

HOUSE BILL NO. 803

INTRODUCED BY G. OVERSTREET

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATING TO ASBESTOS CLAIMS; ESTABLISHING THE ASBESTOS TRUST CLAIMS TRANSPARENCY ACT; ESTABLISHING DISCLOSURE REQUIREMENTS; ESTABLISHING REQUIREMENTS FOR DISCOVERY OF ASBESTOS TRUSTS AND USE OF TRUST CLAIMS MATERIALS; PROVIDING FOR SETOFFS; ESTABLISHING THE ASBESTOS ACTION OVER-NAMING REFORM ACT; ESTABLISHING DISCLOSURE REQUIREMENTS; ESTABLISHING REQUIREMENTS FOR DISCOVERY; PROVIDING FOR DISMISSAL WITHOUT PREJUDICE FOR NONCOMPLIANCE OR LACK OF EVIDENCE OF EXPOSURE; AND PROVIDING DEFINITIONS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Short title. [Sections 1 through 6] may be cited as the "Asbestos Trust Claims Transparency Act".

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 6], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Asbestos action" means a civil action arising out of, based on, or related to the health effects of exposure to asbestos and a derivative claim made by or on behalf of a person exposed to asbestos or a representative, spouse, parent, child, or other relative of that person. An asbestos action as provided under [sections 1 through 6] ~~is intended to be a separate action from the asbestos claims court in Title 3, chapter 20~~ does not include an asbestos-related claim as defined in 3-20-101.

(2) "Asbestos trust" means a government-approved or court-approved trust, qualified settlement fund, compensation fund, or claims facility created as a result of an administrative or legal action, or a court-approved bankruptcy created under 11 U.S.C. 524(g), or 11 U.S.C. 1121(a), or other applicable provision of law, that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos.

(3) "Asbestos trust claim" means a claim for compensation by an exposed person or the exposed person's representative against an asbestos trust.

(4) "Claimant" means a person bringing an asbestos action, including a personal representative if the asbestos action is brought by an estate, or a conservator or next friend if the asbestos action is brought on behalf of a minor or incapacitated person, as defined in sections 41-1-101 and 72-5-101.

(5) "Exposed person" means a person whose exposure to asbestos or to asbestos-containing products is the basis for an asbestos action.

(6) "Trust claim materials" means a final executed proof of claim and documents and information submitted to or received from an asbestos trust by a claimant or a claimant's representative, including claim forms and supplementary materials, proofs of claim, affidavits, depositions and trial testimony of the claimant and others knowledgeable about the claimant's exposure history, work history, exposure allegations, medical and health records, documents that reflect the status of a claim against an asbestos trust, and if the trust claim has settled, documents relating to the settlement of the trust claim.

(7) "Trust governance document" means a document that relates to trust claim eligibility and payment levels, including claims payment matrices, trust distribution procedures, or plans for reorganization for an asbestos trust.

NEW SECTION. Section 3. Required disclosures by claimant. (1) Within 30 days after an asbestos action is filed, the claimant shall do all of the following:

(a) provide the court and parties with a sworn statement signed by the claimant and claimant's counsel indicating that an investigation has been conducted and that all asbestos trust claims that can be made by the claimant have been completed and filed. The sworn statement shall indicate whether there has been a request to defer, delay, suspend, toll, withdraw, or otherwise alter the standing of an asbestos trust claim and provide the status and disposition of each asbestos trust claim. A deferral or placeholder claim that is missing necessary documentation for the trust to pay the claim does not meet the requirements of this section.

(b) provide all parties with all trust claim materials from all law firms connected to the claimant in relation to exposure to asbestos, including trust claim materials that relate to conditions other than those that are the basis for the asbestos action; and