

SENATE BILL NO. 279

INTRODUCED BY S. FITZPATRICK

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE APPLICABILITY OF OFFER OF SETTLEMENT LAW TO ACTIONS OR CLAIMS FOR \$3 MILLION; AND AMENDING SECTION 25-7-105, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 25-7-105, MCA, is amended to read:

"25-7-105. Offer of settlement. (1) (a) At any time more than 60 days after service of the complaint and more than 30 days before a trial in district court begins, a party may serve upon the adverse party a written offer to settle a claim for the money or property or to the effect specified in the offer.

(b) At any time after commencement of an action and more than 10 days before a trial in a court of limited jurisdiction begins, a party may serve upon the adverse party a written offer to settle a claim for the money or property or to the effect specified in the offer.

(c) If within 10 days after the service of the offer, the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service of the offer and notice of acceptance with the clerk of court and the court shall enter judgment. An offer not accepted is considered withdrawn and evidence of the offer is not admissible except in a proceeding to determine costs. If the final judgment is less favorable to the offeree than the offer, the offeree shall pay the costs incurred by the offeror after the offer was made. The fact that an offer is made but not accepted does not preclude a subsequent offer.

(2) When the liability of one party to another has been determined by verdict, order, or judgment, but the amount or extent of the liability remains to be determined by further proceedings, either party may make a written offer of settlement. The offer has the same effect as an offer before trial, and the applicable provisions of subsection (1) apply if the offer is served within a reasonable time not less than 10 days prior to the commencement of a hearing to determine the amount or extent of liability.

(3) For the purposes of this section, costs include reasonable attorney fees.

