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LEGISLATIVE ACTION

Senate

.

House

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Floor: 1/AD/2R

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04/30/2009 05:07 PM

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Senator Haridopolos moved the following:

Senate Amendment (with title amendment)

Delete lines 19 - 172

and insert:

Section 1. (1) It is the intent of the Legislature to amend s. 569.23, Florida Statutes, to prescribe the security required to be provided to stay the execution of a judgment in a civil action against a signatory, or successor, parent, or affiliate of a signatory, to a tobacco settlement agreement brought by or on behalf of persons who claim or have been determined to be members of a former class action that was decertified in whole or in part.



719218

13 (2) It is further the intent of the Legislature that:

14 (a) The security shall be provided through the posting with
15 or payment into the registry of the clerk of the Supreme Court
16 of a supersedeas bond, other surety, or cash.

17 (b) The security shall apply during the pendency of all
18 appeals or discretionary appellate reviews in Florida courts.

19 (c) The total amount of security that must be provided by
20 all appellants collectively in a single judgment is based upon
21 the total number of judgments by circuit courts of this state on
22 appeal at the time the security is provided. In cases having
23 multiple appellants, an individual appellant shall provide
24 security with respect to the percent or amount of liability
25 specifically allocated against that appellant in the judgment,
26 or, if liability is not specifically allocated in the judgment,
27 for a share of the unallocated portion of the judgment
28 determined by dividing the judgment equally among all
29 appellants. A judgment may not be stayed until the entire amount
30 of security required by all appellants collectively is provided.

31 (d) The amount of security shall be tiered using the
32 following number ranges of judgments on appeal:

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	<u>AMOUNT OF</u>	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>NUMBER</u>	<u>SECURITY</u>	<u>TOTAL</u>	<u>TOTAL</u>
<u>OF JUDGMENTS</u>	<u>PER JUDGMENT</u>	<u>ALL SECURITY</u>	<u>ALL SECURITY</u>
<u>1-80</u>	<u>\$2,500,000</u>	<u>\$2,500,000</u>	<u>\$200,000,000</u>

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38	<u>81-100</u>	<u>\$2,000,000</u>	<u>\$162,000,000</u>	<u>\$200,000,000</u>
39	<u>101-150</u>	<u>\$1,333,333</u>	<u>\$134,666,633</u>	<u>\$199,999,950</u>
40	<u>151-200</u>	<u>\$1,000,000</u>	<u>\$151,000,000</u>	<u>\$200,000,000</u>
41	<u>201-300</u>	<u>\$666,667</u>	<u>\$134,000,067</u>	<u>\$200,000,000</u>
42	<u>301-500</u>	<u>\$400,000</u>	<u>\$120,000,000</u>	<u>\$200,000,000</u>
43	<u>501-1000</u>	<u>\$200,000</u>	<u>\$100,000,000</u>	<u>\$200,000,000</u>
44	<u>1001-2000</u>	<u>\$100,000</u>	<u>\$100,000,000</u>	<u>\$200,000,000</u>
45	<u>2001-3000</u>	<u>\$66,667</u>	<u>\$133,334,000</u>	<u>\$200,000,001</u>

46 (e) When the number of judgments on appeal changes so that
47 the total is within a larger or smaller range, a party may
48 petition the court to change the security amount consistent with
49 the statutory appeal bond rights prescribed in this act. If the
50 amount of security on deposit is changed by the court, the
51 security shall be modified as follows:

52 1. If the security on deposit is in the form of a
53 supersedeas bond or other surety, the appellant shall replace
54 that supersedeas bond or other surety with security in the new
55 amount as required by this act.

56 2. If the security on deposit is in the form of cash, the
57 clerk of the Supreme Court shall, as appropriate:

58 a. Refund to the appellant the difference between the



719218

59 amount of security on deposit and the reduced amount of security
60 required;

61 b. Hold the difference for future judgments against that
62 appellant; or

63 c. Record any additional cash provided by the appellant
64 consistent with a court order.

65 (f) Any security provided by an appellant for any single
66 judgment is intended to secure the collection of that judgment
67 against the appellant in cases covered by this act. A claim may
68 not be made against such security unless an appellant fails to
69 pay a judgment in a case covered by this act within 30 days
70 after the judgment becomes final. For purposes of this act, a
71 judgment is "final" following the completion of all appeals or
72 discretionary appellate reviews, including reviews by the United
73 States Supreme Court. If an appellant fails to pay a judgment
74 within such time period:

75 1. Any stay of execution required in favor of the appellant
76 under this act shall be immediately lifted by operation of law,
77 unless a stay is provided pursuant to some other provision of
78 law, rule of court, or judicial order; or

79 2. Any appellee against whom a stay of execution of any
80 single judgment against the appellant was in effect under this
81 act may petition the trial court or the Supreme Court for an
82 order directing the clerk of the Supreme Court to make equitable
83 distribution of such security to the appellee whose judgment
84 against such appellant was secured by operation of this act.

85 (g) The clerk of the Supreme Court shall collect fees for
86 receipt of deposits under this act as authorized by ss. 28.231
87 and 28.24(10) (a). In addition, for as long as any cash remains



719218

88 on deposit with the clerk, the clerk of the Supreme Court is
89 entitled to regularly receive as an additional fee, the net
90 investment income earned thereon. The clerk shall use the
91 services of the Chief Financial Officer, as needed, for the
92 custody and management of all bonds, other surety, or cash
93 posted or deposited with the clerk. All fees collected under
94 this act shall be deposited into the State Courts Revenue Trust
95 Fund for use as specified by law.

96 (3) It is further the intent of the Legislature to allow a
97 court to order a specific defendant that dissipates assets in
98 order to avoid payment of a judgment to increase the surety for
99 that defendant.

100 (4) It is further the intent of the Legislature that s.
101 569.23, Florida Statutes, expire on December 31, 2012.

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103 ===== T I T L E A M E N D M E N T =====

104 And the title is amended as follows:

105
106 Delete lines 3 - 14
107 and insert:
108 expressing legislative intent to amend s. 569.23,
109 F.S., relating to appeal bond requirements for certain
110 cigarette manufacturers; expressing legislative intent
111 relating to security necessary to stay execution of
112 judgments in actions by certain former class action
113 members, the form of the security, the level of
114 appeals to which the security is applicable, the
115 amount of the security based on the number of appeals,
116 changes in the amount of security based on changes in



719218

117 the number of appeals, claims against the security,
118 and maintenance of the security by the clerk of the
119 Supreme Court; expressing legislative intent to
120 authorize a court to increase the security if assets
121 are dissipated; expressing the legislative intent to
122 provide for the future expiration of s. 569.23, F.S.;