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SENATE BILL 335

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Richard C. Martinez

AN ACT

RELATING TO COURTS; ESTABLISHING A MAXIMUM BOND AMOUNT ON
SUPERSEDEAS BONDS REQUIRED OF SIGNATORIES OF THE TOBACCO MASTER
SETTLEMENT AGREEMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 39-3-22 NMSA 1978 (being Laws 1917,
Chapter 43, Section 17, as amended) is amended to read:

"39-3-22. SUPERSEDEAS AND STAY IN CIVIL ACTIONS.--

A. There shall be no supersedeas or stay of
execution upon any final judgment or decision of the district
court in any civil action in which an appeal has been taken or
a writ of error sued out unless the appellant or plaintiff in
error, or some responsible person for ~~him~~ the appellant or
plaintiff in error, within sixty days from the entry of the
judgment or decision, executes a bond to the adverse party in

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1 double the amount of the judgment complained of, with
2 sufficient sureties, and approved by the clerk of the district
3 court in case of appeals or by the clerk of the supreme court
4 in case of writ of error. The bond shall be conditioned for
5 the payment of the judgment and all costs that may be finally
6 adjudged against ~~him~~ the appellant or plaintiff in error if
7 the appeal or writ of error is dismissed or the judgment or
8 decision of the district court is affirmed. The district
9 court, for good cause shown, may grant the appellant not to
10 exceed thirty days' additional time within which to file the
11 bond, and a like extension of time may be granted by the
12 supreme court in cases of writs of error upon a like showing.

13 B. If the decision appealed from, or from which a
14 writ of error is sued out, is for a recovery other than a fixed
15 amount of money, the amount of the bond, if any, shall be fixed
16 by the district court if an appeal is taken or, in case of a
17 writ of error, by the chief justice or any justice of the
18 supreme court, conditioned that the appellant or plaintiff in
19 error shall prosecute the appeal or writ of error with
20 diligence and that if the decision of the district court is
21 affirmed or the appeal or writ of error is dismissed, ~~he~~ the
22 appellant or plaintiff in error will comply with the judgment
23 of the district court and pay all damages and costs finally
24 adjudged against ~~him~~ the appellant or plaintiff in error in
25 the district court and in the supreme court or court of appeals

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1 on the appeal or writ of error, including any legal damages
2 caused by taking the appeal, whether the damages are assessed
3 upon motion in the cause or in a civil action on the bond.

4 C. In order to secure and protect the money to be
5 received as a result of the master settlement agreement, as
6 defined in Subsection E of Section 6-4-12 NMSA 1978, in any
7 civil action involving a signatory, a successor of a signatory
8 or any affiliate of a signatory to the master settlement
9 agreement, the supersedeas bond required of all appellants
10 collectively in order to stay the execution of a judgment
11 during the entire course of appellate review shall not exceed
12 twenty-five million dollars (\$25,000,000), regardless of the
13 amount of the judgment. However, if an appellee proves by a
14 preponderance of the evidence that an appellant whose bond has
15 been limited to twenty-five million dollars (\$25,000,000) is
16 dissipating assets outside the ordinary course of business to
17 avoid payment of a judgment, a court may require the appellant
18 to post a supersedeas bond in an amount required pursuant to
19 Subsections A and B of this section.

20 [~~C.~~] D. Upon approval of a bond provided for in
21 this section and upon filing the bond, in case of appeal with
22 the clerk of the district court and in case of writ of error
23 with the clerk of the supreme court, there shall be a stay of
24 proceedings in the action until the appeal or writ of error is
25 finally determined.

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[D-] E. In all cases where an appeal has been taken or a writ of error sued out against any interlocutory judgment, order or decision of the district court, from any final order affecting a substantial right made after entry of a final judgment or from any proceeding or conviction of civil contempt, supersedeas may be granted under the provisions of this section, but the bond shall be filed within thirty days from the entry of such judgment, order, decision or conviction and no extension of time for the filing of the bond shall be granted in excess of ten days.

[E-] F. Any supersedeas granted under this section in any matter appealed to the supreme court or court of appeals shall automatically continue in effect pending any action or further review ~~[which]~~ that may be taken in the supreme court or court of appeals."

Section 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.