

RICK SNYDER GOVERNOR NICK A. KHOURI STATE TREASURER

## Revised January 25, 2017

## LIMITATION ON NONECONOMIC DAMAGES and PRODUCT LIABILITY DETERMINATION ON ECONOMIC DAMAGES

Subsection 1 of Section 1483 of Act No. 236 of the Public Acts of 1961 (M.C.L. Section 600.1483), as amended by Act No. 78 of 1993, states the following:

- (1) In a claim for damages alleging medical malpractice by or against a person or party, the total amount of damages for noneconomic loss recoverable by all plaintiffs, resulting from the negligence of all defendants, shall not exceed \$280,000.00 unless, as the result of the negligence of 1 or more of the defendants, 1 or more of the following exceptions apply as determined by the court pursuant to section 6304, in which case damages for noneconomic loss shall not exceed \$500,000.00:
- (a) The plaintiff is hemiplegic, paraplegic, or quadriplegic resulting in a total permanent functional loss of 1 or more limbs caused by 1 or more of the following:
- (i) Injury to the brain.
- (ii) Injury to the spinal cord.
- (b) The plaintiff has permanently impaired cognitive capacity rendering him or her incapable of making independent, responsible life decisions and permanently incapable of independently performing the activities of normal, daily living.
- (c) There has been permanent loss of or damage to a reproductive organ resulting in the inability to procreate.

Subsection 4 of Section 1483 of Act No. 236 of the Public Acts of 1961, as amended (M.C.L. Section 600.1483), states the following:

Sec. 1483. (4) The state treasurer shall adjust the limitation on damages for noneconomic loss set forth in subsection (1) by an amount determined by the state treasurer at the end of each calendar year to reflect the cumulative annual percentage change in the consumer price index. As used in this subsection, "consumer price index" means the most comprehensive index of consumer prices available for this state from the bureau of labor statistics of the United States department of labor.

Enacting Section 4 of Act No. 78 of 1993 provides, in part:

Section 4. (1) Section(s) 1483.of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, do(es) not apply to causes of action arising before October 1, 1993.

Subsection 1 of Section 2946a of Act No. 236 of the Public Acts of 1961 (M.C.L. Section 600.2946a), as amended by Act No. 249 of 1995 states the following:

Sec. 2946a. (1) In an action for product liability, the total amount of damages for noneconomic loss shall not exceed \$280,000.00, unless the defect in the product caused either the person's death or permanent loss of a vital bodily function, in which case the total amount of damages for noneconomic loss shall not exceed \$500,000.00. On the effective date of the amendatory act that added this section, the state treasurer shall adjust the limitations set forth in this subsection so that the limitations are equal to the limitations set forth in this subsection at the end of each calendar year so that they continue to be equal to the limitations provided in section 1483.

Subsection 4 of Section 2946a of Act No. 236 of the Public Acts of 1961 (M.C.L. Section 600.2946a), as amended by Act No. 249 of 1995 states the following:

Sec. 2946a. (4) If damages for economic loss cannot readily be ascertained by the trier of fact, then the trier of fact shall calculate damages for economic loss based on an amount that is equal to the state average median family income as reported in the immediately preceding federal decennial census and adjusted by the state treasurer in the same manner as provided in subsection (1).

Pursuant to the above requirements, I, Nick A. Khouri, State Treasurer of the State of Michigan, hereby certify that the annual percentage change in the Detroit consumer price index for the 2016 calendar year was 1.6% (1.6 percent). For causes of action arising after September 30, 1993, this results in a cumulative 59.1% increase in the standard limitation on noneconomic damages for a 2017 limitation of \$445,500 and a cumulative 59.1% increase in the limitation on noneconomic damages for certain permanent disabilities for a 2017 limitation of \$795,500. For causes of action alleging medical malpractice arising before October 1, 1993, the 1.6% increase in the Detroit consumer price index results in a cumulative 108.0% increase in the previous \$225,000 limitation of noneconomic damages for a 2017 limitation of \$468,000.

And further, in an action for product liability for damages for economic loss not readily ascertained by the trier of fact, the estimated state average median family income for 2015, reported in the 2015 American Community Survey, is \$63,893. Effective January 1, 2017, the 1.4% decrease in the calendar year 2015 Detroit consumer price index results in a 2016 median family income of \$62,998. The cumulative 0.2% net increase in the Detroit consumer price index between calendar year 2014 and 2016 results in a 2017 median family income of \$64,021. (The 2010 Census Bureau decennial census did not collect income data.)

Nick A. Khouri State Treasurer

## Limitation on Noneconomic Damages and Product Liability Determination on Economic Damages

		Malpractice and Product Liability								
Original Amount	Malpractice Pre 10/1993 \$225,000	Excluding Certain Permanent Disabilities	Certain Permanent Disabilities \$500,000	Product Liability Economic Damages Not Readily Ascertained by Trier of Fact						
							\$280,000	\$36,652	<u>\$53,457</u>	\$57,996
							MCL	600.1483(1)	600.1483(1) and 6	
		<b>Effective Date</b>		10/01/1986	04/01/1994 and 03/28/1996		3/28/1996			
017	1006	1004	1004	1989 Median	1999 Median	Post 2005				
Original Year	1986	1994	1994	Family Income	Family Income	ACS Family Income (1)				
Year of Limit										
1987	\$228,128									
1988	235,620									
1989	244,600									
1990	257,650									
1991	270,930									
1992	280,410									
1993	286,309									
1994	294,101									
1995	303,371	\$288,825	\$515,759							
1996	313,062	298,052	532,235	\$44,534						
1997	321,300	305,800	546,200	45,703						
1998	329,200	313,600	560,000	46,841						
1999	336,600	320,600	572,500	47,904						
2000	345,400	328,700	587,000	49,114						
2001	357,800	340,500	608,000	50,873						
2002	367,400	349,700	624,500	52,266						
2003	376,900	359,000	641,000		\$58,375					
2004	384,500	366,000	653,500		59,498					
2005	390,600	371,800	664,000		60,460					
2006	402,100	382,800	683,500			57,996				
2007	414,200	394,200	704,000			59,618				
2008	421,700	401,500	717,000			60,615				
2009	431,300	410,800	733,500			56,681				
2010	428,600	408,200	729,000			56,101				
2011	432,000	411,300	734,500			58,068				
2012	446,200	424,800	758,500			59,295				
2013	455,200	433,400	774,000			60,846				
2014	462,400	440,200	786,000			62,143				
2014	402,400	440,200	700,000			02,113				

<sup>(1)</sup> Listed median family income for years 2006-2015 is the American Community Survey (ACS) Michigan median family income for each given year. The listed 2016 and 2017 median family incomes represent the 2015 ACS Michigan median family income grown by inflation. The Census Bureau conducts the ACS annually. The most recently published ACS data are for 2015. The Census Bureau did not collect income data in its 2010 decennial census.

783,500

795,500

62,998

64,021

Prepared by Office of Revenue and Tax Analysis, Michigan Department of Treasury
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438,800

445,500

460,800

468,000

2016

2017