



Alerts

Ohio Passes Landmark Asbestos Bankruptcy Trust Disclosure Law

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Hinshaw Alert

Ohio Governor John R. Kasich recently signed Amended Substitute Ohio House Bill 380, which requires plaintiffs in asbestos litigation to sign a sworn statement identifying all claims they have made against bankruptcy trusts and to produce all related materials in discovery. The law “require[s] claimants in asbestos tort actions to make certain disclosures pertaining to asbestos trust claims that have been submitted to asbestos trust entities for the purpose of compensating the claimant for asbestos exposure.” Ohio is the first state to pass legislation on asbestos bankruptcy trusts.

The new law is aimed to prevent “double dipping” by claimants who could bring claims against asbestos bankruptcy trusts and additionally pursue litigation against nonbankrupt companies. Of the new additions to the Ohio Revised Code, Ohio Rev. Code § 2307.951 outlines definitions used in the subsequent sections. Ohio Rev. Code § 2307.952 requires a claimant in an asbestos tort action to provide all of the parties in the action with a sworn statement by the claimant, identifying all existing asbestos trusts claims made by him or her or on his or her behalf and all trust claims material pertaining to each identified asbestos trust claims within 30 days after the commencement of discovery.

Ohio Rev. Code § 2307.953 states that not less than 75 days prior to trial, a defendant in an asbestos tort action may file a motion with the court to stay the proceedings. This motion must set forth credible evidence of the identities of all asbestos trusts not previously disclosed by the claimant pursuant to Ohio Rev. Code § 2307.952, information that the defendant believes supports the additional asbestos trust claims, and a description of the information sufficient to meet asbestos trust claim requirements of the asbestos trusts. Ohio Rev. Code § 2307.954 requires disclosing both earlier filed noncancer asbestos trust claims and cancer asbestos claims even if the tort action was a cancer asbestos claim.

This law is the first of its kind to protect Ohio companies from fraudulent claims. Other states could follow in Ohio’s footsteps and begin to pass legislation to ensure asbestos trusts and toxic tort claims can be used, but not abused, by claimants who are entitled to compensation.

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Amended Substitute Ohio House Bill 380

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