

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 639
Judiciary

(Delegates Conway and Anderson)

Supersedeas Bonds - Limitation on Amount

This bill provides that if a defendant appeals a judgment entered in favor of a plaintiff in a civil case, the total amount of the supersedeas bond required collectively of all appellants to stay enforcement of the judgment may not exceed \$25 million, regardless of the amount of the judgment. If an appellee proves by a preponderance of the evidence that an appellant is dissipating assets outside the ordinary course of business to avoid paying a judgment, the court may require the appellant to post a bond in an amount up to the full amount of the judgment.

The bill applies to all civil actions pending on or filed on or after the October 1, 2005 effective date.

Fiscal Summary

State Effect: None.

Local Effect: None. The bill should not have a significant impact on circuit court workload or finances. The number of cases affected is expected to be minimal.

Small Business Effect: Minimal. The bill affects only those small businesses that become involved in litigation with a potential judgment over \$25 million.

Analysis

Current Law: Pursuant to the Maryland Rules, a party that appeals a judgment is required to post a bond, called a supersedeas bond, or other security, to stay execution on the judgment while the appeal is pending. When the judgment is for the recovery of

money that is not otherwise secured, the amount of the bond ordinarily is the sum that will cover the whole amount of the judgment remaining unsatisfied, plus interest and costs.

The court may require an increase or decrease in the amount of a bond, if good cause is shown.

Background: Many states have established laws requiring the posting of a supersedeas bond before a party may initiate an appeal of a final judgment. These bonds essentially protect plaintiffs from the possibility that a judgment cannot be enforced because the debtor has become insolvent. In some states, this bond requirement is statutorily defined and can be as high as one and a half times the judgment amount.

Several states have reformed their respective appeal bond laws, either by legislation or by amending their court rules: Arkansas, California, Colorado, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Jersey, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, and Wisconsin. In nearly each of these states, the effect of the reform law has been to limit appeal bonds by establishing specific statutory ceilings on the amount of an appeal bond, with many setting the limit at \$25 million, but several others setting the limits at \$50, \$100, and \$150 million.

Several other states, Connecticut, Maine, Massachusetts, New Hampshire, and Vermont, do not require appeal bonds.

Additional Information

Prior Introductions: HB 1436 of 2004, an identical bill, received an unfavorable report from the Judiciary Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

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mp/jr

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