

The FACT Act: Sunlight for the Asbestos Settlement Trust System

The FACT Act will ensure that asbestos trust funds, which currently hold over \$36 billion in assets for the benefit of current and future asbestos claimants, are protected from fraud and abuse and remain viable sources of compensation for legitimate future asbestos victims.

The Furthering Asbestos Claim Transparency (FACT) Act is simple, common-sense transparency legislation that would require asbestos trust funds to disclose information on their claims. Openness and transparency will help fix a broken system, discourage fraud, and ensure that funds meant to benefit legitimate future asbestos victims are not used to pay today's fraudulent and abusive claims.

- **Shrouded in Secrecy:** Asbestos trusts operate under strict self-imposed confidentiality rules and rarely share claims information with one another, let alone tort litigants or the public. As a result, independent experts at the GAO and RAND Corporation have concluded that the trusts are susceptible to fraud and abuse and may pay improper claims.
- **Subject to Fraud:** By designing and maintaining a trust system that operates in secret and parallel to, rather than in concert with, the tort system, the asbestos plaintiffs' bar has maximized current recoveries in both regimes at the expense of legitimate future victims. A federal court in North Carolina found that plaintiffs' attorneys are withholding and manipulating information on their clients' trust claims in order to increase tort settlements. Media investigations and litigation have also exposed inconsistent, illogical, and fraudulent claims against asbestos trusts, including claims alleging occupational exposures during childhood and claims filed on behalf of fictitious individuals.
- **Commercial:** Asbestos firms spend hundreds of millions of dollars per year on television and internet advertisements designed to cultivate trust and tort claims. Many asbestos firms' ads are calibrated to attract individuals whose cases would be difficult to successfully pursue in the traditional tort system, such as smokers stricken by lung cancer. Worse, it appears that some firms are so keen to profit from the trust system that they are willing to advance questionable claims. By drawing down the trusts' funds, questionable claims endanger future victims' trust recoveries and force still-solvent companies to assume liabilities that could otherwise be addressed by trusts.
- **The Solution:** Enact the FACT Act, which will require trusts to periodically disclose their claims and, by shining light on the system, discourage fraudulent, abusive and inconsistent claims.