

SB

307



# SENATE JUDICIARY COMMITTEE

STATE CAPITOL, BUTROVICH ROOM 205

## MEMORANDUM

### COMMITTEE MEMBERS

Senator Seekins,  
Chairman  
Room 125  
465-2227

Senator Therriault  
Room 107  
465-4797

Senator Ogan  
Room 103  
465-3878

Senator Ellis  
Room 9  
465-3704

Senator French  
Room 504  
465-3892

Date: February 19, 2004

To: Members of Senate Judiciary Committee

From: Senator Ralph Seekins, Chairman  
Judiciary Committee

*AS for RS*

Re: SB 307

---

In your packet you will find a "D" version of the bill and a Judiciary CS notated as version "H". The only difference between the two versions can be found on page one, line seven where "AS 43.53.050" has been changed to correctly read "AS 45.53.050".

2/17/04

# ALASKA STATE SENATE



Session:  
State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-2327  
(907) 465-5241 Fax

Interim:  
119 N. Cushman, Suite 201  
Fairbanks, Alaska 99701  
(907) 456-8161  
Senator\_Ralph\_Seekins@legis.state.ak.us

**Senator Ralph Seekins**  
District D

## Senate Bill 307

### An Act Relating to the amount of bond required to stay execution of a judgment involving a signatory to the tobacco product Master Settlement Agreement

Senate Bill 307 would impose a \$25 million limit on the supersedeas bond that MSA signatories, successors, and affiliates must post to stay the execution of a judgment in Alaska.

### 3 Facts

1. The schedule of MSA payments has the state of Alaska receiving \$24,912,967 in 2004.
2. Total payments accruing to the state of Alaska from 1998 to the end of the MSA schedule in 2025 amount to \$668,903,056.
3. Total payments nationwide amount to \$195,918,675,920.

### 3 Statements

1. The MSA requires annual payments be made to all 50 states as well as U.S. possessions and territories.
2. Twenty-six states have enacted limits on the size of appeal bonds in recognition of the threat these bonds place on the revenue streams required by the MSA.
3. The proposed legislation will not affect a plaintiff's right to recover damages upheld on appeal.

# ALASKA STATE SENATE



Session:  
State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-2327  
(907) 465-5241 Fax

Interim:  
119 N. Cushman, Suite 201  
Fairbanks, Alaska 99701  
(907) 456-8161  
Senator\_Ralph\_Seekins@legis.state.ak.us

## SENATE JUDICIARY COMMITTEE

Senator Ralph Seekins, Chairman

### Senate Bill 307 Sponsor Statement

#### An Act Relating to the amount of bond required to stay execution of a judgment involving a signatory to the tobacco product Master Settlement Agreement

The Tobacco Master Settlement Agreement ("MSA") delivers millions of dollars in revenues annually to Alaska and 45 other participatory states. However, the continued receipt of these funds is threatened by the huge judgments that have been awarded against the tobacco companies that are funding the settlement. Defendants facing large judgments almost always have a right to appeal them. And in many cases their appeals are successful, either in terms of obtaining a reduced judgment or in overturning the judgment entirely.

But in order to stay the execution of a money judgment on appeal, a defendant must post a supersedeas (appeal) bond which, in the diminishing number of states that do not have limits on appeal bonds, usually equals the amount of the judgment. In Alaska, the bond required is ordinarily the amount of the judgment remaining unsatisfied, plus appeal costs and interest.

Senate Bill 307 would impose a \$25 million limit on the supersedeas bond that MSA signatories, successors, and affiliates must post to stay the execution of a judgment in Alaska. This bond limit would not change any other aspect of the law. It does not change the rules by which the trial is conducted. It does not affect who ultimately wins or loses the lawsuit. And it does not affect the rights of plaintiffs to recover fully the damages to which they are entitled if the judgment is upheld on appeal.

Plaintiffs are also protected by the provision in the proposed legislation that allows the court to require a bond amount up to the value of the judgment *if the appellant is dissipating its assets to avoid paying a judgment*. SB 307 thus would not injure plaintiffs in any way, and it would protect the state by ensuring that it will continue to receive its MSA payments while the tobacco companies fully appeal an adverse judgment.

In this instance Alaska will join 26 other states which have passed legislation or amended court rules to limit the size of the required appeal bond in cases involving large judgments. By joining these states we promote our collective interest with respect to preserving the revenue stream mandated by the Master Settlement Agreement.

23-LS1609\H  
Bullock  
2/17/04

**CS FOR SENATE BILL NO. 307(JUD)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY THE SENATE JUDICIARY COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): SENATE JUDICIARY COMMITTEE**

**A BILL**  
**FOR AN ACT ENTITLED**

1 "An Act relating to the amount of the bond required to stay execution of a judgment in  
2 civil litigation involving a signatory, a successor of a signatory, or an affiliate of a  
3 signatory to the tobacco product Master Settlement Agreement during an appeal;  
4 amending Rules 204 and 205, Alaska Rules of Appellate Procedure; and providing for  
5 an effective date."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 \* **Section 1.** AS 45.53 is amended by adding a new section to read:

8 **Sec. 45.53.050. Stays pending appeal in civil cases.** (a) Except as provided  
9 in (b) of this section, in order to secure and protect the money to be received as a result  
10 of the Master Settlement Agreement, in civil litigation under any legal theory  
11 involving a signatory, a successor of a signatory, or an affiliate of a signatory to the  
12 Master Settlement Agreement, the supersedeas bond to be furnished in order to stay  
13 the execution of the judgment during the entire course of appellate review shall be set

1 in accordance with applicable laws or court rules, except that the total bond that is  
2 required of all appellants collectively may not exceed \$25,000,000, regardless of the  
3 value of the judgment.

