

SESSION OF 2005

**CONFERENCE COMMITTEE REPORT BRIEF
SUBSTITUTE FOR HOUSE BILL NO. 2457**

As Agreed to April 1, 2005

Brief *

Substitute for HB 2457 would amend the law dealing with appeals of judgments and supersedeas bonds. The bill also would amend the Code of Civil Procedure to update a statute regarding service of process by replacing "certified mail" with "return receipt delivery."

The bill would provide that when a person (appellant) appeals from any form of judgment based on any legal theory and seeks a stay of enforcement of the judgment during the period of appeal, the supersedeas bond shall be set at the full amount of the judgement. If the appellant proves by a preponderance of the evidence that setting the supersedeas bond at the full amount of the judgement will result in the appellant suffering an undue hardship or a denial of the right to an appeal, then the court may reduce the amount of the supersedeas bond as follows.

- if the judgment is less than or equal to \$1,000,000 in value, the supersedeas bond shall be set at the full amount of judgement; or
- if the judgment exceeds \$1,000,000 in value, the supersedeas bond shall be set at a total of \$1,000,000 plus 25 percent of the amount in excess of \$1,000,000.

The limitations on the amount of a supersedeas bond established above shall not apply if:

- The person who obtained the judgment proves by a preponderance of the evidence that the appellant bringing the appeal is purposefully dissipating or diverting assets outside the ordinary

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course of its business for the purpose of avoiding ultimate payment of the judgment. In this event, the court may enter orders as are necessary to stop the dissipation and diversion of assets, including a requirement that the appellant post a bond in the full amount of the judgment; or

- 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 in such event, the court may increase the amount of the bond required not to exceed the full amount of the judgment.

A court may set a supersedeas bond in a lower amount as may be otherwise required by law or for good cause shown.

Conference Committee Action

The Conference Committee agreed to the changes in the amounts of judgements as described above.

Background

A conferee from the Judicial Council spoke in favor of the bill.

The fiscal note on the substitute bill was not available when the bill passed out of committee.