

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

187L0730

## HOUSE BILL NO. 1221

Introduced by: Representatives O'Brien, Cutler, Faehn, Gillespie, and Hunt and Senators Bogue, Adelstein, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to offers of judgment.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 15-6-68 be amended to read as follows:

4 15-6-68. At any time more than ten days before the trial begins, a any party, whether  
5 prosecuting for a claim or defending against a claim, may serve upon the adverse party an offer  
6 to allow judgment to be taken either for or against ~~him~~ the adverse party for the money or  
7 property or to the effect specified in ~~his~~ the offer, with costs then accrued. If, within ten days  
8 after the service of the offer, the adverse party serves written notice that the offer is accepted,  
9 either party may then file the offer and notice of acceptance together with proof of service  
10 thereof and thereupon the clerk shall enter judgment. An offer not accepted shall be deemed  
11 withdrawn and evidence thereof is not admissible except in a proceeding to determine costs. If  
12 the judgment finally obtained by the offeree is not more favorable than the offer, the offeree  
13 must pay the costs incurred after the making of the offer. The fact that an offer is made but not  
14 accepted does not preclude a subsequent offer. ~~When~~ If the liability of one party to another has  
15 been determined by verdict or order or judgment, but the amount or extent of the liability



1 remains to be determined by further proceedings, the party adjudged liable may make an offer  
2 of judgment, which shall have the same effect as an offer made before trial if it is served within  
3 a reasonable time not less than ten days prior to the commencement of hearings to determine  
4 the amount or extent of liability.