4 (b) If an appellee proves by a preponderance of the evidence that an appellant  
5 is dissipating assets outside the ordinary course of business to avoid the payment of a  
6 judgment, a court may require the appellant to post a bond in an amount up to the full  
7 amount of the judgment.

8 \* Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to  
9 read:

10 INDIRECT COURT RULE AMENDMENT. AS 45.53.050, added by sec. 1 of this  
11 Act, has the effect of changing Rules 204 and 205, Alaska Rules of Appellate Procedure, by  
12 limiting the court's discretion to determine the amount of a supersedeas bond in certain cases.

13 \* Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to  
14 read:

15 APPLICABILITY. This Act applies to all cases pending on or filed on or after the  
16 effective date of this Act.

17 \* Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to  
18 read:

19 CONDITIONAL EFFECT. AS 45.53.050, added by sec. 1 of this Act, takes effect  
20 only if sec. 2 of this Act receives the two-thirds majority vote of each house required by art.  
21 IV, sec. 15, Constitution of the State of Alaska.

22 \* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SB307-ACS-TC-2-17-04  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
Title Appeal Bonds in Tobacco Product BRU Alaska Court System  
Master Settlement Litigation Component Trial Court  
Sponsor Senate Judiciary Committee  
Requester \_\_\_\_\_ Component No. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

The court system does not anticipate any fiscal impact from the passage of SB 307.

Prepared by: Doug Wooliver Administrative Attorney Phone 463-4750  
Division: Alaska Court System Date/Time 2/17/04 9:01 AM  
Approved by: Stephanie Cole Administrative Director by Doug Wooliver Date 2/17/2004  
Agency: Alaska Court System

## **Alaska Should Join Other States To Limit The Size Of Appeal Bonds and Protect Its Tobacco Settlement Revenues**

The Tobacco Master Settlement Agreement ("MSA") is vitally important to Alaska and to the 45 other states who are parties to the settlement. It delivers millions of dollars in revenues to Alaska annually, and it will continue to do so for years to come. It also delivers real benefits to the state through its non-monetary provisions, which restrict advertising by participating (but not by non-participating) manufacturers and are designed to help reduce youth smoking.

Yet the continued receipt of these funds is threatened by litigation against the tobacco companies that are funding the settlement. The ability of the tobacco companies to meet their obligations under the MSA ultimately depends upon their financial viability. It may seem far-fetched to worry about the financial viability of tobacco companies, but the litigation onslaught they are currently facing presents a real risk to their ability to make MSA payments.

This memorandum explains what Alaska can do to minimize that risk and protect the state's ongoing receipt of MSA money.

### **A. The Enormous Litigation Risks Confronting The MSA Signatories Threaten Alaska's Master Settlement Agreement Revenues**

Within the last several years, the tobacco companies have faced gargantuan judgments. In 2000, the Engle class action in Florida resulted in a verdict of \$145 billion, which was reversed on appeal in May 2003. In California, two individual suits resulted in verdicts of \$28 billion and \$3 billion respectively, although both of these verdicts were reduced by the trial judge. In March 2003, a judge in the case of Price v. Philip Morris in Illinois ordered one tobacco company to pay compensatory damages of \$7.1 billion and punitive damages of \$3 billion in a class action. This decision is currently being appealed.

As the Engle case demonstrates, many extraordinarily large verdicts are reduced or overturned on appeal. In order for a verdict to be overturned, however, a defendant must be able to appeal and do so while remaining in business. The problem is that in most states, a defendant must post an appeal bond at least equal to the size of the judgment in order to stay the execution of the judgment during the appeal. In Alaska, the bond required to stay the execution of a money judgment is ordinarily the amount of the judgment remaining unsatisfied, plus appeal costs and interest.<sup>1</sup> But Alaska courts are permitted to set the bond in a different amount or to order alternate security for good cause shown -- meaning that judges may theoretically set the bond at any amount they deem appropriate, even if that amount exceeds the total judgment.<sup>2</sup>

---

<sup>1</sup> Alaska R. App. P. 204(d).

<sup>2</sup> Id.

If a defendant cannot afford to post an appeal bond in the amount set by the court, a plaintiff could potentially seize the defendant's bank accounts, or its manufacturing facilities, or any property located anywhere that the plaintiff can find, even though the defendant may be in the middle of an appeal. In order to stop the plaintiff from taking its assets during the appeal, the defendant may have no alternative other than to file for bankruptcy, which carries with it an automatic stay of the debtor's obligation to pay its creditors.

