

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1333
Judiciary

(Delegate Conway, *et al.*)

Supersedeas Bonds - Limitation on Amount and Expedited Appeal

This bill imposes a limit of \$75 million, notwithstanding any other law or court rule, on a supersedeas bond required to stay enforcement of a judgment in an appeal from a judgment entered in favor of the plaintiffs in a class action or in an action by multiple plaintiffs in which damages are proved for the plaintiffs as a group, not individually, regardless of the amount of the judgment.

For all other cases, the bill also provides for an expedited appeal if an appellant is required to file a supersedeas bond in excess of \$75 million in order to stay the execution of a judgment pending appeal.

Fiscal Summary

State Effect: Any increase in State expenditures to conduct hearings or expedited appeals as a result of this bill could be handled with the existing resources of the Judiciary.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: In class actions and related actions, a court may require appellants to post a bond in an amount up to the full 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 the payment of a judgment.

For cases other than the ones described above, the Court of Special Appeals must decide the appellant's appeal on the merits within six months of the date on which the notice of appeal was filed and served, if the appellant had to file a supersedeas bond for an amount that exceeded \$75 million in order to stay the judgment pending appeal. The Court of Special Appeals must provide parties in these cases the fullest opportunities for briefing and oral argument under the Maryland Rules. The limitations on briefing and oral argument pertaining to adoption, guardianship, child access, and child in need of assistance cases do not apply to these appeals.

Current Law: In general, an appellant may stay the enforcement of a civil judgment from which an appeal is taken by filing a supersedeas bond or alternative security with the clerk of the lower court. The bond or security may be filed at any time before satisfaction of the judgment, but the enforcement is stayed from the time the security is filed. Usually the amount of the supersedeas bond is the sum that will cover the whole amount of the unsatisfied portion of the money judgment, plus interest, costs, and damages entered or awarded on appeal.

Supersedeas bonds are typically filed with and approved by the clerk of the court and must contain a surety, unless otherwise expressly provided. If a clerk refuses to approve a bond, or an adverse party objects in writing to the bond, the court may approve the bond after notice and a hearing, if necessary. Courts may require an increase or decrease in the face amount of a bond for good cause shown.

Under Rule 2-632, courts have the authority to enter a stay pending appeal without the filing of a supersedeas bond if the court determines that the nature of the action warrants the exception.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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ncs/jr

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