

HOUSE BILL No. 4552

April 10, 1989, Introduced by Reps. Wartner, Walberg, DeLange, Porreca, Ouwinga, Jaye, Stacey, Crandall, Middaugh, Hillegonds, Krause, Gilmer, Johnson, Sikkema, O'Connor, Martin, Maynard, Muxlow, Weeks, Randall, Gnodtke, Dolan, Munsell, Allen and Sparks and referred to the Committee on Judiciary.

A bill to amend sections 2945, 2946, 2947, 2948, and 2949 of Act No. 236 of the Public Acts of 1961, entitled as amended "Revised judicature act of 1961," being sections 600.2945, 600.2946, 600.2947, 600.2948, and 600.2949 of the Michigan Compiled Laws; and to add sections 2946a, 2946b, and 2949a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2945, 2946, 2947, 2948, and 2949 of Act
2 No. 236 of the Public Acts of 1961, being sections 600.2945,
3 600.2946, 600.2947, 600.2948, and 600.2949 of the Michigan
4 Compiled Laws, are amended and sections 2946a, 2946b, and 2949a
5 are added to read as follows:

6 Sec. 2945. As used in sections 2946 to ~~2949~~ 2949A and
7 section 5805: ~~—, "products—~~

1 (A) "CLEAR AND CONVINCING EVIDENCE" MEANS THAT MEASURE OR
2 DEGREE OF PROOF THAT WILL PRODUCE IN THE MIND OF THE TRIER OF
3 FACT A FIRM BELIEF OR CONVICTION AS TO THE TRUTH OF THE ALLEGA-
4 TIONS SOUGHT TO BE ESTABLISHED. THE LEVEL OF PROOF REQUIRED TO
5 ESTABLISH CLEAR AND CONVINCING EVIDENCE IS MORE THAN THAT
6 REQUIRED UNDER PREPONDERANCE OF THE EVIDENCE, BUT LESS THAN THAT
7 REQUIRED FOR PROOF BEYOND A REASONABLE DOUBT.

8 (B) "PRODUCTS liability action" means an action based on any
9 legal or equitable theory of liability brought for or on account
10 of death or injury to person or property caused by or resulting
11 from the manufacture, construction, design, formula, development
12 of standards, PERFORMANCE, preparation, processing, assembly,
13 inspection, testing, listing, certifying, warning, instructing,
14 marketing, advertising, packaging, or labeling of a product or a
15 component of a product.

16 Sec. 2946. (1) ~~It shall be admissible as evidence~~ A PRE-
17 SUMPTION SHALL ARISE in a products liability action that the man-
18 ufacture, construction, design, formula, development of stan-
19 dards, PERFORMANCE, preparation, processing, assembly, inspec-
20 tion, testing, listing, certifying, warning, instructing, market-
21 ing, advertising, packaging, or labeling OF A PRODUCT OR A COMPO-
22 NENT OF A PRODUCT, WAS NOT DEFECTIVE IF THE MANUFACTURE, CON-
23 STRUCTION, DESIGN, FORMULA, DEVELOPMENT OF STANDARDS, PER-
24 FORMANCE, PREPARATION, PROCESSING, ASSEMBLY, INSPECTION, TESTING,
25 LISTING, CERTIFYING, WARNING, INSTRUCTING, MARKETING, ADVERTIS-
26 ING, PACKAGING, OR LABELING was done pursuant to the generally
27 recognized and prevailing nongovernmental standards in existence

1 at the time the product was sold or delivered by the defendant to
2 the initial purchaser or user. THIS PRESUMPTION MAY BE REBUTTED
3 ONLY BY CLEAR AND CONVINCING EVIDENCE.

