

House Bill 416

By: Representatives Ralston of the 7th, Ehrhart of the 36th, Coleman of the 144th, and Parrish of the 156th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 51 of the Official Code of Georgia Annotated, relating to torts, so as to
2 provide for legislative findings and purposes; to provide for applicability; to provide
3 definitions; to provide that physical impairment shall be an essential element of an asbestos
4 claim or a silica claim; to provide for a limitations period for filing a claim; to provide for
5 dismissal of pending claims under certain conditions; to provide for general rules applicable
6 to new filings; to provide for forum non conveniens; to provide for venue; to provide for
7 joinder and consolidation of claims; to provide for other matters relative to the foregoing; to
8 provide for severability; to provide an effective date; to repeal conflicting laws; and for other
9 purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended by inserting
13 at the end thereof a new Chapter 13 to read as follows:

14 "CHAPTER 13

15 51-13-1.

16 (a) The General Assembly finds that:

17 (1) Asbestos is a mineral that was widely used prior to the 1980's for insulation,
18 fireproofing, and other purposes;

19 (2) Many American workers were exposed to asbestos, especially during World War II;

20 (3) Exposure to asbestos has been causally associated with mesothelioma and lung
21 cancer, as well as nonmalignant conditions such as asbestosis, pleural plaques, and
22 diffuse pleural thickening;

23 (4) The United States Supreme Court in *Amchem Prods. Inc. v. Windsor*, 521 U.S. 591,
24 597 (1997), stated that this country is in the midst of an 'asbestos-litigation crisis';

1 (5) The vast majority of new asbestos claims are filed by individuals who allege
2 exposure to asbestos but have only minimal or no physical evidence of exposure, and
3 who suffer no present asbestos related impairment. In *Amchem*, United States Supreme
4 Court Justice Stephen Breyer observed that 'up to one-half of asbestos claims are now
5 filed by people who have little or no physical impairment.' That number may be
6 conservative. Recent reports indicate that as much as 90 percent of new asbestos related
7 claims are filed by plaintiffs with no impairment;

8 (6) Concerns about statutes of limitations can force claimants who have been exposed
9 to asbestos but who have no current injury to bring premature lawsuits in order to protect
10 against losing their rights to future compensation should they become impaired;

11 (7) X-ray screenings of workers at occupational locations are used to amass large
12 numbers of claimants. Frequently, a complaint is filed on behalf of anyone who shows
13 any evidence of asbestos or silica exposure, even though most claimants are functionally
14 asymptomatic when the suit is filed;

15 (8) These screenings and mass filings have contributed to the bankruptcy of
16 approximately 78 companies, including nearly all manufacturers of asbestos textile and
17 insulation products. The rate of asbestos-driven bankruptcies is accelerating;

18 (9) Bankruptcies resulting from asbestos litigation have led plaintiffs and their lawyers
19 to expand their search for new solvent defendants, including many defendants with only
20 a tenuous connection to asbestos. The number of asbestos defendants now includes over
21 8,400 companies, touching firms in industries that span 85 percent of the United States
22 economy. Some of these defendants are large companies, but others are firms with as few
23 as 20 employees and just a few million dollars in annual revenues;

24 (10) The cost of compensating exposed individuals who are not sick and legal costs spent
25 on their claims jeopardize recoveries by people with cancer or other serious asbestos
26 related injuries; threaten the savings, retirement benefits, and jobs of current and retired
27 employees of the defendants; and adversely affect the communities in which the
28 defendants operate;

29 (11) Several jurisdictions have adopted inactive dockets, also called 'pleural registries'
30 or 'deferred dockets,' or issued case management orders to control the unlimited filing of
31 asbestos claims by persons who are not impaired; other courts have decided that only sick
32 claimants are entitled to compensation;

33 (12) Reports indicate that efforts to improve the asbestos litigation environment may lead
34 to a proliferation in silica related claims as personal injury attorneys seek to build new
35 inventories of claimants and find new defendants to target in lawsuits; and

36 (13) Sound public policy requires deferring the claims of persons exposed to asbestos or
37 silica and who are not presently impaired in order to give priority to those cases that

1 involve claims of actual and current conditions of impairment; preserve compensation for
2 people with cancer and other serious injuries; and safeguard the jobs, benefits, and
3 savings of workers.

