



BILL SUMMARY

Asbestos Liability Claims HF 476

Status of Bill: House Floor
Committee: Judiciary (13-7)
Lead Democrats: Rep. Bennett
Floor Manager: Rep. McKean
Research Analyst: Bill Freeland 515-281-6311
bill.freeland@legis.iowa.gov

March 6, 2017

Background

Beginning in the 1980's, many companies that had asbestos liabilities began filing for bankruptcy protection under a special section of the U.S. Bankruptcy Code called section 524(g). The section allows a company to recognize and protect the company from future asbestos liability, but an asbestos bankruptcy trust must be established to pay current and future asbestos claimants. This trust system has paid out over \$15 billion in claims and there is over \$18 billion in assets remaining. In addition, there were approximately \$11 to \$12 billion in additional trust funds in pending bankruptcy cases as of 2013.

Summary

Asbestos Bankruptcy Trust Claims Transparency Act

Creates a new Code Chapter 686A. The chapter requires a plaintiff in an asbestos action to provide the court and all parties with a sworn statement of all asbestos trust claims that may be made by the plaintiff. This statement must include whether there has been a request to defer, delay, suspend, or toll any asbestos trust claim. The plaintiff must also provide all parties with all trust claims materials. These statements and materials must be provided within 30 days from when the asbestos action is filed.

A defendant may file a motion to stay a proceeding if a plaintiff could file additional trust claims. The plaintiff is then required to respond why the plaintiff cannot file the asbestos trust claims or file the potential claims.

If a plaintiff proceeds to trial in an asbestos action before an asbestos trust claim is resolved there is a rebuttable presumption that the plaintiff will receive compensation from the trust fund. A defendant is entitled to a setoff or credit for any awards from an asbestos trust fund received by the plaintiff.

This provision is similar to legislative action approved by the ALEC Board of Directors in 2007 and 2013.

Asbestos and Silica Claims Priorities Act

Requires a plaintiff in an asbestos action to file a detailed narrative medical report and diagnosis. The report must include the personal information of the exposed person, the specific location and manner of each alleged exposure, the beginning and ending date of each exposure, the identity of the manufacturer of the specific asbestos product, the identity of the defendant that the plaintiff asserts a claim, the specific asbestos-related disease, and any supporting documentation.

An asbestos action involving a nonmalignant condition cannot be brought unless the person has a physical impairment that the asbestos exposures was a substantial contribution factor towards. This must be established for each defendant. The plaintiff must provide a detailed narrative medical report and diagnosis signed by a

qualified physician that meets a variety of requirements in the bill, including evidence of asbestos related health impacts.

This provision is similar to legislative action approved by the ALEC Board of Directors in 2003, 2007, and 2013.

Successor Corporation Asbestos-Related Liability Fairness Act

Limits the cumulative successor asbestos-related liabilities to the fair market value of the total gross assets obtained at the time of the transfer. A successor does not have responsibility for liabilities of the company that it succeeds in excess of this limit on the value of the succeeded assets at the time of the transfer. If a successor continued in the business of mining or selling asbestos products after the merger or consolidation the limitation does not apply. The valuation of the assets at the time of the consolidation or merger for determining liability is increased by the prime rate on an annual basis. This chapter is to be liberally construed with regard to successors.

This provision is similar to legislative action approved by ALEC's Civil Justice Task Force in 2004.