

FEB 27 2004  
Place On Calendar

HOUSE FILE 2396  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2097)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to recovery of prejudgment interest in relation  
2 to an offer to confess judgment.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2396

**HOUSE FILE 2396**

**H-8149**

1 Amend House File 2396 as follows:  
2 1. Page 1, line 2, by inserting before the word  
3 "If" the following: "1."  
4 2. Page 1, by inserting after line 6 the  
5 following:  
6 "2. If any offer to confess judgment is made under  
7 this chapter and is not accepted, and a subsequent  
8 trial results in a judgment which is more than the  
9 offer to confess judgment, twice the amount of  
10 prejudgment interest shall be calculated and subject  
11 to recovery after the date of the offer to confess  
12 judgment."

By SWAIM of Davis

**H-8149** FILED MARCH 1, 2004

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1 Section 1. NEW SECTION. 677.10A PREJUDGMENT INTEREST.  
2 If any offer to confess judgment is made under this chapter  
3 and is not accepted, and a subsequent trial results in a  
4 judgment which is less than the offer to confess judgment,  
5 prejudgment interest shall not be calculated or be subject to  
6 recovery after the date of the offer to confess judgment.

7 EXPLANATION

8 This bill limits recovery of prejudgment interest in any  
9 pending or proposed action where an offer to confess judgment  
10 is made, but is not accepted, and a subsequent trial results  
11 in a judgment that is less than the amount in the offer to  
12 confess judgment. In such a case, no prejudgment interest is  
13 to be calculated or is recoverable after the date of the offer  
14 to confess judgment.

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**HOUSE FILE 2396**

**H-8180**

1 Amend House File 2396 as follows:  
2 1. Page 1, by inserting after line 6 the  
3 following:  
4 "This section shall apply to both a plaintiff and a  
5 defendant. A plaintiff shall have the right to offer  
6 to confess judgment in the same manner as a  
7 defendant."

By HOGG of Linn

**H-8180 FILED MARCH 8, 2004**

**HOUSE FILE 2396**

**H-8181**

1 Amend House File 2396 as follows:  
2 1. Page 1, line 4, by inserting after the word  
3 "is" the following: "at least twenty percent".  
4 2. By renumbering as necessary.

By SWAIM of Davis

**H-8181 FILED MARCH 8, 2004**

HOUSE FILE 2396

H-8191

1 Amend House File 2396 as follows:

2 1. Page 1, by inserting before line 1, the  
3 following:

4 "Section 1. NEW SECTION. 677.7A OFFER TO RECEIVE  
5 JUDGMENT AFTER ACTION BROUGHT.

6 The plaintiff in an action for the recovery of  
7 money only may, at any time after the service of  
8 notice and before trial, serve upon the defendant or  
9 the defendant's attorney an offer in writing to  
10 receive judgment against the defendant for a specified  
11 sum with costs.

12 Sec. \_\_\_\_ . NEW SECTION. 677.8A ACCEPTANCE --  
13 OFFER TO RECEIVE JUDGMENT.

14 If the defendant accepts the offer, and gives  
15 notice thereof to the plaintiff or the plaintiff's  
16 attorney within five days after the offer is made, the  
17 offer, and an affidavit that the notice of acceptance  
18 was delivered in the time limited, may be filed by the  
19 defendant, or the plaintiff may file the acceptance  
20 with a copy of the offer, verified by affidavit; and  
21 in either case a minute of the offer and acceptance  
22 shall be entered upon the judge's calendar and  
23 judgment shall be rendered by the court accordingly."

24 2. Page 1, line 4, by inserting after the words  
25 "which is" the following: "at least twenty percent".

26 3. Page 1, by inserting after line 6, the  
27 following:

28 "Sec. \_\_\_\_ . NEW SECTION. 677.10B PENALTY --  
29 ADDITIONAL PREJUDGMENT INTEREST.

30 If an offer to receive judgment is made under this  
31 chapter and is not accepted, and a subsequent trial  
32 results in a judgment which is at least twenty percent  
33 more than the offer to receive judgment, prejudgment  
34 interest shall be calculated at twice the normal rate  
35 after the date of the offer to receive judgment."

36 4. By renumbering as necessary.

