

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 follows:

8 Art. 1476. Required disclosures

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

1        days 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 may be  
10       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. Except as provided in Code of Evidence Articles 408 and 413, the  
13       disclosures required by this Article shall be admissible in actions involving asbestos  
14       and silica claims.

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

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#### 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)]

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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 within 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 may be the basis for sanctions, including dismissal.

Proposed law provides that the disclosures made in accordance with proposed law shall be admissible, except as provided in Code of Evidence Articles 408 and 413.

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)

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Changes the required sanctions for a failure to comply with a discretionary sanction.
2. Provides an exception to the admissibility of the disclosures.