

Effective 5/10/2016

78B-6-2003 Definitions.

As used in this part:

- (1) "Asbestos" means chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, asbestiform winchite, asbestiform richterite, asbestiform amphibole minerals, and any of these minerals that have been chemically treated or altered, including all minerals defined as asbestos in 29 C.F.R. Sec. 1910 at the time the asbestos action is filed.
- (2)
 - (a) "Asbestos action" means a claim for damages or other civil or equitable relief presented in a civil action resulting from, based on, or related to:
 - (i) the health effects of exposure to asbestos, including:
 - (A) loss of consortium;
 - (B) wrongful death;
 - (C) mental or emotional injury;
 - (D) risk or fear of disease or other injury; and
 - (E) costs of medical monitoring or surveillance; and
 - (ii) any other 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.
 - (b) "Asbestos action" does not include a claim for workers' compensation or veterans' benefits.
- (3) "Asbestos trust" means a:
 - (a) government-approved or court-approved trust that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos or asbestos-containing products;
 - (b) qualified settlement fund that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos or asbestos-containing products;
 - (c) compensation fund or claims facility created as a result of an administrative or legal action that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos or asbestos-containing products;
 - (d) court-approved bankruptcy that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos or asbestos-containing products; or
 - (e) plan of reorganization or trust pursuant to 11 U.S.C. Sec. 524(g) or 11 U.S.C. Sec. 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 or asbestos-containing products.
- (4) "Plaintiff" means:
 - (a) the person bringing the asbestos action, including a personal representative if the asbestos action is brought by an estate; or
 - (b) a conservator or next friend if the asbestos action is brought on behalf of a minor or legally incapacitated individual.
- (5) "Trust claims materials" means a final executed proof of claim and all other documents and information related to a claim against an asbestos trust, including:
 - (a) claims forms and supplementary materials;
 - (b) affidavits;
 - (c) depositions and trial testimony;
 - (d) work history;
 - (e) medical and health records;

- (f) documents reflecting the status of a claim against an asbestos trust; and
- (g) all documents relating to the settlement of the trust claim if the trust claim has settled.
- (6) "Trust governance documents" means all documents that relate to eligibility and payment levels, including:
 - (a) claims payment matrices; and
 - (b) trust distribution procedures or plans for reorganization for an asbestos trust.
- (7) "Veterans' benefits" means a program for benefits in connection with military service administered by the Veterans Administration under United States Code, Title 38, Veterans Benefits.
- (8)
 - (a) "Workers' compensation" means a program administered by the United States or a state to provide benefits, funded by a responsible employer or the employer's insurance carrier, for occupational diseases or injuries or for disability or death caused by occupational diseases or injuries.
 - (b) "Workers' compensation" includes the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. Sec. 901 et seq., and Federal Employees' Compensation Act, 5 U.S.C. Sec. 8101 et seq.
 - (c) "Workers' compensation" does not include the Federal Employers' Liability Act, 45 U.S.C. Sec. 51 et seq.

Enacted by Chapter 385, 2016 General Session