



MEMORANDUM IN SUPPORT

S.2511 (Bonacic)

AN ACT to the civil practice law and rules, in relation to truth and fairness in asbestos litigation

The Capital Region Chamber, representing 2,600 businesses and organizations from throughout the Capital Region that employ more than 150,000 area residents, supports S.2511, which would amend the CPLR to promote truth and fairness in the judicial system and improve the transparency of asbestos trust claims.

Beginning in 1982, former asbestos manufacturers, including most of the largest and historically most culpable companies, exited the civil justice system through bankruptcy. As part of their bankruptcy proceedings, these companies established trusts to address and pay claims. These trusts, which operate independently of the civil justice system, pay billions of dollars each year to asbestos claimants that concurrently file claims in the civil justice system. Thus, there are now two pathways to compensation for asbestos claimants: 1) the civil justice system; and 2) the trust system. There is currently very little transparency between these two pathways.

This lack of transparency allows for duplicative and fraudulent claims to be filed. As a consequence, those that are truly injured are deprived of the funds that are intended to compensate them. The Chamber agrees with the bill sponsor that the solution to this problem is straightforward - require asbestos claimants and their attorneys to file asbestos trust claims concurrently with the active civil lawsuit. Specifically, this bill would promote fairness in the civil justice system by requiring asbestos claimants to: 1) timely file their trust claims; 2) provide notice to defendants in the civil action of the filing of the trust claims, and; 3) produce to those defendants the trust materials and documentation submitted by the claimants to support their trust claims.

While this bill will bring truth and fairness to asbestos trust claims, it is important to note that this bill will neither deny the avenue to justice for deserving asbestos claimants nor will it let current responsible asbestos defendants avoid their liability.

For these stated reasons, the Capital Region Chamber recommends the passage of this legislation.

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