However, a stay in bankruptcy is indiscriminate: while it would allow tobacco companies subject to huge judgments to appeal while the stay is in place without fear that plaintiffs could seize their assets, it would also prevent the companies from making their payments to Alaska and the other states under the MSA. This potential problem has been most vividly demonstrated by the ongoing Price case in Illinois. In March 2003, the judge in that case set the appeal bond at \$12 billion -- an amount that the company could not possibly have posted.<sup>3</sup> If the company had been forced to post such a large bond, it most likely would not have been able to continue to make the billions of dollars in payments that it owes under the MSA. Because of concern about this disastrous result, 37 state attorneys general (including Alaska's) and the National Conference of State Legislatures petitioned the Price court to allow a lower bond to be posted so that MSA payments would not be jeopardized. The bond was eventually lowered to \$6.8 billion, but even this reduced amount would bankrupt many companies.

As the Price case demonstrates, the state has a vital interest in ensuring tobacco companies can appeal massive judgments in Alaska by posting a bond under state law, rather than being forced into bankruptcy.

**B. Other States Have Recognized The Risks That Litigation Against MSA Signatories Pose To Their Continued Receipt Of Tobacco Settlement Funds, And They Have Enacted Appeal Bond Caps**

Increasingly, states have become aware of the potential consequences of high appeal bonds and have imposed reasonable limits on the size of these bonds. In 2000, legislators in Florida became concerned because the Engle class action against the tobacco companies was proceeding in that state. It was estimated that the punitive damages awarded in the case could be so large that these companies could not afford to post a bond, thereby forcing the companies to seek a stay from the bankruptcy court. While legislators had no particular sympathy for tobacco companies, they recognized that these companies, like every defendant, are at least entitled to a full and fair appeal, and they also recognized that Florida and every other state might lose an important income stream from the MSA payments if the companies were driven out of business. Thus, the legislature enacted a cap on the size of the appeal bond that would have to be posted with regard to the punitive damages aspect of any judgment. The cap limited appeal bonds to the

---

<sup>3</sup> "Confidential Talks Continue on \$12 Billion Bond Issue in Light Cigarette Class Action," Mealey's Litigation Report: Tobacco (Apr. 14, 2003).

lower of the punitive damages judgment plus twice the statutory rate of interest, ten percent of a defendant's net worth, or \$100 million.<sup>4</sup>

As noted above, the jury in Engle eventually awarded the plaintiffs \$145 billion in punitive damages. Under Florida's previous appeal bond rules, the defendants would have had to post an \$181 billion bond to appeal this judgment, which would have bankrupted any company or group of companies. But because the legislature had passed the appeal bond cap, the tobacco companies were able to post a much lower bond and appeal the verdict. Their appeal was ultimately successful: on May 21, 2003, a Florida appeals court decertified the Engle class and set aside the jury's decision in the case. In an emphatic opinion, the court ruled that the class action approach for Engle was completely improper. But if the legislature had not acted to limit the appeal bond prior to the trial court's judgment in Engle, the previous bonding requirement would have bankrupted the entire industry, thrown thousands of people out of work, and deprived each state of its tobacco settlement revenues.

Florida did not act alone. Twenty-five other states have also enacted limits on the size of appeal bonds, two of them by court rule and the rest through legislation. Five other states (Connecticut, Maine, Massachusetts, New Hampshire and Vermont) automatically stay a judgment upon the filing of a notice of appeal. As a result, over half of the states currently limit the appeal bond requirement. The approaches taken by the states have differed somewhat, as summarized below.

In the year 2000, along with Florida, four other states enacted limits on the size of appeal bonds.<sup>5</sup> These states were Kentucky (\$100 million limit) and Georgia, North Carolina and Virginia (\$25 million limits). In each of these states, the limit applied only to the bond for the punitive damages portion of a judgment. Each of these states was concerned that if the Florida legislature did not act, the Florida plaintiffs might seek to seize tobacco company assets in these other states. Thus, these states limited the size of bonds for judgments entered by courts within their states, and further provided that if a plaintiff with an out-of-state judgment came to their state to collect on that judgment, the defendant could stop the plaintiff until the appeal was completed by posting the bond required in that state. These states were worried that the tobacco settlement proceeds might be threatened before an appeal could ever be completed, and they were also worried about the jobs that could be lost in their states if the tobacco companies were put out of business before they could appeal.

In 2001 Louisiana, Nevada, Oklahoma and West Virginia passed legislation that limited the size of the appeal bond that signatories of the Master Settlement Agreement would have to post to appeal a damages verdict of any kind, be it compensatory or punitive damages.<sup>6</sup> Again,

---

<sup>4</sup> Fla. Stat. § 768.733 (2002).

<sup>5</sup> Florida (Fla. Stat. § 768.733), Georgia (Ga. Code Ann. § 5-6-46), Kentucky (Ky. Rev. Stat. Ann. § 205.1), North Carolina (N.C. Gen. Stat. § 1-289), and Virginia (Va. Code Ann. § 8.01-676.1 J.) each passed legislation in 2000.

