

Amendment No. 140

Assembly Amendment to Assembly Bill No. 166

(BDR 2-564)

Proposed by: Committee on Judiciary**Amendment Box:****Resolves Conflicts with:** N/A**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____

Amend section 1, page 3, by deleting lines 16 and 17 and inserting:

“court must compare *the amount of the offer with* the principal amount of the judgment, ~~[with the amount of the offer,]~~ without inclusion of costs.”.

Amend section 1, page 3, by deleting lines 22 and 23 and inserting:

“(2) The amount of taxable costs that the ~~[party to whom the offer was made]~~ *claimant who obtained the judgment* incurred before the date of service of the offer.

↪ *As used in this subsection, “claimant” means a plaintiff, counterclaimant, cross-claimant or third-party plaintiff.”.*

AMI/RRY

Date: 4/4/2005

A.B. No. 166—Revises certain provisions relating to offers of judgment in civil actions.

**If this amendment is adopted, the Legislative
Counsel's Digest will be changed to read as follows:**

Legislative Counsel's Digest:

Existing law prohibits a court from awarding court costs or attorney's fees to a party in a civil action who rejects a settlement offer that is served more than 10 days before trial and who fails to obtain a more favorable judgment at trial. Existing law requires the court to use certain formulas to determine whether such a party failed to obtain a more favorable judgment. In cases where a party made a settlement offer that provided that the court would award costs, the court must compare the amount of the judgment with the amount of the settlement offer, without the inclusion of costs. In cases where a party made a settlement offer that precluded a separate award of costs, the court must compare the amount of the judgment with the sum of the settlement offer and the taxable costs that the party who received the settlement offer incurred before service of the settlement offer. (NRS 17.115; N.R.C.P. 68)

This bill revises the formulas for determining whether a party obtained a more favorable judgment. In cases where a party made a settlement offer that provided that the court would award costs, the court must compare the amount of the settlement offer with the amount of the judgment, without the inclusion of costs. In cases where a party made a settlement offer that precluded a separate award of costs, the court must compare the amount of the settlement offer with the sum of the judgment and the taxable costs that the claimant who obtained the judgment incurred before service of the settlement offer. This bill defines the term "claimant" to mean a plaintiff, counterclaimant, cross-claimant or third-party plaintiff.