4 (b) It is the purpose of this chapter to:

5 (1) Give priority to claimants who can demonstrate actual physical harm or illness
6 caused by asbestos or silica;

7 (2) Preserve the rights of claimants to pursue asbestos or silica claims if an exposed
8 person becomes sick in the future;

9 (3) Enhance the ability of the courts to supervise and control asbestos litigation and silica
10 litigation; and

11 (4) Conserve resources to allow compensation of claimants who have cancer and others
12 who are impaired as a result of exposure to asbestos or silica while securing the right to
13 similar compensation for those who may suffer physical impairment in the future.

14 51-13-2.

15 This chapter applies to any claim defined in this chapter as an asbestos claim or as a silica
16 claim.

17 51-13-3.

18 As used in this chapter, the term:

19 (1) 'Asbestos' means chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite
20 asbestos, actinolite asbestos, and any of these minerals that have been chemically treated
21 or altered, including but not limited to all minerals defined as asbestos in 29 CFR 1910,
22 as amended from time to time.

23 (2) 'Asbestos claim' means any claim, wherever or whenever made, for damages, losses,
24 indemnification, contribution, loss of consortium, or other relief arising out of, based on,
25 or in any way related to the health effects of exposure to asbestos, including, but not
26 limited to:

27 (A) Any claim for:

28 (i) Personal injury or death;

29 (ii) Mental or emotional injury;

30 (iii) Risk of disease or other injury; or

31 (iv) The costs of medical monitoring or surveillance, to the extent such claims are
32 recognized under state law; and

33 (B) Any claim made by or on behalf of an exposed person or based on that exposed
34 person's exposure to asbestos, including a representative, spouse, parent, child, or other
35 relative of the exposed person.

1 For purposes of this chapter, 'asbestos claim' shall not mean a claim brought under a
2 workers' compensation law administered by this state to provide benefits, funded by a
3 responsible employer or its insurance carrier, for occupational diseases or injuries or for
4 disability or death caused by occupational diseases or injuries.

5 (3) 'Asbestosis' means bilateral diffuse interstitial fibrosis of the lungs caused by
6 inhalation of asbestos.

7 (4) 'Board certified internist' means a qualified physician licensed to practice medicine
8 in this state who has treated or is treating the exposed person or has or had a
9 doctor-patient relationship with the exposed person and who is currently certified by the
10 American Board of Internal Medicine.

11 (5) 'Board certified pathologist' means a qualified physician licensed to practice medicine
12 in this state who holds primary certification in anatomic pathology or combined anatomic
13 or clinical pathology from the American Board of Pathology and whose professional
14 practice is principally in the field of pathology and involves regular evaluation of
15 pathology materials obtained from surgical or post-mortem specimens.

16 (6) 'Board certified pulmonologist' means a qualified physician licensed to practice
17 medicine in this state who has treated or is treating the exposed person or has or had a
18 doctor-patient relationship with the exposed person and who is currently certified by the
19 American Board of Internal Medicine in the subspecialty of pulmonary medicine.

20 (7) 'Certified B-reader' means a qualified physician who has successfully passed the
21 B-reader certification examination for X-ray interpretation sponsored by the National
22 Institute for Occupational Safety and Health and whose certification was current at the
23 time of any readings required by this chapter.

24 (8) 'Chest X-rays' means films taken in two views (PA and Lateral) and graded quality 1
25 for reading in accordance with the radiological standards established by the International
26 Labor Office, as interpreted by a certified B-reader.

27 (9) 'Claimant' means a party seeking recovery of damages for an asbestos claim or silica
28 claim, including the exposed person, any other plaintiff making a claim as a result of the
29 exposed person's exposure to asbestos or silica, counterclaimant, cross-claimant, or
30 third-party plaintiff. If a claim is brought through or on behalf of an estate, the term
31 includes the claimant's decedent; if a claim is brought through or on behalf of a minor or
32 incompetent, the term includes the claimant's parent or guardian.

