

HOUSE BILL No. 4267

February 13, 2007, Introduced by Rep. Caswell and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
 "Revised judicature act of 1961,"
 by amending section 919 (MCL 600.919).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 919. (1) ~~The measure of the compensation of members of~~
 2 ~~the bar~~ **AN ATTORNEY AT LAW** is left to the express or implied
 3 agreement of the ~~parties subject to the~~ **ATTORNEY AND THE ATTORNEY'S**
 4 **CLIENT, EXCEPT AS PROVIDED OTHERWISE BY LAW OR BY** regulation of the
 5 supreme court.

6 (2) ~~Any~~ **AN** agreement for ~~such~~ compensation ~~,~~ **OF AN ATTORNEY AT**
 7 **LAW** or ~~for~~ reimbursement of ~~any~~ expenses ~~,~~ **INCURRED BY**
 8 **AN ATTORNEY IN** the prosecution or defense of ~~any~~ **A** claim ~~by any~~
 9 party is wholly void if ~~such professional~~ **THE** employment was

1 solicited by the ~~member of the bar,~~ ATTORNEY or by any other
2 ANOTHER person acting on ~~his~~ behalf or at ~~his~~ THE request OF THE
3 ATTORNEY, unless the services of ~~such member of the bar~~ THE
4 ATTORNEY were first requested by ~~such party~~ THE CLIENT.

5 (3) IF AN ATTORNEY AT LAW ENTERS INTO AN EXPRESS OR IMPLIED
6 AGREEMENT TO PROSECUTE A CLAIM FOR PERSONAL INJURY OR WRONGFUL
7 DEATH THAT PROVIDES THAT THE ATTORNEY'S COMPENSATION IS CONTINGENT
8 IN WHOLE OR IN PART ON SUCCESSFUL PROSECUTION OR SETTLEMENT OF THE
9 CLAIM OR ON THE AMOUNT OF RECOVERY, THE ATTORNEY SHALL NOT RECEIVE,
10 RETAIN, OR SHARE A FEE THAT IS MORE THAN 33% OF THE FIRST
11 \$1,000,000.00 RECOVERED, 15% OF THE NEXT \$4,000,000.00 RECOVERED,
12 AND 10% OF ANY AMOUNT RECOVERED OVER \$5,000,000.00.

13 (4) THE MAXIMUM FEE UNDER SUBSECTION (3) SHALL BE CALCULATED
14 USING THE NET AMOUNT RECOVERED, INCLUDING TAXED COSTS AND INTEREST
15 INCLUDED IN OR ON THE JUDGMENT, BUT NOT INCLUDING DISBURSEMENTS
16 PROPERLY CHARGEABLE TO THE ENFORCEMENT OR PROSECUTION OF THE CLAIM.
17 IF THE RECOVERY IS BY A SETTLEMENT OR JUDGMENT PAYABLE IN
18 INSTALLMENTS, THE MAXIMUM FEE UNDER SUBSECTION (3) SHALL BE
19 CALCULATED USING THE PRESENT VALUE OF THE FUTURE PAYMENTS.

20 (5) BEFORE ENTERING INTO A FEE AGREEMENT UNDER SUBSECTION (3),
21 AN ATTORNEY AT LAW SHALL ADVISE A CLIENT THAT AN ATTORNEY MAY BE
22 EMPLOYED UNDER A DIFFERENT FEE ARRANGEMENT IN WHICH THE ATTORNEY IS
23 COMPENSATED FOR THE REASONABLE VALUE OF SERVICES PERFORMED, SUCH AS
24 ON AN HOURLY OR PER DIEM BASIS. THIS SUBSECTION DOES NOT REQUIRE AN
25 ATTORNEY TO ENTER INTO A FEE AGREEMENT THAT THE ATTORNEY DOES NOT
26 WISH TO ENTER INTO.

27 (6) A FEE AGREEMENT UNDER SUBSECTION (3) SHALL BE IN WRITING

1 STATING THE METHOD BY WHICH THE FEE IS TO BE DETERMINED, THE NATURE
2 OF DISBURSEMENTS THAT WILL BE DEDUCTED FROM THE RECOVERY, AND THE
3 ADVICE REQUIRED BY SUBSECTION (5) REGARDING THE AVAILABILITY OF A
4 DIFFERENT FEE ARRANGEMENT. A COPY OF THE WRITTEN FEE AGREEMENT
5 SHALL BE PROVIDED TO THE CLIENT.