4 (2) IN ANY PRODUCTS LIABILITY ACTION BROUGHT AGAINST A MANU-
5 FACTURER OR SELLER FOR HARM ALLEGEDLY CAUSED BY A PRODUCT DESIGN,
6 A MANUFACTURER OR SELLER SHALL NOT BE LIABLE IF, AT THE TIME THE
7 PRODUCT LEFT THE CONTROL OF THE MANUFACTURER, A PRACTICAL AND
8 TECHNICALLY FEASIBLE ALTERNATIVE DESIGN WAS NOT AVAILABLE WHICH
9 WOULD HAVE PREVENTED THE HARM WITHOUT IMPAIRING THE USEFULNESS OR
10 DESIRABILITY OF THE PRODUCT TO USERS. AN ALTERNATIVE DESIGN IS
11 PRACTICAL AND FEASIBLE IF THE TECHNICAL, MEDICAL, AND SCIENTIFIC
12 KNOWLEDGE RELATING TO THE SAFETY OF THE PRODUCT WAS, AT THE TIME
13 THE PRODUCT LEFT THE CONTROL OF THE MANUFACTURER, DEVELOPED,
14 AVAILABLE, AND CAPABLE OF USE IN THE MANUFACTURE OF THE PRODUCT,
15 AND ECONOMICALLY FEASIBLE FOR USE BY THE MANUFACTURER.

16 (3) ~~(2) It shall be admissible in evidence~~ A PRESUMPTION
17 SHALL ARISE in a products liability action that the manufacture,
18 construction, design, formula, development of standards,
19 PERFORMANCE, preparation, processing, assembly, inspection, test-
20 ing, listing, certifying, warning, instructing, marketing, adver-
21 tising, packaging, or labeling OF A PRODUCT OR A COMPONENT OF A
22 PRODUCT, WAS NOT DEFECTIVE IF THE MANUFACTURE, CONSTRUCTION,
23 DESIGN, FORMULA, DEVELOPMENT OF STANDARDS, PERFORMANCE, PREPARA-
24 TION, PROCESSING, ASSEMBLY, INSPECTION, TESTING, LISTING, CERTI-
25 FYING, WARNING, INSTRUCTING, MARKETING, ADVERTISING, PACKAGING,
26 OR LABELING was done pursuant to the federal and state law,
27 rules, or regulations in effect at the time the product was sold

1 or delivered by the defendant to the initial purchaser or user.
2 THIS PRESUMPTION MAY BE REBUTTED ONLY BY CLEAR AND CONVINCING
3 EVIDENCE.

4 (4) IN ANY PRODUCTS LIABILITY ACTION BROUGHT AGAINST A MANU-
5 FACTURER OR SELLER FOR HARM ALLEGEDLY CAUSED BY THE MANUFACTURE,
6 CONSTRUCTION, DESIGN, FORMULA, DEVELOPMENT OF STANDARDS, PER-
7 FORMANCE, PREPARATION, PROCESSING, ASSEMBLY, INSPECTION, TESTING,
8 LISTING, CERTIFYING, WARNING, INSTRUCTING, MARKETING, ADVERTIS-
9 ING, PACKAGING, OR LABELING OF A PRODUCT OR A COMPONENT OF A
10 PRODUCT, THE MANUFACTURER OR SELLER SHALL NOT BE LIABLE IF THE
11 ASPECT OF THE MANUFACTURE, CONSTRUCTION, DESIGN, FORMULA, DEVEL-
12 OPMENT OF STANDARDS, PERFORMANCE, PREPARATION, PROCESSING, ASSEM-
13 BLY, INSPECTION, TESTING, LISTING, CERTIFYING, WARNING, INSTRUCT-
14 ING, MARKETING, ADVERTISING, PACKAGING, OR LABELING THAT
15 ALLEGEDLY CAUSED THE HARM WAS SPECIFICALLY ADOPTED BY A FEDERAL
16 STATUTE OR APPROVED BY OR IN COMPLIANCE WITH STANDARDS PROMUL-
17 GATED BY AN AGENCY OF THE FEDERAL GOVERNMENT RESPONSIBLE FOR THE
18 SAFETY OF THE PRODUCT BEFORE THE PRODUCT WAS SOLD OR DELIVERED BY
19 THE DEFENDANT TO THE INITIAL PURCHASER OR USER. THIS SUBSECTION
20 SHALL NOT APPLY IF THE PLAINTIFF PRESENTS CLEAR AND CONVINCING
21 EVIDENCE THAT THE MANUFACTURER OR SELLER INTENTIONALLY WITHHELD
22 FROM CONGRESS OR THE AGENCY OF THE FEDERAL GOVERNMENT MATERIAL
23 INFORMATION RELATIVE TO THE SAFETY OF THE PRODUCT.