<sup>6</sup> Louisiana (La. Rev. Stat. Ann. § 98.6), Nevada (Nev. Rev. Stat. § 20.035.1); Oklahoma (Okla. Stat. Ann. tit. 12 § 990.4 B.5); and West Virginia (W. Va. Code § 4-11A-4).

a primary motivating factor for these states was their financial interest in ensuring that settlement proceeds under the state tobacco settlement were not threatened because of an inability of the tobacco companies to appeal a judgment. The Oklahoma appeal bond cap was \$25 million; the caps in Nevada and Louisiana were \$50 million; and West Virginia's cap was \$100 million for punitive damages and \$100 million for compensatory damages.

As these states were doing their work, the Mississippi Supreme Court amended its court rules, which govern appeal bonds in that state, to limit the bond that a defendant of any kind would have to post to stay a punitive damages judgment while it appeals.<sup>7</sup> The amount of the limit in Mississippi was the lower of \$100 million, 125 percent of the punitive damages award, or 10 percent of the defendant's net worth.

In 2002 three states enacted limits on the size of appeal bonds. Ohio adopted a \$50 million limit,<sup>8</sup> while Indiana and Michigan<sup>9</sup> adopted a \$25 million limit. These bond limitations were not tied in any way to tobacco companies or to the MSA. Rather, in each state, the limit that was adopted applies to damages of all kinds, including the costs a defendant might incur to pay for equitable relief, and it applies to any kind of defendant.

In 2003 Arkansas, California, Colorado, Idaho, Kansas, Missouri, New Jersey, Oregon, Pennsylvania, South Dakota, Tennessee, Texas and Wisconsin adopted appeal bond caps.<sup>10</sup> The Arkansas, Colorado, Tennessee, Texas and Wisconsin statutes apply to all litigants in civil litigation regardless of legal theory. The other states' laws are more limited in scope. Idaho's \$1 million cap, for example, applies to all litigants in civil litigation but covers only the punitive damages portion of the appeal. The Kansas cap applies to appellants who are signatories or successors of signatories to the tobacco Master Settlement Agreement; California, Missouri, New Jersey, Oregon and Pennsylvania extend this application to also include affiliates of signatories to the tobacco Master Settlement Agreement. The amounts of the caps enacted in these states range from \$25 million to \$100 million.<sup>11</sup> In addition, the South Dakota Supreme Court amended its court rules to limit the bond required to stay the execution of a judgment during an appeal to \$25 million.<sup>12</sup> Lastly, North Carolina and Florida broadened their existing

<sup>7</sup> Mississippi Rule of Appellate Procedure 8.

<sup>8</sup> Ohio Rev. Code Ann. § 2505.09 (2002).

<sup>9</sup> Ind. Code Ann. § 34-49-5-3 (2002); Mich. Comp. Laws. Ann. § 600.2607(1) (2002).

<sup>10</sup> Ark. Code § 16-55-214 (2003); Cal. Health & Safety Code § 104558 (2003); Colo. Rev. Stat. 13-16-125 (2003); Idaho Comp. Stat. Ann. § 13-202 (2003); 2003 Kan. Sess. Laws 110 (not yet codified); Mo. Rev. Stat. § 512.085 (2003); 2003 N.J. Laws 195 (not yet codified); 2003 Or. Laws 804 (not yet codified); 2003 Penn. Laws 55 (not yet codified); Tenn. Code § 27-1-124 (2003); Tex. Civ. Proc. & Rem. Code § 52.006(b) (2003); 2003 Wis. Laws 105 (not yet codified).

<sup>11</sup> Arkansas, Colorado, Kansas and Texas agreed to cap their appeal bonds at \$25 million, while Missouri and New Jersey set their caps at \$50 million. Tennessee set its cap at \$75 million. The Pennsylvania and Wisconsin bills capped bonds at \$100 million, and California and Oregon each set a cap of \$150 million.

<sup>12</sup> S.D.C.L. 15-26A-26.

statutes in 2003 to limit the appeal bond for money judgments under any legal theory, not just punitive damages.

Like these other states, the Alaska legislature should act to solve the problems caused by high appeal bonds immediately. While some states have passed broader measures that apply to any defendant in any kind of litigation, a bill limiting the appeal bond in cases involving signatories, successors of signatories, or affiliates of signatories to the MSA would be sufficient to solve the most problematic aspects of Alaska's current law. The legislature, in its role as the protector of the state's finances, has the authority to adopt such a measure,<sup>13</sup> which is important not only for Alaska, but also for all other states who are relying on the continued stream of tobacco revenues for vital public projects.

**C. The Appeal Bond Limitation Laws Provide No Substantive Legal Protections To A Tobacco Company In Litigation, But They Do Protect Plaintiffs**

A key point for each of the states discussed above is that, in limiting the bond, none of them changed their substantive law in any way. Bond limitation laws only ensure that defendants can fully exercise their right to an appeal without going into bankruptcy or being forced to settle with the plaintiffs. So, for example, had the tobacco companies lost their appeal in the Engle case in Florida, they would have had to pay the full amount of the judgment. Nothing in the bond limitation statute passed in Florida would have prevented that. In addition, virtually all of the laws passed in each state allow a judge to require a much larger bond if it is shown that a defendant is dissipating its assets to avoid a judgment. Thus, plaintiffs are protected under these bills in two ways: because the amount of the appeal bond even as limited is large in and of itself, and because in a case where the defendant is misbehaving, the court may require a larger bond.

