Florida Senate - 2006

By the Committee on Judiciary; and Senator Webster

590-2479-06 1 A bill to be entitled 2 An act relating to supersedeas bond; creating s. 768.734, F.S.; limiting the amount of 3 supersedeas bond required for certain 4 5 appellants; providing that a party may move the б court to reduce the supersedeas bond; providing 7 an exception to limits if an appellant engages 8 in certain conduct for the purpose of avoiding 9 payment of the judgment; providing an effective 10 date. 11 Be It Enacted by the Legislature of the State of Florida: 12 13 Section 1. Section 768.734, Florida Statutes, is 14 created to read: 15 16 768.734 Limitations on supersedeas bond; exception.--17 (1) Except for certified class actions subject to s. 18 768.733, in any civil action brought under any legal theory, the amount of a supersedeas bond necessary to obtain an 19 automatic stay of execution of a judgment granting any type of 20 21 relief during the entire course of all appeals or 22 discretionary reviews, may not exceed \$50 million for each 23 appellant, regardless of the amount of the judgment appealed. The \$50-million figure shall be adjusted annually to reflect 2.4 changes in the Consumer Price Index. 25 (2) In any civil action brought under any legal 26 27 authority theory, a party seeking a stay of execution pending 2.8 review of a judgment of any amount may move the court to reduce the amount of a supersedeas bond required to obtain 29 such a stay. The court, in the interest of justice and for 30 good cause shown, may reduce the supersedeas bond or may set 31

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1 other conditions for the stay with or without a bond. The 2 court may not reduce the supersedeas bond if the appellant has an insurance or indemnification policy applicable to the case. 3 4 This subsection does not apply to certified class actions 5 subject to s. 768.733. б (3) If an appellant has posted a supersedeas bond for 7 an amount less than that which would be required for an automatic stay pursuant to Rule 9.310(b)(1), Florida Rules of 8 Appellate Procedure, the appellee may engage in discovery for 9 10 the limited purpose of determining whether the appellant has dissipated or diverted assets outside the course of its 11 12 ordinary business or is in the process of doing so. 13 (4) If the trial or appellate court determines that an appellant has dissipated or diverted assets outside the course 14 of its ordinary business or is in the process of doing so, the 15 16 court may enter orders necessary to protect the appellee, 17 require the appellant to post a supersedeas bond in an amount 18 up to, but not more than, the amount that would be required for an automatic stay pursuant to Rule 9.310(b)(1), Florida 19 Rules of Appellate Procedure, and impose other remedies and 2.0 21 sanctions as the court deems appropriate. 22 Section 2. This act shall take effect July 1, 2006. 23 2.4 25 26 27 2.8 29 30 31

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CS for SB 2250

1 2	STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR <u>Senate Bill 2250</u>
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4 5 6	Increases the maximum amount of a supersedeas bond necessary to stay execution pending review of a judgment from \$25 million for all appellants in the aggregate to \$50 million for each appellant.
7 8	Deletes the provision requiring a lower maximum amount for a supersedeas bond if the appellant is an individual or independently owned and operated business with 400 or fewer employees.
9 10	Permits the court to reduce the amount of the bond or to set other conditions for the stay with or without bond in certain circumstances.
11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26	Authorizes limited discovery for the purpose of determining whether an appellant has dissipated or diverted assets outside the course of its ordinary business or is in the process of doing so if the amount of the supersedeas bond posted is less than that which would be required under Rule 9.310(b)(1), Florida Rules of Appellate Procedure. Expands the remedies available to the court if the court determines that an appellant has dissipated or diverted assets outside the course of its ordinary business or is in the process of doing so to permit the court to impose other remedies and sanctions as the court deems appropriate.
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