24 (5) ~~(3)~~ Evidence of a change in the philosophy, theory,
25 knowledge, technique, or procedures of or with regard to the man-
26 ufacture, construction, design, formula, development of
27 standards, PERFORMANCE, preparation, processing, assembly,

1 inspection, testing, listing, certifying, warning, instructing,
2 marketing, advertising, packaging, or labeling made, learned,
3 placed in use, or discontinued after the ~~event of death or~~
4 ~~injury to person or property~~ MANUFACTURE OR SALE OF THE PRODUCT
5 shall not be admissible in a ~~product~~ PRODUCTS liability
6 action. ~~to prove liability.~~

7 SEC. 2946A. (1) IN A PRODUCTS LIABILITY ACTION, A PERSON
8 SHALL NOT GIVE EXPERT TESTIMONY ON THE APPROPRIATE MANUFACTURE,
9 CONSTRUCTION, DESIGN, FORMULA, DEVELOPMENT OF STANDARDS, PER-
10 FORMANCE, PREPARATION, PROCESSING, ASSEMBLY, INSPECTION, TESTING,
11 LISTING, CERTIFYING, WARNING, INSTRUCTING, MARKETING, ADVERTIS-
12 ING, PACKAGING, OR LABELING OF A PRODUCT OR A COMPONENT OF A
13 PRODUCT UNLESS THE PERSON MEETS BOTH OF THE FOLLOWING CRITERIA:

14 (A) SPECIALIZES IN, OR AT THE TIME OF THE OCCURRENCE WHICH
15 IS THE BASIS FOR THE ACTION SPECIALIZED IN, THE SUBJECT MATTER IN
16 WHICH HE OR SHE IS TESTIFYING.

17 (B) DEVOTES, OR AT THE TIME OF THE OCCURRENCE WHICH IS THE
18 BASIS FOR THE ACTION DEVOTED, A SUBSTANTIAL PORTION OF HIS OR HER
19 PROFESSIONAL TIME TO THE ACTIVE PRACTICE IN THE SUBJECT MATTER IN
20 WHICH HE OR SHE IS TESTIFYING.

21 (2) IN DETERMINING THE QUALIFICATIONS OF AN EXPERT WITNESS
22 IN A PRODUCTS LIABILITY ACTION, THE COURT, AT A MINIMUM, SHALL
23 EVALUATE ALL OF THE FOLLOWING:

24 (A) THE EDUCATIONAL AND PROFESSIONAL TRAINING OF THE EXPERT
25 WITNESS.

26 (B) THE AREA OF SPECIALIZATION OF THE EXPERT WITNESS.

1 (C) THE LENGTH OF TIME THE EXPERT WITNESS HAS BEEN ENGAGED
2 IN THE ACTIVE PRACTICE IN THE SUBJECT MATTER IN WHICH HE OR SHE
3 IS TESTIFYING.

4 (D) THE RELEVANCY OF THE EXPERT WITNESS'S TESTIMONY.

5 (3) THIS SECTION DOES NOT LIMIT THE POWER OF THE TRIAL COURT
6 TO DISQUALIFY AN EXPERT WITNESS ON GROUNDS OTHER THAN THE QUALI-
7 FICATIONS SET FORTH IN THIS SECTION.

8 (4) IN A PRODUCTS LIABILITY ACTION, AN EXPERT WITNESS SHALL
9 NOT TESTIFY ON A CONTINGENCY FEE BASIS. A PERSON WHO VIOLATES
10 THIS SUBSECTION IS GUILTY OF A MISDEMEANOR.

11 SEC. 2946B. (1) IN A PRODUCTS LIABILITY ACTION, DAMAGES FOR
12 NONECONOMIC LOSS WHICH EXCEED \$225,000.00 SHALL NOT BE AWARDED
13 UNLESS 1 OR MORE OF THE FOLLOWING CIRCUMSTANCES EXIST:

14 (A) THERE HAS BEEN A DEATH.

15 (B) THE INJURY INVOLVES THE REPRODUCTIVE SYSTEM OF THE
16 PARTY.

17 (C) THE DISCOVERY OF THE EXISTENCE OF THE CLAIM WAS PRE-
18 VENTED BY THE FRAUDULENT CONDUCT OF THE DEFENDANT.

19 (D) THE PARTY HAS LOST A VITAL BODILY FUNCTION.

20 (2) IN AWARDING DAMAGES IN A PRODUCTS LIABILITY ACTION, THE
21 TRIER OF FACT SHALL ITEMIZE DAMAGES INTO ECONOMIC AND NONECONOMIC
22 DAMAGES.