33 (10) 'Exposed person' means any person whose exposure to asbestos or silica is the basis
34 for an asbestos claim or a silica claim.

35 (11) 'FEV-1' means forced expiratory volume in the first second, which is the maximal
36 volume of air expelled in one second during performance of simple spirometric tests.

1 (12) 'FVC' means forced vital capacity, which is the maximal volume of air expired with
2 maximum effort from a position of full inspiration.

3 (13) 'ILO system' means the radiological ratings of the International Labor Office set
4 forth in *Guidelines for the Use of ILO International Classification of Radiographs of*
5 *Pneumoconioses*, revised edition, as amended from time to time by the International
6 Labor Office.

7 (14) 'Lower limit of normal' means the fifth percentile of healthy populations based on
8 age, height, and gender, as referenced in the American Medical Association's *Guides to*
9 *the Evaluation of Permanent Impairment*, fifth edition.

10 (15) In the context of an asbestos claim, 'prima-facie evidence of physical impairment'
11 means:

12 (A) That a board certified pathologist has made a diagnosis of pleural or peritoneal
13 mesothelioma, or a diagnosis of cancer demonstrated by a medical report showing the
14 diagnosis as a primary cancer, and has signed a report certifying to a reasonable degree
15 of medical certainty that exposure to asbestos was a substantial contributing factor to
16 diagnosed cancer and that it was not more probably the result of causes other than the
17 asbestos exposure revealed by the exposed person's employment and medical histories;

18 (B) That a board certified internist, pulmonologist, or pathologist has signed a detailed
19 narrative medical report and diagnosis stating that the exposed person suffers from a
20 nonmalignant disease related to asbestos and that:

21 (i) Verifies that the doctor signing the detailed narrative medical report and diagnosis
22 or a medical professional employed by and under the direct supervision and control
23 of that doctor has taken:

24 (I) A detailed occupational and exposure history from the exposed person or, if that
25 person is deceased, from the person most knowledgeable about the exposures that
26 form the basis for the action. The history shall include all of the exposed person's
27 principal employments and his or her exposures to airborne contaminants that can
28 cause pulmonary impairment, including, but not limited to, asbestos, silica, and
29 other disease-causing dusts, and the nature, duration, and level of any such
30 exposure; and

31 (II) A detailed medical and smoking history that includes a thorough review of the
32 exposed person's past and present medical problems and their most probable cause;

33 (ii) Sets out the details of the occupational, medical, and smoking histories and
34 verifies that at least 15 years have elapsed between the exposed person's first
35 exposure to asbestos and the time of diagnosis;

36 (iii) Verifies that the exposed person has:

1 (I) An ILO quality 1 chest X-ray taken in accordance with all applicable state and
2 federal regulatory standards, and that the X-ray has been read by a certified
3 B-reader according to the ILO system of classification as showing bilateral small
4 irregular opacities (s, t, or u) graded 1/1 or higher or bilateral diffuse pleural
5 thickening graded b2 or higher including blunting of the costophrenic angle;
6 provided, however, that in a death case where no pathology is available, the
7 necessary radiologic findings may be made with a quality 2 film if a quality 1 film
8 is not available; or

9 (II) Pathological asbestosis graded 1(B) or higher under the criteria published in the
10 Asbestos-Associated Diseases, Special Issue of the *Archives of Pathological and*
11 *Laboratory Medicine*, Volume 106, Number 11, Appendix 3;

12 (iv) Verifies that the exposed person has pulmonary impairment related to asbestos
13 as demonstrated by pulmonary function testing, performed using equipment, methods
14 of calibration, and techniques that meet the criteria incorporated in the American
15 Medical Association's *Guides to the Evaluation of Permanent Impairment*, fifth
16 edition, and reported as set forth in 20 CFR 404, Subpt. P. App 1, Part (A) Section
17 3.00 (E) and (F), and the interpretative standards of the American Thoracic Society,
18 *Lung Function Testing: Selection of Reference Values and Interpretive Strategies*, 144
19 Am. Rev. Resp. Dis. 1202-1218 (1991), that shows:

