaintiff for the time value of the amount of his or her judgment." (Morris v. Goodwin, 185 P.3d 777, 780 (Colo. 2008)).

The current inflationary rate is less than 1%, and the standard low-risk investment product rate of return is a small fraction of the current 9% judgment interest rate of return. Consequently, a plaintiff is able to secure a far larger rate of return on their pending civil claim than they would be able to secure if they settled the case and invested their judgment money in a standard low-risk investment product.

Consequently, the current 9% judgment interest rate provides plaintiffs with an unfair economic windfall for delaying the resolution of their legal dispute, and creates inappropriate negotiations leverage in favor of the plaintiff to be use against the defendant in the civil litigation process.

From a substantive due process standpoint, legislation, like this one on the judgment interest rate, should not favor one class of litigants over another class of litigants. Neutrality and fairness toward both plaintiffs and defendants should be zealously promoted.

Moreover, the current judgment interest rate of 9% discourages the timely settlement of lawsuits, and trials are tactically delayed, via extensive manipulation of the rules of civil procedure and local court rules, so that interest at the excessively-inflated judgment interest rate accrues to the benefit of the plaintiff. Therefore, for the sake of judicial economy, the current judgment interest rate should be adjusted to reflect the current investment rate of returns, so that litigation gamesmanship isn't rewarded financially, and so that the courts can redirect their limited staff resources to the adjudication of meritorious civil disputes.

SB 184 would establish a "floating" pre- and post-judgment interest rate that is fair to both parties, and is set at 2% above a well-established interest rate index (Kansas City Federal Discount Rate), which is used by the Federal Courts and twenty-three state judicial systems for setting judgment interest rates.

For the aforementioned reasons, NAMIC respectfully requests that you **VOTE YES on SB 184**.

Thank you for your time and consideration of NAMIC's written testimony. Please feel free to contact me at 303.907.0587 or at [crataj@namic.org](mailto:crataj@namic.org), if you have any questions pertaining to my written testimony.

Respectfully,



Christian J. Rataj, Esq.  
NAMIC's Senior Director - State Affairs Western Region