

SENATE BILL 301

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5lr2512
CF HB 164

By: **Senator Feldman**

Introduced and read first time: February 5, 2015

Assigned to: Judicial Proceedings

A BILL ENTITLED

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; authorizing a court to impose certain
8 remedies and sanctions if an appellant is found to have dissipated or diverted assets;
9 providing for the application of this Act; and generally relating to supersedeas bonds.

10 BY adding to

11 Article – Courts and Judicial Proceedings

12 Section 12–301.1

13 Annotated Code of Maryland

14 (2013 Replacement Volume and 2014 Supplement)

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

17 **Article – Courts and Judicial Proceedings**

18 **12–301.1.**

19 **(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION**
20 **AND NOTWITHSTANDING ANY OTHER LAW OR COURT RULE, IN A CIVIL ACTION THE**
21 **AMOUNT OF THE SUPERSEDEAS BOND NECESSARY TO OBTAIN A STAY OF**
22 **ENFORCEMENT OF A JUDGMENT GRANTING ANY TYPE OF RELIEF DURING THE**
23 **ENTIRE COURSE OF ALL APPEALS OR DISCRETIONARY REVIEWS MAY NOT EXCEED**
24 **THE LESSER OF \$50,000,000 OR THE AMOUNT OF THE JUDGMENT FOR EACH**
25 **APPELLANT, REGARDLESS OF THE AMOUNT OF THE JUDGMENT APPEALED.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

4 **(II) THE AMOUNT OF THE SUPERSEDEAS BOND MAY NOT**
5 **EXCEED THE LESSER OF \$1,000,000 OR THE AMOUNT OF THE JUDGMENT FOR EACH**
6 **APPELLANT THAT IS A SMALL BUSINESS.**

7 **(III) AN APPELLANT CLAIMING THE BENEFIT OF THIS**
8 **PARAGRAPH HAS THE BURDEN OF PROVING THAT THE APPELLANT IS A SMALL**
9 **BUSINESS.**

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

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

17 **(C) IF AN APPELLANT POSTS A SUPERSEDEAS BOND IN ACCORDANCE WITH**
18 **THIS SECTION FOR AN AMOUNT LESS THAN WOULD BE REQUIRED UNDER RULE**
19 **8-423(B) OF THE MARYLAND RULES, THE APPELLEE MAY ENGAGE IN DISCOVERY**
20 **FOR THE LIMITED PURPOSE OF DETERMINING WHETHER THE APPELLANT**
21 **DISSIPATED OR DIVERTED ASSETS OUTSIDE THE COURSE OF ITS ORDINARY**
22 **BUSINESS OR IS IN THE PROCESS OF DOING SO.**

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

26 **(1) ENTER ORDERS NECESSARY TO PROTECT THE APPELLEE;**

27 **(2) REQUIRE THE APPELLANT TO POST A SUPERSEDEAS BOND IN AN**
28 **AMOUNT NOT EXCEEDING THE AMOUNT THAT WOULD BE REQUIRED UNDER RULE**
29 **8-423(B) OF THE MARYLAND RULES; AND**

30 **(3) IMPOSE OTHER REMEDIES AND SANCTIONS THAT THE COURT**
31 **CONSIDERS APPROPRIATE.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to any
2 civil action pending on or filed on or after the effective date of this Act.

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