Alaska should adopt legislation limiting the size of appeal bonds that MSA signatories, successors and affiliates must post to \$25 million, regardless of the value of the judgment. Plaintiffs would be protected by the large but limited bond that is required and by the provision in the bill allowing a judge to require a higher bond if a defendant is improperly dissipating assets. A defendant's right to appeal would also be fully protected, by mandating a large but not impossibly high appeal bond. And Alaska and the other states would be protected, by ensuring

---

<sup>13</sup> Although Article IV, section 15 of the Alaska constitution gives the Supreme Court primary authority over rules that affect court procedure, the Court upholds legislative enactments if the main subject of the statute is substantive with only an incidental effect on procedure. See, e.g., Ware v. City of Anchorage, 439 P.2d 793, 794 (Alaska 1968) (upholding statute requiring a non-resident plaintiff to provide security for the costs of litigation). An important part of the inquiry into whether the statute is substantive or procedural is "whether the rule or statute under scrutiny is more closely related to the concerns that led to the establishment of judicial rule making power, or to matters of public policy properly within the sphere of elected representatives." Nolan v. Sea Airmotive, 627 P.2d 1035, 1042-43 (Alaska 1987). Since the purpose of the appeal bond cap is to "secure and protect the monies to be received as a result of the Master Settlement Agreement," which is a substantive goal clearly within the purview of elected representatives, the legislature has the power to enact this statute.

that the MSA signatories can fully appeal an adverse judgment, thereby avoiding the necessity of seeking a stay in the bankruptcy court. This, in turn, will benefit Alaska and its citizens by preserving the uninterrupted flow of tobacco settlement revenues.

**ENACTED APPEAL BOND LEGISLATION**

State	Bill Number	Date Approved	To Whom Limits Apply	Amount of Appeal Bond Limit	Scope of Appeal Bond Limit
California	A 1752	8/9/2003	Master Settlement Agreement signatories, successors, and affiliates	The lesser of 100% of the judgment or \$150,000,000	Applies to all judgments in civil litigation regardless of legal theory
Colorado	HB 1366	5/20/2003	All litigants	\$25,000,000	Applies to all judgments in civil litigation regardless of legal theory
Florida	HB 1721	5/9/2000	All litigants in class actions	\$100,000,000	As passed in 2000, applied to judgments for non-compensatory damages. Broadened in 2003 to apply to all money judgments under any legal theory
	SB 2826	6/10/2003	Master Settlement Agreement signatories, successors, and affiliates	\$100,000,000	
Georgia	HB 1346	3/30/2000	All litigants	\$25,000,000	Applies to punitive damages only
Idaho	HB 92	3/26/2003	All litigants	\$1,000,000	Applies to punitive damages only
Indiana	HB 1204	3/14/2002	All litigants	\$25,000,000	Applies to all judgments in civil litigation regardless of legal theory
Kansas	SB 64	4/21/2003	Master Settlement Agreement signatories and their successors	\$25,000,000	Applies to all judgments in civil litigation regardless of legal theory
Kentucky	SB 316	3/29/2000	All litigants	\$100,000,000	Applies to punitive damages portion of a judgment

Notes

\* Created by court rule rather than legislation.

State	Bill Number	Date Approved	To Whom Limits Apply	Amount of Appeal Bond Limit	Scope of Appeal Bond Limit
Louisiana	HB 1807	6/25/2001	As passed in 2001, covered Master Settlement Agreement signatories only; broadened in 2003 to include "affiliates"	\$50,000,000	Applies to all money judgments
	HB 1819	7/2/2003			
Michigan	HB 5151	5/8/2002	All litigants	\$25,000,000 plus COLA every 5th year	Applies to all judgments in civil litigation
Mississippi	Rule 8	4/26/2001	All litigants	\$100,000,000	Applies to all litigation subject to court rule
Missouri	SB 242	7/10/03	Master Settlement Agreement signatories, successors, and affiliates	\$50,000,000	Applies to all forms of judgments in civil litigation
Nevada	AB 576	5/29/2001	Master Settlement Agreement signatories	\$50,000,000	Applies to all forms of judgments in civil litigation
New Jersey	SB 2738	11/21/2003	Master Settlement Agreement signatories, successors, and affiliates	\$50,000,000	Applies to all forms of judgments in civil litigation
North Carolina	SB 2	4/5/2000	All litigants	\$25,000,000	As passed in 2002, applied to judgments for non-compensatory damages. Broadened in 2003 to apply to all money judgments under any legal theory
	SB 784	4/23/2003	All litigants		
Ohio	SB 161	3/28/2002	All litigants	\$50,000,000	Applies to all forms of judgments in civil litigation
Oklahoma	SB 372	4/10/2001	Master Settlement Agreement signatories	\$25,000,000	As passed in 2001, applied to all forms of judgments in civil litigation involving MSA signatories