23 (3) "NONECONOMIC LOSS" MEANS DAMAGES OR LOSS DUE TO PAIN,
24 SUFFERING, INCONVENIENCE, PHYSICAL IMPAIRMENT, PHYSICAL DISFIG-
25 UREMENT, OR OTHER NONECONOMIC LOSS.

26 (4) THE LIMITATION ON NONECONOMIC DAMAGES SET FORTH IN
27 SUBSECTION (1) SHALL BE INCREASED BY AN AMOUNT DETERMINED BY THE

1 STATE TREASURER AT THE END OF EACH CALENDAR YEAR TO REFLECT THE
2 CUMULATIVE ANNUAL PERCENTAGE INCREASE IN THE CONSUMER PRICE
3 INDEX. AS USED IN THIS SUBSECTION, "CONSUMER PRICE INDEX" MEANS
4 THE MOST COMPREHENSIVE INDEX OF CONSUMER PRICES AVAILABLE FOR
5 THIS STATE FROM THE BUREAU OF LABOR STATISTICS OF THE UNITED
6 STATES DEPARTMENT OF LABOR.

7 Sec. 2947. (1) It shall be ~~admissible as evidence in~~ AN
8 ABSOLUTE DEFENSE TO a products liability action that ~~the~~ A
9 PROXIMATE cause of the death OF A PERSON or THE injury to A
10 person or property was an alteration or modification of the prod-
11 uct, or its application or use, made by a person other than, and
12 without specific directions from, the defendant.

13 (2) IT SHALL BE AN ABSOLUTE DEFENSE TO A PRODUCTS LIABILITY
14 ACTION THAT THE DEATH OF A PERSON OR THE INJURY TO A PERSON OR
15 PROPERTY OCCURRED 15 OR MORE YEARS AFTER THE PRODUCT WAS SOLD OR
16 DELIVERED BY THE DEFENDANT TO THE INITIAL PURCHASER OR USER.
17 THIS SUBSECTION SHALL NOT APPLY TO A DRUG OR AN IMPLANTED
18 DEVICE. AS USED IN THIS SUBSECTION:

19 (A) "DRUG" MEANS A SUBSTANCE RECOGNIZED AS A DRUG IN THE
20 OFFICIAL UNITED STATES PHARMACOPOEIA, OFFICIAL HOMEOPATHIC PHAR-
21 MACOPOEIA OF THE UNITED STATES, OR OFFICIAL NATIONAL FORMULARY,
22 OR ANY SUPPLEMENT TO ANY OF THEM; A SUBSTANCE INTENDED FOR USE IN
23 THE DIAGNOSIS, CURE, MITIGATION, TREATMENT, OR PREVENTION OF DIS-
24 EASE IN HUMAN BEINGS OR ANIMALS; A SUBSTANCE OTHER THAN FOOD
25 INTENDED TO AFFECT THE STRUCTURE OR ANY FUNCTION OF THE BODY OF
26 HUMAN BEINGS OR ANIMALS; OR, A SUBSTANCE INTENDED FOR USE AS A
27 COMPONENT OF ANY ARTICLE SPECIFIED IN THIS SUBSECTION.

1 (B) "IMPLANTED DEVICE" MEANS A MECHANISM, APPARATUS, OR
2 CONTRIVANCE THAT IS IMPLANTED WITHIN THE BODY OF A HUMAN BEING
3 FOR THE CURE, MITIGATION, TREATMENT, OR PREVENTION OF DISEASE IN
4 A HUMAN BEING, OR TO AFFECT THE STRUCTURE OR FUNCTION OF THE BODY
5 OF A HUMAN BEING.

6 (3) IT SHALL BE AN ABSOLUTE DEFENSE TO A PRODUCTS LIABILITY
7 ACTION INVOLVING A LIMITED LIFE PRODUCT THAT THE DEATH OF THE
8 PERSON OR THE INJURY TO THE PERSON OR PROPERTY OCCURRED AFTER AN
9 IDENTIFIED EXPIRATION DATE FOR THE LIMITED LIFE PRODUCT. AS USED
10 IN THIS SUBSECTION, "LIMITED LIFE PRODUCT" MEANS A PRODUCT WHICH
11 IS DESIGNED TO BE USED ONLY DURING A SPECIFIC PERIOD OF TIME
12 AFTER MANUFACTURE AND UPON THE EXPIRATION OF SUCH PERIOD OF TIME
13 BECOMES USELESS, INEFFECTIVE, OR DANGEROUS OR CARRIES A
14 MANUFACTURER'S WARNING AGAINST USE OF THE PRODUCT AFTER THE SPE-
15 CIFIC PERIOD OF TIME.

