
DIGEST

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Abramson

HB No. 477

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 or a statement that no claim will be filed involving asbestos or silica against any trust created in accordance with Title 11 of the U.S. Code within 30 days of commencing an action or at least 90 days prior to trial.

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

Proposed law requires the statement to include information regarding 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Proposed law provides that a statement that no claims will be filed may be withdrawn prior to trial if substituted with a statement of all existing or potential claims prior to trial. Further provides that if the substitute is filed within 90 days of trial, the trial shall be continued no less than 90 days from the filing of the substitute or the completion of discovery, whichever is later.

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 serve as 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, and shall not change the application of the laws relative to the allocation of fault.

Provides that proposed law shall not be interpreted to require a plaintiff or other person to file a claim against any trust.

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 no trial date has been set 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. Added provision for the filing of a statement that no claim will be filed.
2. Deleted reference to claims filed against any fund established for the benefit of claimants.
3. Added provision addressing the applicability of the laws on allocation of fault.
4. Added provision specifying that proposed law does not require the filing of a claim against any trust.
5. Provided that proposed law shall apply to cases in which a trial date has not been set.

House Floor Amendments to the engrossed bill.

1. Changed time period from 180 days to 90 days prior to trial within which a statement of existing or potential claims, or a statement that no claims will be filed, shall be provided to all parties.
2. Added provision allowing the withdrawal of a statement that no claims will be filed prior to trial if substituted with a statement of all existing or potential claims. Further added that if the substitute is filed within 90 days of trial, the trial shall be continued no less than 90 days from the filing of the substitute or the completion of discovery, whichever is later.