

2. On January 23, 1996, the Deputy Receiver directed that the amount being paid on Direct Claims be increased from 40% to 50% and continued the suspension and moratorium on the payment of Indirect Claims.

3. The Deputy Receiver has determined that the best interests of the owners of homes which are covered by a certificate of insurance evidencing the coverages of the Warranty/Insurance Documents ("Home Owners"), Member Builders and creditors would be served by reclassifying certain Indirect Claims as Direct Claims, and paying 60% on all Direct Claims, 60% being an amount the Deputy Receiver currently estimates can reasonably be paid to all similarly situated claimants without preference.

THEREFORE, in accordance with the powers granted to the Deputy Receiver in the Final Order, THE DEPUTY RECEIVER HEREBY DIRECTS:

(a) That the following Indirect Claims be reclassified as Direct Claims: (i) claims approved by the Deputy Receiver for damages determined to be extra contractual obligations of the Company, non-economic damages, consequential damages, litigation costs or attorneys' fees incurred by a Home Owner or Member Builder in asserting a claim against the Company before receivership; and (ii) claims approved by the Deputy Receiver for litigation costs and attorneys' fees incurred by a Member Builder in an action brought against the Member Builder to recover under the Major Structural Defect Insurance Coverage provided by HOWIC.


(b) That the Company pay 60% of the approved amounts of all Direct Claims, including those Indirect Claims reclassified as Direct Claims pursuant to paragraph (a) of this Directive, and that the suspension and moratorium on the payment of all other Indirect Claims, and claims of lesser priority, be continued pending further Orders or Directives.

(c) That each claimant who has been paid 40% on a Direct Claim be paid an additional 20% on that claim, and that each claimant who has been paid 50% on a Direct Claim be paid an additional 10% on that claim.

(d) That payments on approved claims be made subject to a case-by-case determination by the Deputy Receiver that the payments would be proper and fair under the circumstances and, without limiting the generality of the foregoing, that claims awarded to Member Builders for costs of defense or indemnification, which are on appeal as of the date of this Directive, not be treated as Direct Claims except to the extent that the Deputy Receiver hereafter expressly approves them in writing as Direct Claims.

(e) That this Directive supersede all prior directives and policies adopted by the Deputy Receiver regarding the classification and payment of claims against the Company in receivership. To the extent of any conflict or inconsistency between this Directive and any such prior directive or policy, this Directive shall govern and control, pending further Orders or Directives.

SIGNED this 28th day of December, 1998.


Alfred W. Gross, Deputy Receiver of Home Warranty Corporation, Home Owners Warranty Corporation, and HOW Insurance Company, a Risk Retention Group, in Receivership