16 (4) IT SHALL BE AN ABSOLUTE DEFENSE TO A PRODUCTS LIABILITY
17 ACTION THAT A PROXIMATE CAUSE OF THE DEATH OF OR INJURY TO A
18 PERSON WAS THAT THE PERSON WHO SUFFERED THE INJURY OR DEATH WAS
19 UNDER THE INFLUENCE OF ALCOHOL OR A CONTROLLED SUBSTANCE.

20 Sec. 2948. (1) ~~It shall be admissible as evidence~~ A PRE-
21 SUMPTION SHALL ARISE in a products liability action that THE
22 WARNING, INSTRUCTING, OR LABELING OF A PRODUCT OR A COMPONENT OF
23 A PRODUCT, WAS ADEQUATE IF, before the event of THE death or THE
24 injury to A person or property, pamphlets, booklets, labels, or
25 other written warnings were provided which gave notice to
26 ~~foreseeable~~ REASONABLY ANTICIPATED users of the material risk
27 of injury, death, or damage connected with the ~~foreseeable~~

1 REASONABLY ANTICIPATED use of the product or provided
2 instructions as to the ~~foreseeable~~ REASONABLY ANTICIPATED uses,
3 applications, or limitations of the product which the defendant
4 knew or should have known. THIS PRESUMPTION MAY BE REBUTTED ONLY
5 BY CLEAR AND CONVINCING EVIDENCE.

6 (2) NOTWITHSTANDING SUBSECTION (1), A DEFENDANT SHALL NOT BE
7 LIABLE FOR FAILURE TO WARN OF MATERIAL RISKS THAT WERE OBVIOUS TO
8 A REASONABLY PRUDENT PRODUCT USER AND MATERIAL RISKS WHICH WERE A
9 MATTER OF COMMON KNOWLEDGE TO PERSONS IN THE SAME OR SIMILAR
10 POSITION AS THE PLAINTIFF IN A PRODUCTS LIABILITY ACTION.

11 (3) IN ANY PRODUCTS LIABILITY ACTION BROUGHT AGAINST A MANU-
12 FACTURER OR SELLER FOR HARM ALLEGEDLY CAUSED BY A FAILURE TO PRO-
13 VIDE ADEQUATE WARNINGS OR INSTRUCTIONS, A MANUFACTURER OR SELLER
14 SHALL NOT BE LIABLE IF, AT THE TIME THE PRODUCT LEFT THE CONTROL
15 OF THE MANUFACTURER, THE KNOWLEDGE OF THE DANGER THAT CAUSED THE
16 HARM WAS NOT REASONABLY AVAILABLE OR OBTAINABLE IN LIGHT OF
17 EXISTING SCIENTIFIC, TECHNICAL, OR MEDICAL INFORMATION.

18 Sec. 2949. (1) In ~~all products liability actions brought~~
19 ~~to recover damages resulting from death or injury to person or~~
20 ~~property, the fact that the plaintiff may have been guilty of~~
21 ~~contributory negligence shall not bar a recovery by the plaintiff~~
22 ~~or the plaintiff's legal representatives, but damages sustained~~
23 ~~by the plaintiff shall be diminished in proportion to the amount~~
24 ~~of negligence attributed to the plaintiff.~~ A PRODUCTS LIABILITY
25 ACTION INVOLVING FAULT OF MORE THAN 1 PARTY, INCLUDING
26 THIRD-PARTY DEFENDANTS AND PERSONS WHO HAVE BEEN RELEASED FROM
27 LIABILITY PURSUANT TO SECTION 2925D, THE COURT, UNLESS OTHERWISE

1 AGREED BY ALL PARTIES TO THE ACTION, SHALL INSTRUCT THE JURY TO
2 ANSWER SPECIAL INTERROGATORIES OR, IF THERE IS NO JURY, SHALL
3 MAKE FINDINGS AS TO BOTH OF THE FOLLOWING:

4 (A) THE TOTAL AMOUNT OF EACH CLAIMANT'S DAMAGES.

