

Regular Session, 2009

HOUSE BILL NO. 345

BY REPRESENTATIVES ABRAMSON AND TIM BURNS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CIVIL/PROCEDURE: Provides disclosure procedures for asbestos and silica claims

1 AN ACT

2 To enact Code of Civil Procedure Article 1476, relative to civil procedures; to provide for
3 claims involving asbestos or silica; to provide for required disclosures; to require
4 certification; to provide for supplemental information; to provide for sanctions; and
5 to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Civil Procedure Article 1476 is hereby enacted to read as
8 follows:

9 Art. 1476. Required disclosures

10 A. Within thirty days of commencing an action involving a claim for injury,
11 disease, or death related to asbestos or silica and for cases currently pending, no less
12 than one hundred eighty days prior to trial, a plaintiff shall provide to all parties a
13 statement of all existing or potential claims against a trust or fund, including but not
14 limited to a trust created pursuant to 11 U.S.C. 524(g). The statement shall be a
15 sworn statement, under oath, by a plaintiff and his counsel that a good faith
16 investigation of all potential trust claims or claims against a similar fund have been
17 conducted. The statement shall also disclose when the claim was or will be made
18 and whether there has been any request for deferral, delay, suspension, or tolling of
19 the trust claims process or proceeding against a fund. The plaintiff and his counsel
20 shall have a continuing duty to supplement the sworn statement within thirty days

1 of receipt of additional information which supports the filing of additional trust
2 claims or claims against a fund.

3 B. As to any claim identified in Paragraph A of this Article, the plaintiff
4 shall produce final, executed proof of any claim and all supporting materials and all
5 documents relevant to claims asserted against the trust or fund, including work
6 histories, affidavits, depositions, trial testimony, and medical documentation,
7 including X-rays, test results, reports and records of all doctors, and pathology
8 results.

9 C. Failure to comply with the disclosure requirements in this Article shall
10 be the basis for sanctions against the plaintiff including, at the discretion of the court,
11 dismissal upon a finding that the plaintiff willfully failed to comply.

12 D. The disclosures required by this Article shall be admissible in actions
13 involving asbestos and silica claims.

14 Section 2. The provisions of this Act shall apply to all asbestos and silica claims
15 filed on or after the effective date of this Act and to any pending asbestos or silica claims in
16 which trial has not yet commenced as of the effective date of this Act.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Abramson

HB No. 345

Abstract: Provides disclosure procedures for asbestos and silica claims.

Proposed law requires the plaintiff to provide to all parties a statement of any existing or potential claims involving asbestos or silica against a trust or fund with 30 days of commencing an action or at least 180 days before a trial.

Proposed law requires the plaintiff to attest and counsel to certify that a good faith investigation of all potential claims has been conducted.

Proposed law requires the statement to set forth when all claims were or may be filed and whether any deferrals, delays, suspensions, or tollings of the claims process have been requested.

Proposed law requires the plaintiff to supplement the statement within 30 days of obtaining additional information supporting the filing of additional claims.

Proposed law requires, as to any claim, the final, executed proof of the claim and all supporting materials including work histories, depositions, and all medical documentation.

Proposed law provides that failure to comply with the disclosure requirements shall be the basis for sanctions, including dismissal.

Proposed law provides that the disclosures made in accordance with proposed law shall be admissible.

Proposed law provides that this Act shall apply to all asbestos and silica claims filed on or after the effective date of this Act and to all pending claims in which trial has not yet commenced as of the effective date of this Act.

(Adds C.C.P. Art. 1476)