State	Bill Number	Date Approved	To Whom Limits Apply	Amount of Appeal Bond Limit	Scope of Appeal Bond Limit
Oregon	HB 2368	9/24/2003	Master Settlement Agreement signatories, successors, and affiliates	\$150,000,000	Applies to all judgments in civil litigation regardless of legal theory
Pennsylvania	HB 1718	12/30/2004	Master Settlement Agreement signatories, successors, and affiliates	\$100,000,000	Applies to all judgments in civil litigation regardless of legal theory
South Dakota	Amend. to Sup. Ct. R. 15-26A-26	9/29/2003	All litigants	\$25,000,000	Applies to money judgments
Tennessee	SB 1687	6/5/2003	All litigants	\$75,000,000	Applies to all forms of judgments in civil litigation
Texas	HB 4	6/11/2003	All litigants	The lesser of 50% of the judgment debtor's net worth or \$25,000,000	Applies to money judgments
Virginia	HB 1547	3/10/2000	All litigants	\$25,000,000	Applies to punitive damages portion of a judgment
West Virginia	SB 661	5/2/2001	All Master Settlement Agreement signatories	\$100,000,000 for all portions of a judgment other punitive damages; \$100,000,000 for the punitive damages portion of a judgment	Applies to all civil litigation and provides that consolidated or aggregated cases shall be treated as a single judgment for purposes of the appeal bond limits
Wisconsin	AB 548	12/12/2003	All litigants	\$100,000,000	Applies to all judgments in civil litigation regardless of legal theory

**STATES THAT DO NOT REQUIRE BONDS**

State	Governing Rule
<b>Connecticut</b>	Proceedings to stay noncriminal judgments shall be stayed automatically until the final determination of the cause. Conn. R. App. P. § 61-11.
<b>Maine</b>	The taking of an appeal operates as a stay of execution upon the judgment, and no supersedeas bond or other security shall be required. Me. R. Civ. P. 62.
<b>Massachusetts</b>	The taking of an appeal from a judgment shall stay execution upon the judgment during the pendency of the appeal. Mass. R. Civ. P. 62(d).
<b>New Hampshire</b>	No execution of a judgment shall issue until the expiration of the appeal period. N.H. Rev. Stat. Ann. § 527:1.
<b>Vermont</b>	The taking of an appeal operates to stay execution of the judgment during the pendency of the appeal; no supersedeas bond or other security is required. Vt. R. Civ. P. 62(d)(1).

