

#D-300

1/29/80

Memorandum 80-20

Subject: Study D-300 - Creditors' Remedies (Interest on Judgments)

At the November 1979 meeting, the Commission considered the provisions of the enforcement of judgments statute concerning when interest commences and ceases to accrue. The staff was directed to revise these provisions to simplify them. Attached are the revised provisions.

Respectfully submitted,

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Accrual of Interest

The proposed law continues the general rule that interest on a money judgment commences to accrue upon entry of the judgment.¹ In the case of a money judgment payable in installments, the proposed law makes clear that interest accrues on each installment from the date it becomes due unless the judgment otherwise provides.²

As a general rule, the judgment creditor is entitled to receive interest on the unpaid principle amount of the judgment until the judgment is satisfied.³ However, full satisfaction of a judgment through the levy process would not be possible if minimal amounts of interest were to continue to accrue until the judgment creditor is actually paid the proceeds of collection or sale by the levying officer.⁴ For this reason, existing law grants interest only to the date of levy if the judgment is satisfied in full pursuant to a levy under writ of execution.⁵ The proposed law modifies this rule to provide that, if a money

1. See Sections 682.2, 1033; *Dixon Mobile Homes, Inc. v. Walters*, 48 Cal. App.3d 964, 122 Cal. Rptr. 202 (1975).

2. See, e.g., *Huellmantel v. Huellmantel*, 124 Cal. 583, 589-90, 57 P. 582 (1899); *In re Marriage of Hoffee*, 60 Cal. App.3d 337, 131 Cal. Rptr. 637 (1976).

3. See, e.g., *State v. Day*, 76 Cal. App.2d 536, 556, 173 P.2d 399 (1946); *City of Los Angeles v. Aitken*, 32 Cal. App.2d 524, 531-32, 90 P.2d 377 (1939).

4. Most collections are in the form of personal checks which must clear before the levying officer may safely pay the amount collected to the judgment creditor. There is also an inevitable delay in processing the proceeds through the sheriff's or marshal's office and in the issuance of warrants by the appropriate auditing agency. It is generally believed, however, that judgment creditors are content with receiving a substantially full satisfaction by this process and are not unduly troubled by the loss of several weeks' worth of interest.

5. See Section 682.2.

judgment is satisfied in full pursuant to a writ, interest ceases to accrue when the proceeds are received by the levying officer. This change will reduce the lost interest to a practical minimum.⁶ In all other cases of full or partial satisfaction, the proposed law makes clear that interest runs until the judgment is satisfied, whether by actual receipt of payment by the judgment creditor, tender, deposit in court, or otherwise.⁷

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6. The judgment creditor will be entitled to interest accruing from the date of levy until the date of sale or collection, but will still not receive any interest for the time it takes to pay out the funds received by the levying officer.
 7. For example, if a partial satisfaction is received as the result of a levy, the judgment creditor will be entitled to apply the partial satisfaction to the total amount due, including interest and allowed costs, on the date the partial satisfaction is received from the levying officer. In the case of a partial satisfaction, the expense of the law's delay is borne by the judgment debtor who had the ability to pay part of the judgment voluntarily and so could have avoided the extra amount of interest as well as collection costs.

§ 685.015. Commencement of interest

685.015. (a) Except as otherwise provided by law, interest accrues on a money judgment from the date of entry of judgment.

(b) Unless the judgment otherwise provides, if a money judgment is payable in installments, interest accrues on each installment from the date the installment becomes due.

Comment. Subdivision (a) of Section 685.015 continues the general rule as to the time postjudgment interest commences to run. See former Section 682.2; *Dixon Mobile Homes, Inc. v. Walters*, 48 Cal. App.3d 964, 122 Cal. Rptr. 202 (1975); see also Section 1033.

Subdivision (b) codifies the rule concerning accrual of interest on support judgments payable in installments. See, e.g., *Huellmantel v. Huellmantel*, 124 Cal. 583, 589-90, 57 P. 582 (1899); *In re Marriage of Hoffee*, 60 Cal. App.3d 337, 131 Cal. Rptr. 637 (1976). The introductory clause of subdivision (b) also recognizes that in certain circumstances the court may have the authority to order that interest accrues from the date of entry of a judgment rendered in an amount certain but payable in installments. See Section 85 (municipal or justice court may fix terms and conditions of payment of money judgment).

CROSS-REFERENCES

Defined terms

Money judgment § 680.____

10369

§ 685.020. Cessation of interest

685.020. (a) If a money judgment is satisfied in full pursuant to a writ under this title, interest ceases to accrue on the judgment when proceeds of sale or collection are actually received by the levying officer.

(b) If a money judgment is satisfied in full other than pursuant to a writ under this title, interest ceases to accrue on the date the judgment is satisfied in full.

(c) If a money judgment is partially satisfied pursuant to a writ under this title or is otherwise partially satisfied, interest ceases to accrue as to the part satisfied on the date the part is satisfied.

(d) For the purposes of subdivisions (b) and (c), the date a money judgment is satisfied in full or in part is the earliest of the following times:

(1) The date satisfaction is actually received by the judgment creditor.

(2) The date satisfaction is tendered to the judgment creditor or deposited in court for the judgment creditor.

(3) The date of any other performance that has the effect of satisfaction.

Comment. Section 685.020 supersedes portions of former Sections 682.1 and 682.2 (interest to date of levy). In order to facilitate full satisfaction in cases where enforcement is by a levying officer pursuant to a writ, subdivision (a) cuts off interest as of the date proceeds are received by the levying officer. Subdivisions (b) and (c) implement statements in the cases that interest runs until a judgment is paid. See *State v. Day*, 76 Cal. App.2d 536, 556, 173 P.2d 399 (1946); *City of Los Angeles v. Aitken*, 32 Cal. App.2d 524, 531-32, 90 P.2d 377 (1939). Hence, if the judgment debtor voluntarily pays the judgment, the judgment creditor is entitled to interest to the date of satisfaction, as provided in subdivision (b). Similarly, if the judgment is partially satisfied, whether pursuant to a writ or otherwise, subdivision (c) makes clear that interest runs on the part satisfied until the date the satisfaction is made. Subdivision (d) recognizes that a judgment may be satisfied other than by a writ or voluntary payment to the judgment creditor. See, e.g., *Beeler v. American Trust Co.*, 28 Cal.2d 435, 170 P.2d 439 (1946) (tender of amount due); *Pinecrest Prods., Inc. v. RKO Teleradio Pictures, Inc.*, 14 Cal. App.3d 6, 92 Cal. Rptr 44 (1970) (deposit with court). See also Section 724.010 (judgment deemed satisfied in full if judgment creditor accepts different performance in full satisfaction). For additional discussion concerning methods of satisfying a money judgment, see the Comment to Section 724.010. For provisions governing the distribution of proceeds and the allocation of proceeds between interest and principal, see Sections 701.810-_____.

CROSS-REFERENCES

Defined terms

Court § 680.____
Judgment creditor § 680.____
Levying officer § 680.____
Money judgment § 680.____
Writ § 680.____