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1 A bill to be entitled
2 An act relating to tobacco settlement agreements;
3 expressing legislative intent to amend s. 569.23,
4 F.S., relating to appeal bond requirements for certain
5 cigarette manufacturers; expressing legislative intent
6 relating to security necessary to stay execution of
7 judgments in actions by certain former class action
8 members, the form of the security, the level of
9 appeals to which the security is applicable, the
10 amount of the security based on the number of appeals,
11 changes in the amount of security based on changes in
12 the number of appeals, claims against the security,
13 and maintenance of the security by the clerk of the
14 Supreme Court; expressing legislative intent to
15 authorize a court to increase the security if assets
16 are dissipated; expressing the legislative intent to
17 provide for the future expiration of s. 569.23, F.S.;
18 providing an effective date.

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20 Be It Enacted by the Legislature of the State of Florida:

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

20092198e1

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

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

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

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

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

<u>NUMBER</u>	<u>AMOUNT OF SECURITY</u>	<u>MINIMUM TOTAL</u>	<u>MAXIMUM 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>

20092198e1

55	<u>81-100</u>	<u>\$2,000,000</u>	<u>\$162,000,000</u>	<u>\$200,000,000</u>
56	<u>101-150</u>	<u>\$1,333,333</u>	<u>\$134,666,633</u>	<u>\$199,999,950</u>
57	<u>151-200</u>	<u>\$1,000,000</u>	<u>\$151,000,000</u>	<u>\$200,000,000</u>
58	<u>201-300</u>	<u>\$666,667</u>	<u>\$134,000,067</u>	<u>\$200,000,000</u>
59	<u>301-500</u>	<u>\$400,000</u>	<u>\$120,000,000</u>	<u>\$200,000,000</u>
60	<u>501-1000</u>	<u>\$200,000</u>	<u>\$100,000,000</u>	<u>\$200,000,000</u>
61	<u>1001-2000</u>	<u>\$100,000</u>	<u>\$100,000,000</u>	<u>\$200,000,000</u>
62	<u>2001-3000</u>	<u>\$66,667</u>	<u>\$133,334,000</u>	<u>\$200,000,001</u>

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

69 1. If the security on deposit is in the form of a
 70 supersedeas bond or other surety, the appellant shall replace
 71 that supersedeas bond or other surety with security in the new
 72 amount as required by this act.

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

75 a. Refund to the appellant the difference between the

20092198e1

76 amount of security on deposit and the reduced amount of security
77 required;

78 b. Hold the difference for future judgments against that
79 appellant; or

80 c. Record any additional cash provided by the appellant
81 consistent with a court order.

82 (f) Any security provided by an appellant for any single
83 judgment is intended to secure the collection of that judgment
84 against the appellant in cases covered by this act. A claim may
85 not be made against such security unless an appellant fails to
86 pay a judgment in a case covered by this act within 30 days
87 after the judgment becomes final. For purposes of this act, a
88 judgment is "final" following the completion of all appeals or
89 discretionary appellate reviews, including reviews by the United
90 States Supreme Court. If an appellant fails to pay a judgment
91 within such time period:

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

96 2. Any appellee against whom a stay of execution of any
97 single judgment against the appellant was in effect under this
98 act may petition the trial court or the Supreme Court for an
99 order directing the clerk of the Supreme Court to make equitable
100 distribution of such security to the appellee whose judgment
101 against such appellant was secured by operation of this act.

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

20092198e1

105 on deposit with the clerk, the clerk of the Supreme Court is
106 entitled to regularly receive as an additional fee, the net
107 investment income earned thereon. The clerk shall use the
108 services of the Chief Financial Officer, as needed, for the
109 custody and management of all bonds, other surety, or cash
110 posted or deposited with the clerk. All fees collected under
111 this act shall be deposited into the State Courts Revenue Trust
112 Fund for use as specified by law.

113 (3) It is further the intent of the Legislature to allow a
114 court to order a specific defendant that dissipates assets in
115 order to avoid payment of a judgment to increase the surety for
116 that defendant.

117 (4) It is further the intent of the Legislature that s.
118 569.23, Florida Statutes, expire on December 31, 2012.

119 Section 2. This act shall take effect upon becoming a law,
120 and applies to all judgments entered on or after that date.