

ASBESTOS: SUCCESSOR CORPORATION LIABILITY

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5167

Sponsor: Rep. Mark Meadows

Committee: Judiciary

Complete to 10-13-09

A SUMMARY OF HOUSE BILL 5167 AS INTRODUCED 6-25-09

Under the rule of successor liability, a successor corporation (one that acquires or merges with another) can be held liable for any civil actions filed against the business acquired (predecessor corporation), up to the total value of the successor corporation, even if it did nothing to create the liability or the liability had been created before the merger or acquisition.

House Bill 5167 would add Chapter 30, entitled “Limitation of Successor Asbestos-Related Liability,” to the Revised Judicature Act. The new section would limit the liability of a successor corporation that acquired or merged – before 1972 – with a predecessor corporation that had engaged in asbestos-related activities. Among other things, the bill would:

- Define several terms, including “asbestos claim,” “successor,” “successor asbestos-related liability,” and “transferor.”
- Apply the bill’s provisions to actions that include an asbestos claim that was filed on or after the bill’s effective date or that was pending but trial of the action had not begun as of the bill’s effective date.
- Apply the liability limitations to a corporation that became a successor before January 1, 1972, or that is a successor to such a corporation.
- Exclude from the liability limitations a claim for workers’ compensation benefits paid to an employee under the Worker’s Disability Compensation Act; a claim against a corporation that is not a successor asbestos-related liability; and an obligation under the National Labor Relations Act or under a collective bargaining agreement.
- Limit the cumulative successor asbestos-related liability of a corporation to the fair market value of the total gross assets of the transferor (as established in the bill) determined at the time of the merger or consolidation and adjusted as specified in the bill. The corporation would have no responsibility for successor asbestos-related liability in excess of this limitation.

- Require a court to liberally apply, to the fullest extent permissible, the limitation in liability under the bill in an action that included successor asbestos-related liability.
- Require procedural provisions of the bill to be applied retroactively. However, if an application of the bill would unconstitutionally affect a vested right, the provision would only be applied prospectively.
- Specify that the bill's provisions are severable.

MCL 600.3001

FISCAL IMPACT:

House Bill 5167 would have no fiscal impact on the judicial branch.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Ben Gielczyk

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.