



January 13, 2021

Hon. JB Pritzker
Governor
207 State House
Springfield, IL 62706

Re: Opposition to HB 3360

Dear Governor Pritzker:

The undersigned are all living Past Presidents of the Illinois Defense Counsel, an organization composed of attorneys who defend clients in civil litigation, primarily in personal injury cases. We are writing to you today to express our strong opposition to HB3360, which was passed by the Illinois legislature on January 13, 2021, during the last days of the lame duck session. We believe that this bill, passed at a time when small Illinois businesses are already under severe pressure due to the COVID pandemic, is unfair and will only serve to accelerate the exodus of businesses from Illinois.

There are numerous problems with this new law including:

- Previously, prejudgment interest was not available on personal injury actions because the extent of the damages could not be calculated in advance. This will still be true of this bill if passed. Defendants will have no ability to determine the extent of their potential liability, if any. Indeed, in most cases, the question of whether the defendant has any liability for the injuries is not clear.
- The 9% interest rate is substantially higher than the interest either the plaintiffs or the defendants could earn on these undetermined damages if it were paid to them immediately and is higher than the interest rates in most other states. It is also higher than the prejudgment interest available currently under Illinois law, which is set at 5% for cases where the damages can readily be determined.
- In litigation, interest is employed and appropriate only when liability is clear and the amount of damages are easily determined. Here, we have neither and the imposition of interest is patently unfair.
- The award of prejudgment interest will include interest on non-economic damages, such as pain and suffering. There is no justification for awarding interest on non-economic damages.
- The award would also include interest on future damages that have not been incurred, such as future medical expenses and future lost wages. Again, there is no justification for an award of interest on money that the plaintiff has not spent.
- The award takes no account of the delays in the litigation process attributable to the plaintiffs or the plaintiff's attorneys. For example, plaintiffs often wait to file suit until just before the applicable statute of limitations has run. It is unfair to impose an interest penalty on defendants for delays caused by plaintiffs.



- There have been substantial delays in the past year due to COVID, which is not the fault of either party.
- The bill will substantially increase the cost for small businesses, safety net hospitals, and others in Illinois to either obtain insurance coverage or provide self-insurance. Already, several safety net hospitals in Illinois have closed, robbing the residents they serve of badly needed medical care. This bill will accelerate that trend.

Therefore, we urge you to veto House Bill 3360.

Very truly yours,

William McVisk, River Forest, Illinois
Bradley Nahrstadt, Northbrook, Illinois
Michael Resis, Chicago, Illinois
R. Mark Mifflin, Springfield, Illinois
David H. Levitt, Deerfield, Illinois
Aleen Tiffany, Chicago, Illinois
Gregory C. Ray, Mattoon, Illinois
Charles H. Cole, Chicago, Illinois
Peter W. Brandt, Bloomington, Illinois
Jack T. Riley, Jr., Wilmette, Illinois
Gordon R. Broom, Edwardsville, Illinois
Daniel Formeller, Northbrook, Illinois

Lyndon C. Molzahn, Chicago, Illinois
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Stephen J. Heine, Peoria, Illinois
Paul L. Price, Arlington Heights, Illinois
R. Michael Henderson, Peoria, Illinois