

# HOUSE BILL 164

D3

(5lr1134)

## ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by **Delegate Dumais**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

### 2 **Judgments – Appeals – Supersedeas Bond**

3 FOR the purpose of limiting the amount of a supersedeas bond required to stay the  
4 enforcement of a judgment in a civil action; authorizing a court to reduce further the  
5 amount of a supersedeas bond; providing a procedure by which an appellee may seek  
6 discovery for the limited purpose of determining whether an appellant has dissipated  
7 or diverted assets under certain circumstances; *requiring a circuit court to retain*  
8 *jurisdiction over a certain action for a certain limited purpose*; authorizing a court to  
9 impose certain remedies and sanctions if an appellant is found to have dissipated or  
10 diverted assets; providing for the application of this Act; and generally relating to  
11 supersedeas bonds.

12 BY adding to  
13 Article – Courts and Judicial Proceedings  
14 Section 12–301.1

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#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



1 Annotated Code of Maryland  
2 (2013 Replacement Volume and 2014 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
4 That the Laws of Maryland read as follows:

5 Article – Courts and Judicial Proceedings

6 12-301.1.

7 (A) ~~(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION~~  
8 ~~SUBSECTION (D) OF THIS SECTION~~ AND NOTWITHSTANDING ANY OTHER LAW OR  
9 COURT RULE, IN A CIVIL ACTION THE AMOUNT OF THE SUPERSEDEAS BOND  
10 NECESSARY TO OBTAIN A STAY OF ENFORCEMENT OF A JUDGMENT GRANTING ANY  
11 TYPE OF RELIEF DURING THE ENTIRE COURSE OF ALL APPEALS OR DISCRETIONARY  
12 REVIEWS MAY NOT EXCEED THE LESSER OF ~~\$50,000,000~~ \$100,000,000 OR THE  
13 AMOUNT OF THE JUDGMENT FOR EACH APPELLANT, REGARDLESS OF THE AMOUNT  
14 OF THE JUDGMENT APPEALED.

15 ~~(2) (I) IN THIS PARAGRAPH, “SMALL BUSINESS” HAS THE MEANING~~  
16 ~~STATED IN THE FEDERAL SMALL BUSINESS ACT, 15 U.S.C. § 631 ET SEQ., AND~~  
17 ~~IMPLEMENTING REGULATIONS, 13 C.F.R. PT. 121.~~

18 ~~(II) THE AMOUNT OF THE SUPERSEDEAS BOND MAY NOT~~  
19 ~~EXCEED THE LESSER OF \$1,000,000 OR THE AMOUNT OF THE JUDGMENT FOR EACH~~  
20 ~~APPELLANT THAT IS A SMALL BUSINESS.~~

21 ~~(III) AN APPELLANT CLAIMING THE BENEFIT OF THIS~~  
22 ~~PARAGRAPH HAS THE BURDEN OF PROVING THAT THE APPELLANT IS A SMALL~~  
23 ~~BUSINESS.~~

24 (B) (1) IN A CIVIL ACTION A PARTY SEEKING A STAY OF EXECUTION OF A  
25 JUDGMENT OF ANY AMOUNT PENDING REVIEW MAY FILE A MOTION TO REDUCE THE  
26 AMOUNT OF A SUPERSEDEAS BOND REQUIRED TO OBTAIN THE STAY.

27 (2) A COURT, ON A MOTION UNDER PARAGRAPH (1) OF THIS  
28 SUBSECTION OR ON ITS OWN MOTION, MAY REDUCE THE AMOUNT OF A  
29 SUPERSEDEAS BOND OR MAY SET OTHER CONDITIONS TO OBTAIN THE STAY, WITH  
30 OR WITHOUT A BOND, IN THE INTEREST OF JUSTICE AND FOR GOOD CAUSE SHOWN.

31 (C) (1) IF AN APPELLANT POSTS A SUPERSEDEAS BOND IN ACCORDANCE  
32 WITH THIS SECTION FOR AN AMOUNT LESS THAN WOULD BE REQUIRED UNDER RULE  
33 8-423(B) OF THE MARYLAND RULES, THE APPELLEE MAY ENGAGE IN DISCOVERY  
34 FOR THE LIMITED PURPOSE OF DETERMINING WHETHER THE APPELLANT

1 DISSIPATED OR DIVERTED ASSETS OUTSIDE THE COURSE OF ITS ORDINARY  
2 BUSINESS OR IS IN THE PROCESS OF DOING SO.

3 **(2) THE CIRCUIT COURT SHALL RETAIN JURISDICTION OVER THE**  
4 **ACTION FOR THE LIMITED PURPOSE OF RULING ON ANY MOTIONS RELATING TO**  
5 **DISCOVERY UNDER PARAGRAPH (1) OF THIS SUBSECTION TO DETERMINE WHETHER**  
6 **THE DEFENDANT DISSIPATED OR DIVERTED ASSETS OUTSIDE THE COURSE OF ITS**  
7 **ORDINARY BUSINESS OR IS IN THE PROCESS OF DOING SO.**

8 (D) IF A COURT DETERMINES THAT AN APPELLANT DISSIPATED OR  
9 DIVERTED ASSETS OUTSIDE THE COURSE OF ITS ORDINARY BUSINESS OR IS IN THE  
10 PROCESS OF DOING SO, THE COURT MAY:

11 (1) ENTER ORDERS NECESSARY TO PROTECT THE APPELLEE;

12 (2) REQUIRE THE APPELLANT TO POST A SUPERSEDEAS BOND IN AN  
13 AMOUNT NOT EXCEEDING THE AMOUNT THAT WOULD BE REQUIRED UNDER RULE  
14 8-423(B) OF THE MARYLAND RULES; AND

15 (3) IMPOSE OTHER REMEDIES AND SANCTIONS THAT THE COURT  
16 CONSIDERS APPROPRIATE.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall ~~apply to any~~  
18 ~~civil action pending on or filed on or after~~ be construed to apply only prospectively and may  
19 not be applied or interpreted to have any effect on or application to any civil action filed  
20 before the effective date of this Act.

21 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 2015.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.