

HB 741

2020

1 A bill to be entitled
2 An act relating to asbestos trust claims; amending s.
3 774.203, F.S.; defining terms related to asbestos
4 trusts; creating s. 774.2055, F.S.; requiring a
5 plaintiff to provide certain materials within a
6 specified period after filing an asbestos claim;
7 requiring the plaintiff to supplement such materials
8 within a specified period; authorizing a defendant to
9 seek discovery from an asbestos trust; prohibiting a
10 plaintiff from barring discovery or claiming privilege
11 or confidentiality; specifying the legal relevancy of
12 asbestos trust claims materials and trust governance
13 documents; requiring a trial court to adjust certain
14 judgments related to asbestos claims under specified
15 conditions; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Subsections (4) through (30) of section
20 774.203, Florida Statutes, are renumbered as subsections (5)
21 through (31), respectively, present subsections (31) and (32)
22 are renumbered as subsections (34) and (35), respectively, and
23 new subsections (4), (32), and (33) are added to that section to
24 read:

25 774.203 Definitions.—As used in this act, the term:

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

34 (32) "Trust claims material" means any final executed
 35 proof of claim and any other document or information submitted
 36 to or received from an asbestos trust, including a claim form or
 37 supplementary material, affidavit, deposition or trial
 38 testimony, work history, exposure allegation, medical or health
 39 record, or document reflecting the status of a claim against an
 40 asbestos trust and, if the trust claim has settled, any document
 41 relating to the settlement of the trust claim.

42 (33) "Trust governance document" means any document that
 43 relates to eligibility and payment levels, including a claims
 44 payment matrix, trust distribution procedure, or plan for
 45 reorganization of an asbestos trust.

46 Section 2. Section 774.2055, Florida Statutes, is created
 47 to read:

48 774.2055 Asbestos trust claims disclosures.—

49 (1) Within 30 days after filing an asbestos claim as
 50 defined in s. 774.203, a plaintiff must:

51 (a) Provide the parties with a sworn statement verifying
52 that an investigation of all asbestos trust claims has been
53 conducted and that all asbestos trust claims for which the
54 plaintiff is eligible have been filed; and

55 (b) Identify all asbestos trust claims filed by the
56 plaintiff and provide the parties with all materials submitted
57 to or received from an asbestos trust.

58 (2) A plaintiff must supplement the information and
59 materials required under subsection (1) within 30 days after the
60 plaintiff files an additional asbestos trust claim, supplements
61 an existing asbestos trust claim, or receives additional
62 information or materials related to an asbestos trust claim.

63 (3) (a) Not fewer than 60 days before trial of an asbestos
64 claim, if a defendant believes the plaintiff has not filed all
65 asbestos trust claims as required by subsections (1) and (2),
66 the defendant may move the court for an order to require the
67 plaintiff to file additional asbestos trust claims for which the
68 defendant believes the plaintiff is eligible to file.

69 (b) If the court determines that there is a sufficient
70 basis for the plaintiff to file an asbestos trust claim
71 identified by the defendant, the court shall stay the asbestos
72 claim until the plaintiff files the asbestos trust claim and
73 produces all related trust claims materials. An asbestos claim
74 may not proceed to trial until at least 60 days after the
75 plaintiff complies with the court's order.

76 (4) A defendant in an asbestos claim may seek discovery
77 from an asbestos trust. The plaintiff may not claim privilege or
78 confidentiality to bar discovery and shall provide any
79 expression of permission that may be required by the asbestos
80 trust to release the information and materials sought by the
81 defendant.

82 (5) Asbestos trust claims materials and trust governance
83 documents are presumed to be relevant and authentic and are
84 admissible in evidence. A claim of privilege does not apply to
85 asbestos trust claims materials or trust governance documents.

86 (6) If a plaintiff files an asbestos trust claim after the
87 plaintiff obtains a judgment in an asbestos claim and the
88 asbestos trust was in existence at the time of the judgment, the
89 trial court upon motion by a defendant must adjust the judgment
90 by the amount of any subsequent asbestos trust payments obtained
91 by the plaintiff.

92 Section 3. This act shall take effect July 1, 2020.