

SENATE BILL 301

D3

5lr2512
CF HB 164

By: **Senator Feldman**

Introduced and read first time: February 5, 2015

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 8, 2015

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

15 Annotated Code of Maryland

16 (2013 Replacement Volume and 2014 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

18 That the Laws of Maryland read as follows:

19 **Article – Courts and Judicial Proceedings**

20 **12–301.1.**

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.



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

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

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

15 ~~(III) AN APPELLANT CLAIMING THE BENEFIT OF THIS~~
16 ~~PARAGRAPH HAS THE BURDEN OF PROVING THAT THE APPELLANT IS A SMALL~~
17 ~~BUSINESS.~~

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

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

25 (C) (1) IF AN APPELLANT POSTS A SUPERSEDEAS BOND IN ACCORDANCE
26 WITH THIS SECTION FOR AN AMOUNT LESS THAN WOULD BE REQUIRED UNDER RULE
27 8-423(B) OF THE MARYLAND RULES, THE APPELLEE MAY ENGAGE IN DISCOVERY
28 FOR THE LIMITED PURPOSE OF DETERMINING WHETHER THE APPELLANT
29 DISSIPATED OR DIVERTED ASSETS OUTSIDE THE COURSE OF ITS ORDINARY
30 BUSINESS OR IS IN THE PROCESS OF DOING SO.

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

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

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

5 (2) REQUIRE THE APPELLANT TO POST A SUPERSEDEAS BOND IN AN
6 AMOUNT NOT EXCEEDING THE AMOUNT THAT WOULD BE REQUIRED UNDER RULE
7 8-423(B) OF THE MARYLAND RULES; AND

8 (3) IMPOSE OTHER REMEDIES AND SANCTIONS THAT THE COURT
9 CONSIDERS APPROPRIATE.

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.