

Supersedeas Bonds; SB 199

SB 199 amends law concerning stay of enforcement of a judgment while on appeal. The law specifies that if an appellant seeks such a stay, the *supersedeas* bond shall be set at the full amount of the judgment, subject to certain limitations where the appellant can prove an undue hardship or denial of the right to an appeal. The bill creates a rebuttable presumption that an appellant will suffer an undue hardship when the judgment amount exceeds \$2.5 million, the defendant is a small business, and judgment is for a claim arising from activities within the appellant's ordinary course of business. For these purposes, "small business" means a sole proprietorship, partnership, limited liability company, corporation, or other business entity, whether for-profit or not-for-profit, with between 2 and 50 employees that is not a corporate affiliate or subsidiary of, or owned in whole or in part by, any other business. The bill also limits the amount of any *supersedeas* bond to no more than \$25.0 million, regardless of the full amount of judgment.

In addition to a continuing exception to limitations on the amount of a *supersedeas* bond applicable where the appellee proves the appellant is purposefully dissipating or diverting its assets, the bill adds an exception where the appellee proves the appellant is likely to purposefully dissipate or divert assets outside of the ordinary course of its business. The bill specifies the court may enter orders necessary to stop dissipation and diversion of assets when an appellee proves the dissipation or diversion or likely dissipation or diversion was for the primary purpose of avoiding ultimate payment of the judgment. This replaces language stating these limitations would not apply if the court makes a finding on the record that the appellant bringing the appeal is likely to disburse assets reasonably necessary to satisfy the judgment and allowing the court to increase the amount of such bond required not to exceed the full amount of the judgment.

The bill applies to any proceeding filed on or after the effective date of the bill.