MISA Signed NOVEMBER 1998

Annual Payments to Each State

Year	1998	1999	2000	2001	2002	2003	2004 to 2007	2008 to 2017	2018 to 2025	Total
Amount	\$2,400,000,000.00	\$0.00	\$6,411,750,000.00	\$6,923,660,000.00	\$8,313,294,800.00	\$8,391,971,144.00	\$7,004,000,000.00	\$7,143,000,000.00	\$8,003,999,997.00	\$195,918,675,920.00
Alabama	\$38,787,139.87	\$0.00	\$103,622,268.35	\$111,895,403.67	\$134,353,720.06	\$135,625,232.71	\$113,193,803.17	\$115,440,225.02	\$129,355,111.40	\$3,166,302,118.81
Alaska	\$8,194,049.54	\$0.00	\$21,890,915.46	\$23,638,672.09	\$28,383,145.58	\$28,651,761.36	\$23,912,967.90	\$24,387,539.93	\$27,327,155.19	\$668,903,056.50
Arizona	\$35,373,226.92	\$0.00	\$94,501,786.55	\$102,046,748.46	\$122,528,359.76	\$123,687,958.17	\$103,230,867.24	\$105,279,566.63	\$117,969,711.74	\$2,887,614,909.02
Arkansas	\$19,873,586.24	\$0.00	\$53,093,527.74	\$57,332,480.87	\$68,839,575.47	\$69,491,067.60	\$57,997,749.17	\$59,148,761.04	\$66,278,410.08	\$1,622,336,125.69
California	\$306,334,930.78	\$0.00	\$818,392,913.50	\$883,732,877.84	\$1,061,105,244.62	\$1,071,147,458.11	\$893,987,439.65	\$911,729,337.72	\$1,021,626,993.76	\$25,006,972,510.74
Colorado	\$32,900,674.16	\$0.00	\$87,896,207.30	\$94,913,784.01	\$113,963,751.40	\$115,042,295.05	\$96,015,134.08	\$97,920,631.45	\$109,723,748.27	\$2,685,773,548.89
Connecticut	\$44,556,896.25	\$0.00	\$119,036,533.13	\$128,540,333.44	\$154,339,422.45	\$155,800,078.15	\$130,031,875.55	\$132,612,462.45	\$148,597,248.93	\$3,637,303,381.55
Delaware	\$9,491,268.84	\$0.00	\$25,356,517.92	\$27,380,966.02	\$32,876,548.30	\$33,187,689.27	\$27,698,686.24	\$28,248,388.89	\$31,653,381.58	\$774,798,676.89
D.C.	\$14,570,838.84	\$0.00	\$38,926,906.65	\$42,034,805.86	\$50,471,532.83	\$50,949,191.30	\$42,522,564.69	\$43,366,459.11	\$48,593,747.53	\$1,189,458,105.56
Florida	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Georgia	\$58,906,980.41	\$0.00	\$157,373,679.86	\$169,938,293.33	\$204,046,289.14	\$205,977,366.58	\$171,910,204.50	\$175,321,900.45	\$196,454,779.60	\$4,808,740,668.60
Hawaii	\$14,441,759.81	\$0.00	\$38,590,078.62	\$41,671,085.70	\$50,034,811.08	\$50,508,336.45	\$42,154,624.04	\$42,991,216.38	\$48,173,273.94	\$1,179,165,923.07
Idaho	\$8,718,317.14	\$0.00	\$23,291,529.13	\$25,151,109.85	\$30,199,141.89	\$30,484,944.11	\$25,442,955.52	\$25,947,891.39	\$29,075,587.65	\$711,700,479.23
Illinois	\$111,701,933.67	\$0.00	\$298,418,697.16	\$322,244,254.19	\$386,921,293.46	\$390,583,085.03	\$325,983,476.42	\$332,452,880.08	\$373,525,948.64	\$9,118,539,559.10
Indiana	\$48,955,278.39	\$0.00	\$130,787,085.94	\$141,229,042.84	\$169,574,858.88	\$171,179,701.52	\$142,867,820.78	\$145,703,147.32	\$163,265,853.39	\$3,996,355,551.01
Iowa	\$20,872,006.95	\$0.00	\$55,760,871.07	\$60,212,783.18	\$72,297,977.85	\$72,982,200.02	\$60,911,473.61	\$62,120,310.68	\$69,608,143.15	\$1,703,839,985.56
Kansas	\$20,008,109.65	\$0.00	\$53,452,915.44	\$57,720,561.87	\$69,305,547.47	\$69,961,449.52	\$58,390,333.34	\$59,549,136.35	\$66,727,045.67	\$1,633,317,646.19
Kentucky	\$42,267,806.11	\$0.00	\$112,921,085.75	\$121,936,632.68	\$146,410,305.30	\$147,795,920.49	\$123,351,547.49	\$125,799,557.93	\$140,963,133.32	\$3,450,438,586.10
Louisiana	\$54,128,474.21	\$0.00	\$144,607,601.88	\$156,152,979.89	\$187,494,151.32	\$189,268,580.68	\$157,964,930.57	\$161,099,871.36	\$180,518,461.42	\$4,418,657,915.22
Maine	\$18,464,411.55	\$0.00	\$49,328,829.47	\$53,267,211.52	\$63,958,373.54	\$64,563,670.37	\$53,885,307.70	\$54,954,704.87	\$61,578,812.49	\$1,507,301,275.81
Maryland	\$54,250,967.50	\$0.00	\$144,934,850.37	\$156,506,355.69	\$187,918,452.52	\$189,696,897.43	\$158,322,406.83	\$161,464,442.03	\$180,926,976.56	\$4,428,657,383.58
Mass.	\$96,935,496.43	\$0.00	\$258,969,237.19	\$279,645,174.68	\$335,772,232.68	\$338,949,953.70	\$282,890,090.42	\$288,504,271.26	\$323,279,880.48	\$7,913,114,212.77
Michigan	\$104,446,741.41	\$0.00	\$279,035,997.59	\$301,314,052.34	\$361,790,230.09	\$365,214,183.32	\$304,810,407.01	\$310,859,614.11	\$348,329,882.46	\$8,526,278,033.60
Minnesota	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Mississippi	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Missouri	\$54,590,425.53	\$0.00	\$145,841,733.70	\$157,485,644.00	\$189,094,291.94	\$190,883,864.90	\$159,313,058.50	\$162,474,752.97	\$182,059,069.06	\$4,456,368,286.30