5 (B) THE PERCENTAGE OF THE TOTAL FAULT OF ALL OF THE PARTIES
6 REGARDING EACH CLAIM AS TO EACH CLAIMANT, DEFENDANT, AND
7 THIRD-PARTY DEFENDANT AND PERSON WHO HAS BEEN RELEASED FROM
8 LIABILITY PURSUANT TO SECTION 2925D.

9 (2) IN DETERMINING THE PERCENTAGES OF FAULT UNDER SUBSECTION
10 (1)(B), THE TRIER OF FACT SHALL CONSIDER BOTH THE NATURE OF THE
11 CONDUCT OF EACH PARTY AT FAULT AND THE EXTENT OF THE CAUSAL RELA-
12 TION BETWEEN THE CONDUCT AND THE DAMAGES CLAIMED.

13 (3) THE COURT SHALL DETERMINE THE AWARD OF DAMAGES TO EACH
14 CLAIMANT IN ACCORDANCE WITH THE FINDINGS UNDER SUBSECTION (1),
15 SUBJECT TO ANY REDUCTION UNDER SECTION 2925D(B) OR 6303, AND
16 ENTER JUDGMENT AGAINST EACH PARTY EXCEPT THAT JUDGMENT SHALL NOT
17 BE ENTERED AGAINST A PERSON WHO HAS BEEN RELEASED FROM LIABILITY
18 PURSUANT TO SECTION 2925D. EXCEPT AS PROVIDED IN SUBSECTION (4),
19 A PERSON SHALL NOT BE REQUIRED TO PAY DAMAGES IN AN AMOUNT
20 GREATER THAN HIS OR HER RELATIVE DEGREE OF FAULT.

21 (4) UPON MOTION MADE NOT LATER THAN 1 YEAR AFTER JUDGMENT IS
22 ENTERED, THE COURT SHALL DETERMINE WHETHER ALL OR PART OF A
23 PARTY'S EQUITABLE SHARE OF THE OBLIGATION IS UNCOLLECTIBLE FROM
24 THAT PARTY, AND SHALL REALLOCATE ANY UNCOLLECTIBLE AMOUNT AMONG
25 THE OTHER PARTIES, INCLUDING A CLAIMANT AT FAULT, BUT NOT INCLUD-
26 ING A PERSON WHO HAS BEEN RELEASED FROM LIABILITY PURSUANT TO
27 SECTION 2925D, ACCORDING TO THEIR RESPECTIVE PERCENTAGES OF FAULT

1 AS DETERMINED UNDER SUBSECTION (1). A PARTY SHALL NOT BE
2 REQUIRED TO PAY A PERCENTAGE OF ANY UNCOLLECTIBLE AMOUNT WHICH
3 EXCEEDS THAT PARTY'S PERCENTAGE OF FAULT AS DETERMINED UNDER SUB-
4 SECTION (1). THE PARTY WHOSE LIABILITY IS REALLOCATED CONTINUES
5 TO BE SUBJECT TO CONTRIBUTION AND TO ANY CONTINUING LIABILITY TO
6 THE CLAIMANT ON THE JUDGMENT.

7 (5) ~~(2)~~ If the court determines that the claim or defense
8 is frivolous, the court may award costs and reasonable attorney's
9 fees to the prevailing party in a products liability action.

10 SEC. 2949A. IN ANY PRODUCTS LIABILITY ACTION IN WHICH, PUR-
11 SUANT TO AN EXPRESS OR IMPLIED AGREEMENT, AN ATTORNEY'S COMPENSA-
12 TION IS DEPENDENT OR CONTINGENT IN WHOLE OR IN PART UPON THE
13 AMOUNT OF THE RECOVERY IN THE ACTION, THE ATTORNEY'S COMPENSATION
14 OR FEE UNDER THAT AGREEMENT SHALL NOT EXCEED:

- 15 (A) FORTY PERCENT OF THE FIRST \$5,000.00 RECOVERED.
16 (B) THIRTY-FIVE PERCENT OF THE NEXT \$20,000.00 RECOVERED.
17 (C) TWENTY-FIVE PERCENT OF THE NEXT \$225,000.00 RECOVERED.
18 (D) TWENTY PERCENT OF THE NEXT \$250,000.00 RECOVERED.
19 (E) TEN PERCENT OF ANY AMOUNT OVER \$500,000.00.