20 (I) Forced vital capacity below the lower limit of normal and FEV1/FVC ratio,
21 using actual values, at or above the lower limit of normal; or

22 (II) Total lung capacity, by plethysmography or timed gas dilution, below the lower
23 limit of normal; and

24 (v) Verifies that the doctor signing the detailed narrative medical report and diagnosis
25 has concluded that exposure to asbestos was a substantial contributing factor to the
26 exposed person's medical condition and physical impairment and that they were not
27 more probably the result of other causes revealed by the exposed person's
28 employment and medical histories; or

29 (C) Copies of the B-reading, the pulmonary function tests, including printouts of the
30 flow volume loops and all other elements required to demonstrate compliance with the
31 equipment, quality, interpretation, and reporting standards set forth herein, and the
32 diagnosing physician's detailed narrative medical report and diagnosis shall be attached
33 to any complaint alleging nonmalignant disease related to exposure to asbestos. All
34 such reports, as well as all other evidence used to establish prima-facie evidence of
35 physical impairment, must meet objective criteria for generally accepted medical
36 standards related to exposure to asbestos and must not be obtained through testing or
37 examinations that violate any applicable law, regulation, licensing requirement, or

1 medical code of practice. Failure to attach the required reports or demonstration by any
2 party that the reports do not satisfy the standards set forth herein shall result in the
3 dismissal of the action, without prejudice, upon motion of any party.

4 (16) In the context of a silica claim, 'prima-facie evidence of physical impairment'
5 means:

6 (A) A written diagnosis of silica related lung cancer demonstrated by:

7 (i) A medical report showing the diagnosis as a diagnosis of a primary lung cancer;
8 and

9 (ii) A signed report certified by a board certified internist, pulmonologist, or
10 pathologist stating to a reasonable degree of medical probability that exposure to
11 silica was the cause of the diagnosed lung cancer with underlying silicosis
12 demonstrated by bilateral nodular opacities (p, q, or r) occurring primarily in the
13 upper lung fields, graded 1/1 or higher and not more probably the result of causes
14 other than the silica exposure revealed by the exposed person's employment and
15 medical histories;

16 (B) A written diagnosis of silica related progressive massive fibrosis or acute
17 silicoproteinosis; or silicosis complicated by documented tuberculosis, demonstrated
18 by a signed report certified by a board certified internist, pulmonologist, or pathologist;

19 (C) That a board certified internist, pulmonologist, or pathologist has signed a detailed
20 narrative medical report and diagnosis stating that the exposed person suffers from
21 other stages of nonmalignant disease related to silicosis other than those set forth in
22 subparagraphs (A) and (B) of this paragraph, and that:

23 (i) Verifies that the doctor signing the detailed narrative medical report and diagnosis
24 or a medical professional employed by and under the direct supervision and control
25 of that doctor has taken:

26 (I) A detailed occupational and exposure history from the exposed person or, if that
27 person is deceased, from the person most knowledgeable about the exposures that
28 form the basis for the action. The history shall include all of the exposed person's
29 principal employments and his or her exposures to airborne contaminants that can
30 cause pulmonary impairment, including, but not limited to, asbestos, silica, and
31 other disease-causing dusts, and the nature, duration, and level of any such
32 exposure; and

33 (II) A detailed medical and smoking history that includes a thorough review of the
34 exposed person's past and present medical problems and their most probable cause;

35 (ii) Sets out the details of the occupational, medical, and smoking histories and
36 verifies a sufficient latency period for the applicable stage of silicosis;

1 (iii) Verifies that the exposed person has at least Class 2 or higher impairment due
2 to silicosis, as set forth in the American Medical Association's *Guides to the*
3 *Evaluation of Permanent Impairment*, fifth edition, as amended from time to time;
4 and

