

Regular Session, 2009

HOUSE BILL NO. 345

BY REPRESENTATIVES ABRAMSON AND TIM BURNS AND SENATOR
WALSWORTH

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 or person whose
13 exposure is alleged to be the cause of the claim, against any trust created pursuant
14 to Title 11 of the United States Code, for the purpose of processing, liquidating,
15 paying or satisfying asbestos or silica claims or any fund established for the benefit
16 of asbestos or silica claimants. The statement shall be a sworn statement, under oath,
17 by a plaintiff and signed by his counsel that a good faith investigation of all potential
18 trust or fund claims has been conducted. The statement shall also disclose when the
19 claim was or will be made and whether there has been any request for deferral, delay,
20 suspension, or tolling of the trust claims process or proceeding against a fund. The

1 plaintiff shall have a continuing duty to supplement the sworn statement within thirty
2 days of receipt of additional information which supports the filing of additional trust
3 claims or claims against a fund.

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

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 or person whose exposure is alleged to be the cause of the claim to provide to all parties a statement of any existing or potential claims involving asbestos or silica against any trust created in accordance with Title 11 of the U.S. Code or any fund established for the benefit of asbestos or silica claimants within 30 days of commencing an action or at least 180 days before a trial.

Proposed law requires the plaintiff to attest, and his attorney to sign, 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 and all documents submitted to a trust or fund, 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 C. E. Arts. 408 and 413.

Proposed law applies to all asbestos and silica claims filed on or after the effective date of proposed law and to all pending claims in which trial has not yet commenced as of the effective date of proposed law.

(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.

House Floor Amendments to the engrossed bill.

1. Requires disclosures to also be made by a person whose exposure is alleged to be the cause of the claim.
2. Clarifies the terms "trust" and "fund".
3. Deletes the requirement that counsel attest that a good faith investigation has been conducted and simply requires counsel to sign the plaintiff's attestation.
4. Requires the disclosure of all documents submitted to a trust or fund, rather than relevant to a claim against, a trust or fund.