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State of Misconsin 2013 - 2014 LEGISLATURE



ASSEMBLY AMENDMENT 1, TO SENATE SUBSTITUTE AMENDMENT 1, TO ASSEMBLY BILL 19

March 20, 2014 - Offered by Representatives Hebl, Goyke, Wachs and Hulsey.

At the locations indicated, amend the substitute amendment as follows:

- **1.** Page 5, line 3: delete lines 3 to 15 and substitute:
- "(6) Damages. (a) Notwithstanding s. 895.045, a defendant that is not an asbestos trust and that is found to be causally negligent in an action subject to this section shall be jointly and severally liable for the damages allowed.
- (b) A defendant that is found jointly and severally liable under this section may request a postjudgment hearing to determine the total amount of payment the plaintiff received, before the judgment was entered against the defendant, from one or more asbestos trusts. The defendant may receive a dollar for dollar credit for payments already received by the plaintiff from the asbestos trust only if the plaintiff is made whole by the judgment against the defendant.

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- (c) A defendant that is found jointly and severally liable under this section may request a postjudgment hearing to determine whether, before the judgment was entered against the defendant, the plaintiff had any unpaid claims pending against one or more asbestos trusts. The court may order the plaintiff to assign to the defendant his or her rights to the unpaid claims only if the plaintiff is made whole by the judgment against the defendant.
- (d) If the court orders assignment under par. (c), the plaintiff shall cooperate with, and assist the defendant in, obtaining the amounts due from each asbestos trust, according to the distribution process provided under each asbestos trust's trust governance documents.
- (e) If the court orders assignment under par. (c), each claim the defendant files pursuant to the assignment shall be treated as if the plaintiff submitted the claims for any purpose under the terms, conditions, and provisions of the trust claim procedures. Upon assignment of his or her claim under par. (c), the plaintiff is not responsible for any costs associated with making or providing the claim against the asbestos trust.".

(END)