5 (I) An ILO quality 1 chest X-ray taken in accordance with all applicable state and
6 federal regulatory standards, and that the X-ray has been read by a certified
7 B-reader according to the ILO system of classification as showing bilateral nodular
8 opacities (p, q, or r) occurring primarily in the upper lung fields, graded 1/1 or
9 higher; provided, however, that in a death case where no pathology is available, the
10 necessary radiologic findings may be made with a quality 2 film if a quality 1 film
11 is not available; or

12 (II) Pathological demonstration of classic silicotic nodules exceeding 1 centimeter
13 in diameter as set forth in *Archives of Pathological & Laboratory Medicine*, July,
14 1988; and

15 (iv) Verifies that the doctor signing the detailed narrative medical report and
16 diagnosis has concluded that the exposure to silica is a substantial contributing factor
17 to the exposed person's medical condition and physical impairment and that they were
18 not more probably the result of other causes revealed by the exposed person's
19 employment and medical history; or

20 (D) Copies of the B-reading, the pulmonary function tests, including printouts of the
21 flow volume loops and all other elements required to demonstrate compliance with the
22 equipment, quality, interpretation, and reporting standards set forth herein, and the
23 diagnosing physician's detailed narrative medical report and diagnosis shall be attached
24 to any complaint alleging nonmalignant disease related to exposure to silicosis. All such
25 reports, as well as all other evidence used to establish prima-facie evidence of physical
26 impairment, must meet objective criteria for generally accepted medical standards
27 related to exposure to silica and must not be obtained through testing or examinations
28 that violate any applicable law, regulation, licensing requirement, or medical code of
29 practice. Failure to attach the required reports or demonstration by any party that the
30 reports do not satisfy the standards set forth herein shall result in the dismissal of the
31 action, without prejudice, upon motion of any party.

32 (17) 'Qualified physician' means a medical doctor, who:

33 (A) Spends no more than 10 percent of his or her professional practice time in
34 providing consulting or expert services in connection with actual or potential civil
35 actions, and whose medical group, professional corporation, clinic, or other affiliated
36 group earns not more than 20 percent of its revenues from providing such services;

1 (B) Receives or received payment for the treatment of the exposed person from that
 2 person or from that person's health maintenance organization or other medical provider;
 3 and

4 (C) Does not require as a condition of diagnosing, examining, testing, screening, or
 5 treating the exposed person that legal services be retained by the exposed person or any
 6 other person pursuing an asbestos or silica claim based on the exposed person's
 7 exposure to asbestos or silica.

8 (18) 'Silica' means a group of naturally occurring crystalline forms of silicon dioxide,
 9 including, but not limited to, quartz and silica sand, whether in the form of respirable free
 10 silica or any quartz-containing or crystalline silica-containing dust, in the form of a
 11 quartz-containing by-product or crystalline silica-containing by-product, or dust released
 12 from individual or commercial use, release, or disturbance of silica sand, silicon dioxide,
 13 or crystalline-silica containing media, consumables, or materials.

14 (19) 'Silica claim' means any claim, wherever or whenever made, for damages, losses,
 15 indemnification, contribution, loss of consortium, or other relief arising out of, based on,
 16 or in any way related to the health effects of exposure to silica, including, but not limited
 17 to:

18 (A) Any claim for:

19 (i) Personal injury or death;

20 (ii) Mental or emotional injury;

21 (iii) Risk of disease or other injury; or

22 (iv) The costs of medical monitoring or surveillance, to the extent such claims are
 23 recognized under state law; and

24 (B) Any claim made by or on behalf of any exposed person or based on that exposed
 25 person's exposure to silica, including a representative, spouse, parent, child, or other
 26 relative of the exposed person.

27 For purposes of this chapter, 'silica claim' shall not mean a claim brought under a
 28 workers' compensation law administered by this state to provide benefits, funded by a
 29 responsible employer or its insurance carrier, for occupational diseases or injuries or for
 30 disability or death caused by occupational diseases or injuries.

31 (20) 'Silicosis' means nodular interstitial fibrosis of the lung produced by inhalation of
 32 silica.

