

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 1372

(Delegate Conway, *et al.*)

Judiciary

Judgments - Appeals - Supersedeas Bond

This bill imposes a limit of \$100 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.

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.

The bill applies to all civil actions pending on or filed on or after the bill's October 1, 2009 effective date.

Fiscal Summary

State Effect: Any increase in State expenditures to conduct hearings resulting from this bill can be handled with the existing resources of the Judiciary.

Local Effect: None.

Small Business Effect: None.

Analysis

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 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.

Background: The filing of an appeal does not, in and of itself, stay the execution of a judgment in a civil case. To stay execution of a judgment pending appeal, courts often require the filing of a supersedeas bond – bonds to secure a judgment (*i.e.*, supersede the judgment) of money or property pending appeal. The filing of a supersedeas bond to stay the execution of a judgment pending appeal has historically been considered a feature of common law.

Debate continues in the legal community as to the wisdom of continuing the requirement of filing a supersedeas bond as more lenders leave the market and the availability of these bonds decreases.

Additional Information

Prior Introductions: HB 807 of 2007 received an unfavorable report from the House Judiciary Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), *The Maryland Daily Record*, Department of Legislative Services

Fiscal Note History: First Reader - March 16, 2009
mcp/kdm

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