WEST VIRGINIA CODE: §55-7F-2

§55-7F-2. Findings and purpose.

(a) The West Virginia Legislature finds that:

(1) The United States Supreme Court in Amchem Prods., Inc. v. Windsor, 521 U.S. 591, 598 (1997) described the asbestos litigation as a crisis;

(2) Approximately one hundred employers have declared bankruptcy at least partially due to asbestos-related liability;

(3) These bankruptcies have resulted in a search for more solvent companies, resulting in over eight thousand five hundred companies being named as asbestos defendants, including many small- and medium-sized companies, in industries that cover eighty-five percent of the United States economy;

(4) Scores of trusts have been established in asbestos-related bankruptcy proceedings to form a multibillion dollar asbestos bankruptcy trust compensation system outside of the tort system, and new asbestos trusts continue to be formed;

(5) Asbestos claimants often seek compensation for alleged asbestos-related conditions from solvent defendants in civil actions and from trusts or claims facilities formed in asbestos bankruptcy proceedings;

(6) There is limited coordination and transparency between these two paths to recovery;

(7) An absence of transparency between the asbestos bankruptcy trust claim system and the civil court systems has resulted in the suppression of evidence in asbestos actions and potential fraud;

(8) West Virginia's Mass Litigation Panel has previously entered cases management orders that apply substantive transparency provisions requiring plaintiffs to disclose, among other things, any claims that may exist against asbestos bankruptcy trusts; and

(9) It is in the interest of justice that there be transparency for claims made in the asbestos bankruptcy trust claim system and for claims made in civil asbestos litigation.

(b) It is the purpose of this article to:

(1) Provide transparency for claims made in the asbestos bankruptcy trust claim system and for claims made in civil asbestos litigation; and

(2) Reduce the opportunity for fraud or suppression of evidence in asbestos actions.

WV Legislature