33 (21) 'Total lung capacity' means the volume of gas contained in the lungs at the end of
 34 a maximal inspiration.

1 51-13-4.

2 (a) Prima-facie evidence of physical impairment of the exposed person as defined in
3 paragraph (15) or (16) of Code Section 51-1-3 shall be an essential element of an asbestos
4 claim or silica claim.

5 (b) No person shall bring or maintain a civil action alleging an asbestos claim or silica
6 claim in the absence of prima-facie evidence of physical impairment resulting from a
7 medical condition for which exposure to asbestos or silica was a substantial contributing
8 factor.

9 51-13-5.

10 Notwithstanding any other provision of law, with respect to any asbestos claim or silica
11 claim not barred as of the effective date of this chapter, the limitations period shall not
12 begin to run until the exposed person or any plaintiff making an asbestos claim or silica
13 claim based on the exposed person's exposure to asbestos or silica discovers, or through
14 the exercise of reasonable diligence should have discovered, that the exposed person is or
15 was physically impaired as defined in paragraph (15) or (16) of Code Section 51-1-3.

16 51-13-6.

17 (a) Any asbestos claim or silica claim pending in this state on the effective date of this
18 chapter shall be dismissed within 60 days of the effective date of this chapter without
19 prejudice unless:

20 (1) All parties stipulate by no less than 60 days prior to the commencement of trial that
21 the plaintiff has established prima-facie evidence of physical impairment with respect to
22 an asbestos claim or silica claim;

23 (2) The trial court in which the complaint was initially filed issues an order that the
24 plaintiff has established prima-facie evidence of physical impairment with respect to an
25 asbestos claim or silica claim. Such an order shall be issued only if the following
26 conditions and procedures are met:

27 (A) By no less than 60 days prior to the commencement of trial, the plaintiff files with
28 the trial court and serves on each defendant named in the complaint or on counsel
29 designated by each defendant the medical documentation necessary to establish
30 prima-facie evidence of physical impairment;

31 (B) Within 30 days of service of plaintiff's documentation establishing prima-facie
32 evidence of physical impairment, any defendant may file an opposition with the trial
33 court challenging plaintiff's prima-facie evidence of physical impairment. Defendant's
34 opposition shall be filed with the trial court and served on plaintiff's counsel and each
35 defendant;

1 (C) If a defendant does not file an opposition within the time permitted, the trial court
2 shall determine if the plaintiff has established prima-facie evidence of physical
3 impairment in a timely manner based on the papers and documentation submitted to the
4 trial court;

5 (D) If a defendant files an objection, then within ten days of service of defendant's
6 opposition, the plaintiff may file a reply with the trial court. The reply must be served
7 on each defendant; and

8 (E) The trial court shall determine if the plaintiff has established prima-facie evidence
9 of physical impairment in a timely manner based on the papers and documentation
10 submitted to the trial court. A hearing will be conducted only if the trial court so orders
11 on its own motion, or if, in the exercise of discretion, the trial court grants a party's
12 request for a hearing. No testimony shall be taken at the hearing. A decision of the trial
13 court not to grant a request for a hearing may not be appealed and does not constitute
14 reversible error. If the trial court determines that the plaintiff has failed to establish
15 prima-facie evidence of physical impairment, it shall dismiss the plaintiff's complaint
16 without prejudice; or

17 (3) In the event a trial is scheduled to commence in less than 60 days from the effective
18 date of this chapter, a trial court can shorten the deadlines contained in this subsection as
19 necessary in order to make a determination regarding the prima-facie evidence of
20 physical impairment before trial commences.

21 (b)(1) The plaintiff in any asbestos claim or silica claim filed in this state on or after the
22 effective date of this chapter shall file together with the complaint the medical
23 documentation necessary to establish prima-facie evidence of physical impairment. In
24 addition, the plaintiff's complaint shall allege with specificity that the plaintiff satisfies
25 the prima-facie evidence of physical impairment with respect to an asbestos claim or
26 silica claim.