By SWAIM of Davis

H-8191 FILED MARCH 8, 2004

## HOUSE FILE 2396

S-5248

1 Amend House File 2396, as passed by the House, as  
2 follows:

3 1. Page 1, by inserting before line 1, the  
4 following:

5 "Section 1. NEW SECTION. 677.7A OFFER TO RECEIVE  
6 JUDGMENT AFTER ACTION BROUGHT.

7 The plaintiff in an action for the recovery of  
8 money only may, at any time after the service of  
9 notice and before trial, serve upon the defendant or  
10 the defendant's attorney an offer in writing to  
11 receive judgment against the defendant for a specified  
12 sum with costs.

13 Sec. \_\_\_\_ . NEW SECTION. 677.8A ACCEPTANCE --  
14 OFFER TO RECEIVE JUDGMENT.

15 If the defendant accepts the offer, and gives  
16 notice thereof to the plaintiff or the plaintiff's  
17 attorney within five days after the offer is made, the  
18 offer, and an affidavit that the notice of acceptance  
19 was delivered in the time limited, may be filed by the  
20 defendant, or the plaintiff may file the acceptance  
21 with a copy of the offer, verified by affidavit; and  
22 in either case a minute of the offer and acceptance  
23 shall be entered upon the judge's calendar and  
24 judgment shall be rendered by the court accordingly."

25 2. Page 1, line 1, by inserting after the figure  
26 "677.10A" the following: "PENALTY -- LOSS OF".

27 3. Page 1, line 4, by inserting after the words  
28 "which is" the following: "at least twenty percent".

29 4. Page 1, by inserting after line 6, the  
30 following:

31 "Sec. \_\_\_\_ . NEW SECTION. 677.10B PENALTY --  
32 ADDITIONAL PREJUDGMENT INTEREST.

33 If an offer to receive judgment is made under this  
34 chapter and is not accepted, and a subsequent trial  
35 results in a judgment which is at least twenty percent  
36 more than the offer to receive judgment, prejudgment  
37 interest shall be calculated at twice the normal rate  
38 after the date of the offer to receive judgment."

39 5. By renumbering as necessary.

By KEITH A. KREIMAN

S-5248 FILED APRIL 1, 2004

May 14, 2004

VETO

The Honorable Chester Culver  
Secretary of State  
State Capitol Building  
LOCAL

Dear Secretary Culver:

I hereby transmit **House File 2396**, an Act relating to recovery of prejudgment interest in relation to an offer to confess judgment.

House File 2396 is fundamentally flawed by giving leverage to defendants in settlement negotiations without affording similar leverage to plaintiffs in settlement negotiations. The alleged purpose of the bill - to encourage early settlement of disputed claims and minimize the cost of litigation - is defeated when only one party to the negotiations is afforded a mechanism for forcing the opposing party to evaluate their settlement position.

Fundamental fairness requires that settlement discussions take place on a level playing field. House File 2396 tilts the playing field in favor of defendants. I would favor a balanced bill that affords defendants the opportunity to confess judgment and plaintiffs the opportunity to accept/receive judgment, with equivalent penalties to those parties that refused to accept or receive these offers. This would be the best way to encourage parties to evaluate their cases early and avoid the cost of lengthy and expensive litigation.

For the above reasons, I hereby respectfully disapprove **House File 2396**.

Sincerely,

Thomas J. Vilsack  
Governor

TJV:jmc

cc: Secretary of the Senate  
Chief Clerk of the House

prejudgment interest shall not be calculated or be subject to recovery after the date of the offer to confess judgment.

VETO

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CHRISTOPHER C. RANTS  
Speaker of the House

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JEFFREY M. LAMBERTI  
President of the Senate

HOUSE FILE 2396

AN ACT  
RELATING TO RECOVERY OF PREJUDGMENT INTEREST IN RELATION TO AN  
OFFER TO CONFESS JUDGMENT.

I hereby certify that this bill originated in the House and  
is known as House File 2396, Eightieth General Assembly.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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MARGARET THOMSON  
Chief Clerk of the House

Section 1. NEW SECTION. 677.10A PREJUDGMENT INTEREST.

If any offer to confess judgment is made under this chapter  
and is not accepted, and a subsequent trial results in a  
judgment which is less than the offer to confess judgment,

Approved \_\_\_\_\_, 2004

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THOMAS J. VILSACK  
Governor