



## Ohio Revised Code

### Section 2307.954 Disclosure of noncancer asbestos trust claims and cancer asbestos trust claims.

Effective: March 27, 2013

Legislation: House Bill 380 - 129th General Assembly

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(A) A noncancer asbestos trust claim and a cancer asbestos trust claim are based on distinct injuries caused by a person's exposure to asbestos. A noncancer asbestos trust claim that is subject to disclosure under section 2307.952 or 2307.953 of the Revised Code or is identified in this section means the noncancer asbestos claim that is the subject of the asbestos tort action in which the defendant seeks discovery pursuant to sections 2307.951 to 2307.954 of the Revised Code. If a claimant previously filed a noncancer asbestos trust claim with, or submitted a noncancer asbestos trust claim to, an asbestos trust and subsequently filed an asbestos tort action based on a cancer asbestos claim, a cancer asbestos trust claim that is subject to disclosure under section 2307.952 or 2307.953 of the Revised Code or is identified in this section means both the earlier filed noncancer asbestos trust claim and the cancer asbestos claim that is the subject of the subsequent asbestos tort action.

(B) Asbestos trust claims and the information that is the subject of disclosure under section 2307.952 or 2307.953 of the Revised Code are presumed to be authentic, relevant to, and discoverable in an asbestos tort action. Notwithstanding any agreement or confidentiality provision, trust claims material are presumed to not be privileged. The parties in the asbestos tort action may introduce at trial any trust claims material to prove alternative causation for the exposed person's claimed injury, death, or loss to person, to prove a basis to allocate responsibility for the claimant's claimed injury, death, or loss to person, and to prove issues relevant to an adjudication of the asbestos claim, unless the exclusion of the trust claims material is otherwise required by the rules of evidence.

(C) In addition to the disclosure requirements set forth in sections 2307.952 and 2307.953 of the Revised Code, the parties to the asbestos tort action may seek additional disclosure and discovery of information relevant to the action by any mechanism provided by any applicable section of the Revised Code, the Rules of Civil Procedure, any local rule, or any case management order. In addition to the disclosure described in this division, any defendant in the asbestos tort action also



may seek discovery of the claimant's asbestos trust claims directly from the asbestos trusts involved.

(D) In an asbestos tort action, upon the filing by a defendant or judgment debtor of an appropriate motion seeking sanctions or other relief, the court may impose any sanction provided by a law of this state, including, but not limited to, vacating a judgment rendered in an asbestos tort action for a claimant's failure to comply with the disclosure requirements of this section and sections 2307.952 and 2307.953 of the Revised Code.

(E)(1) If subsequent to obtaining a judgment in an asbestos tort action in this state a claimant files any additional asbestos trust claim with, or submits any additional asbestos trust claim to, an asbestos trust that was in existence at the time the claimant obtained that judgment, the trial court, upon the filing by a defendant or judgment debtor of an appropriate motion seeking sanctions or other relief, has jurisdiction to reopen its judgment in the asbestos tort action and do either of the following:

(a) Adjust the judgment by the amount of any subsequent asbestos trust payments obtained by the claimant;

(b) Order any other relief to the parties that the court considers just and proper.

(2) As used in division (E) of this section, "asbestos trust" means and encompasses all trust entities, claims agents, or claims processing facilities that are created pursuant to the jurisdiction of a United States bankruptcy court and section 524(g) of Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. 524(g), or other applicable provision of law and that are formed for the purpose of compensating claimants asserting eligible asbestos claims.

(F) A defendant or judgment debtor shall file any motion under this section within a reasonable time and not more than one year after the judgment was entered or taken.