27 (2) Within 90 days of service of plaintiff's complaint, any defendant may file an
28 opposition with the trial court challenging plaintiff's prima-facie evidence of physical
29 impairment. Defendant's opposition shall be filed with the trial court and served on
30 plaintiff's counsel and each defendant.

31 (3) If the defendant does not file an opposition challenging plaintiff's prima-facie
32 evidence of physical impairment within the time permitted, the trial court shall determine
33 if the plaintiff has established prima-facie evidence of physical impairment based on the
34 papers and documentation submitted to the trial court. The trial court's decision shall be
35 made in a timely manner.

1 (4) If the defendant files an objection, the plaintiff may file a reply with the trial court
2 within ten days of service of defendant's opposition. The reply must be served on each
3 defendant.

4 (5) The trial court shall determine if the plaintiff has established prima-facie evidence
5 of physical impairment with respect to an asbestos claim or silica claim in a timely
6 manner based on the papers and documentation submitted to the trial court. A hearing
7 will be conducted only if the trial court so orders on its own motion, or if, in the exercise
8 of discretion, the trial court grants a party's request for a hearing. No testimony shall be
9 taken at the hearing. A decision of the trial court not to grant a request for a hearing may
10 not be appealed and does not constitute reversible error. If the trial court determines that
11 the plaintiff has failed to establish prima-facie evidence of physical impairment, it shall
12 dismiss the plaintiff's complaint without prejudice.

13 51-13-7.

14 (a) All asbestos claims and silica claims filed in this state on or after the effective date of
15 this chapter shall include a sworn information form containing the following information:

16 (1) The exposed person's name, address, date of birth, social security number, and
17 marital status;

18 (2) If the exposed person alleges exposure to asbestos or silica through the testimony of
19 another person or other than by direct or bystander exposure to a product or products, the
20 name, address, date of birth, social security number, and marital status for each person
21 by which claimant alleges exposure, hereafter the 'index person,' and the claimant's
22 relationship to each person;

23 (3) The specific location of each alleged exposure;

24 (4) The specific asbestos-containing product or silica-containing product to which the
25 exposed person was exposed and the manufacturer of each product;

26 (5) The beginning and ending dates of each alleged exposure as to each
27 asbestos-containing product or silica-containing product for each location at which
28 exposure allegedly took place for plaintiff and for each index person;

29 (6) The occupation and name of employer of the exposed person at the time of each
30 alleged exposure;

31 (7) The specific condition related to asbestos or silica claimed to exist; and

32 (8) Any supporting documentation of the condition claimed to exist.

33 (b) All asbestos claims and silica claims along with sworn information forms must be
34 individually filed in separate civil actions except that claims relating to the exposure to
35 asbestos or silica for the same exposed person whose alleged injury is the basis for the civil

1 action may be joined in a single action. Otherwise, no claims on behalf of a group or class
2 of persons shall be joined in single civil action.

3 51-13-8.

4 (a) Until such time as the trial court enters an order determining that the plaintiff has
5 established prima-facie evidence of physical impairment, no asbestos claim or silica claim
6 shall be subject to discovery, except discovery related to establishing or challenging the
7 prima-facie evidence of physical impairment or by order of the trial court upon motion of
8 one of the parties and for good cause shown.

9 (b) The medical criteria set forth in this chapter to establish prima-facie evidence of
10 physical impairment are solely for the purpose of determining whether a claim meets the
11 criteria to proceed in court. The fact that a plaintiff satisfies the criteria necessary to
12 establish prima-facie evidence of physical impairment for an asbestos claim or silica claim
13 shall not be construed as an admission or determination that the exposed person in fact has
14 a condition related to exposure to asbestos or silica and shall not be cited, referred to, or
15 otherwise used at trial.

16 (c) Unless stipulated to by the parties, an expert report submitted for the purpose of
17 establishing or challenging prima-facie evidence of physical impairment is inadmissible
18 for any other purpose.

19 51-13-9.

20 (a) A civil action alleging an asbestos claim or silica claim may only be brought or
21 maintained in the courts of Georgia if the plaintiff is a resident of Georgia at the time of
22 filing the action or the exposure to asbestos or silica on which the claim is based occurred
23 in Georgia.

24 (b) The trial court, on motion of a defendant, shall dismiss each asbestos claim or silica
25 claim that is subject to this chapter against the defendant unless the plaintiff files a written
26 statement with the trial court electing to abate the plaintiff's claim against the defendant
27 for a period of 180 days from the date the trial court disposes of the defendant's motions
28 in order to afford the plaintiff an opportunity to file a new action on the claims in another
29 state of the United States.

30 (c) A trial court may not abate or dismiss a claim under this Code section until the
31 defendant files with the trial court or with the clerk of the court a written stipulation that,
32 with respect to a new action on the claim commenced by the plaintiff, the defendant waives
33 the right to assert a statute of limitations defense in all other states of the United States in
34 which the claim was not barred by limitations at the time the claim was filed in this state
35 as necessary to effect a tolling of the limitations periods in those states beginning on the

1 date the claim was filed in this state and ending on the date the claim is dismissed or the
2 period of abatement ends. The fact that a claim subject to this Code section was barred by
3 the statute of limitations in all other states of the United States at the time it was filed in
4 this state shall not prevent the claim from being dismissed pursuant to this Code section
5 and such claim shall be dismissed even if it can not be filed in another state. The trial court
6 may not abate or dismiss a claim under this Code section until the defendant files with the
7 trial court or with the clerk of the court a written stipulation that, with respect to a new
8 action on the claim commenced by the plaintiff in another state of the United States, the
9 plaintiff may elect that the plaintiff and the defendant may rely on responses to discovery
10 already provided under the Georgia Civil Practice Act, plus any additional discovery that
11 may be conducted under the rules of civil procedure in another state, or use responses to
12 discovery already provided and conduct additional discovery as permitted under the rules
13 of civil procedure in such other state.

14 (d) To comply with this Code section in relation to an action that involves both claims that
15 arose in this state and claims that arose outside this state, a trial court shall consider each
16 claim individually and shall sever from the action the claims that are subject to this Code
17 section.

18 (e) If a plaintiff alleges that the exposed person was exposed to asbestos or silica while
19 located in more than one jurisdiction, the trial court shall determine, for purposes of this
20 Code section, which of the jurisdictions is the most appropriate forum for the claim,
21 considering the relative amounts and lengths of the exposed person's exposure to asbestos
22 or silica in each jurisdiction.

23 51-13-10.

24 Notwithstanding any other provision of law, an asbestos claim or silica claim that meets
25 the requirements of this chapter permitting a claim to be filed in this state may only be filed
26 in the county where the plaintiff resides or the county in which the exposure to asbestos or
27 silica on which the claim is based occurred and that exposure was a substantial contributing
28 factor to the physical impairment of the exposed person on which the plaintiff's claim is
29 based. If a plaintiff alleges that an exposed person was exposed to asbestos or silica while
30 located in more than one county, the trial court shall determine which of the counties is the
31 most appropriate forum for the claim, considering the relative amounts and lengths of the
32 exposed person's exposure to asbestos or silica in each of those counties.

33 51-13-11.

34 A trial court may consolidate for trial any number and type of asbestos claims or silica
35 claims with the consent of all the parties. In the absence of such consent, the trial court may

1 consolidate for trial only asbestos claims or silica claims relating to the same exposed
2 person and members of his or her household."

3 **SECTION 2.**

4 In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared
5 or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other
6 sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full
7 force and effect as if the section, subsection, sentence, clause, or phrase so declared or
8 adjudged invalid or unconstitutional were not originally a part hereof. The General
9 Assembly declares that it would have passed the remaining parts of this Act if it had known
10 that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

11 **SECTION 3.**

12 This Act shall become effective upon its approval by the Governor or upon its becoming law
13 without such approval and applies to all asbestos claims or silica claims filed on or after the
14 effective date and to any pending asbestos claims or silica claims in which trial has not
15 commenced as of the effective date.

16 **SECTION 4.**

17 All laws and parts of laws in conflict with this Act are repealed.