Montana	\$10,194,218.72	\$0.00	\$27,234,492.45	\$29,408,876.82	\$35,311,477.28	\$35,645,662.22	\$29,750,128.30	\$30,340,513.46	\$33,997,719.42	\$832,182,430.63
Nebraska	\$14,279,599.86	\$0.00	\$38,148,843.51	\$41,194,622.66	\$49,462,718.04	\$49,930,829.17	\$41,672,632.27	\$42,499,659.09	\$47,622,465.53	\$1,165,683,457.48
Nevada	\$14,638,443.42	\$0.00	\$39,107,516.49	\$42,229,835.47	\$50,705,706.47	\$51,185,581.14	\$42,719,857.37	\$43,567,667.21	\$48,819,208.77	\$1,194,976,854.76
New Hampshire	\$15,982,416.92	\$0.00	\$42,698,025.70	\$46,107,008.63	\$55,361,059.77	\$55,884,992.33	\$46,642,020.04	\$47,567,668.35	\$53,391,360.40	\$1,304,689,150.27
New Jersey	\$92,807,910.83	\$0.00	\$247,942,134.27	\$267,737,674.95	\$321,474,801.04	\$324,517,212.33	\$270,844,419.77	\$276,219,544.60	\$309,514,382.50	\$7,576,167,918.47
New Mexico	\$14,313,352.87	\$0.00	\$38,239,016.77	\$41,291,995.30	\$49,579,634.15	\$50,048,851.76	\$41,771,134.78	\$42,690,116.47	\$47,735,031.79	\$1,168,438,809.05
New York	\$306,288,745.07	\$0.00	\$818,269,525.50	\$883,599,638.62	\$1,060,945,263.21	\$1,070,985,962.65	\$893,852,654.37	\$911,591,877.52	\$1,021,472,964.43	\$25,003,202,243.12
North Carolina	\$55,974,840.09	\$0.00	\$149,540,283.73	\$161,479,483.90	\$193,889,727.95	\$195,724,684.52	\$163,353,241.67	\$166,595,117.83	\$186,676,091.64	\$4,569,381,898.24
North Dakota	\$8,784,330.94	\$0.00	\$23,467,889.12	\$25,341,550.30	\$30,427,805.29	\$30,715,771.56	\$25,635,605.78	\$26,144,364.95	\$29,295,743.66	\$717,089,369.09
Ohio	\$120,900,234.58	\$0.00	\$322,992,532.93	\$348,780,049.22	\$418,783,038.09	\$422,746,366.61	\$352,827,184.57	\$359,829,323.15	\$403,202,282.16	\$9,869,422,418.51
Oklahoma	\$24,867,287.65	\$0.00	\$66,434,513.15	\$71,738,602.00	\$86,137,122.12	\$86,952,316.82	\$72,571,034.45	\$74,011,264.86	\$82,932,404.27	\$2,079,985,862.29
Oregon	\$27,543,797.82	\$0.00	\$73,584,977.37	\$79,459,954.68	\$95,408,213.01	\$96,311,148.56	\$80,381,983.32	\$81,977,228.27	\$91,858,565.71	\$2,248,476,833.11
Penn.	\$137,924,610.41	\$0.00	\$368,474,217.00	\$397,892,961.71	\$477,753,311.05	\$482,274,729.42	\$402,509,988.05	\$410,498,121.73	\$459,978,575.54	\$11,259,169,603.46
Rhode Island	\$17,253,727.23	\$0.00	\$46,094,410.65	\$49,774,558.78	\$59,764,717.02	\$60,330,325.43	\$50,352,127.30	\$51,351,405.67	\$57,541,180.29	\$1,408,469,747.28
South Carolina	\$28,232,446.25	\$0.00	\$75,424,744.69	\$81,446,607.84	\$97,793,603.59	\$98,719,114.28	\$82,391,688.98	\$84,026,818.16	\$94,155,208.21	\$2,304,693,119.82
South Dakota	\$8,374,699.41	\$0.00	\$22,373,532.90	\$24,159,821.39	\$29,008,893.79	\$29,283,431.59	\$24,440,164.46	\$24,925,199.13	\$27,929,622.54	\$683,650,008.54
Tennessee	\$58,581,467.29	\$0.00	\$156,504,051.21	\$168,599,234.09	\$202,918,753.08	\$204,839,159.61	\$170,960,248.71	\$174,353,092.02	\$195,369,193.34	\$4,782,168,127.09
Texas	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Utah	\$10,677,285.47	\$0.00	\$28,525,035.47	\$30,802,455.97	\$36,984,759.08	\$37,334,779.83	\$31,159,878.10	\$31,778,270.89	\$35,608,747.04	\$871,616,513.42
Vermont	\$9,868,441.49	\$0.00	\$26,364,158.22	\$28,469,055.67	\$34,183,026.39	\$34,506,531.76	\$28,799,401.75	\$29,370,948.99	\$32,911,252.36	\$805,588,329.25
Virginia	\$49,073,882.70	\$0.00	\$131,103,944.75	\$141,571,199.45	\$169,985,689.11	\$171,594,419.81	\$143,213,947.68	\$146,056,143.38	\$163,661,398.74	\$4,006,037,550.26
Washington	\$49,278,196.65	\$0.00	\$131,649,782.25	\$142,160,616.27	\$170,693,406.67	\$172,308,835.15	\$143,710,203.90	\$146,664,232.79	\$164,342,785.78	\$4,022,716,266.79
West Virginia	\$21,275,048.98	\$0.00	\$56,837,623.03	\$61,375,502.33	\$73,694,064.18	\$74,391,498.79	\$62,087,684.60	\$63,319,864.52	\$70,952,288.31	\$1,736,741,427.33
Wisconsin	\$49,728,936.59	\$0.00	\$132,853,962.15	\$143,460,937.12	\$172,254,712.48	\$173,884,917.03	\$145,125,613.28	\$148,005,747.52	\$165,846,003.46	\$4,059,511,421.32

Wyoming \$5,960,276.82	\$0.00	\$15,923,252.04	\$17,194,554.25	\$20,645,640.96	\$20,841,029.62	\$17,394,074.52	\$17,739,273.88	\$19,877,523.19	\$486,553,976.10
American Samoa \$365,208.62	\$0.00	\$975,677.65	\$1,053,575.12	\$1,265,036.21	\$1,277,008.41	\$1,065,800.48	\$1,086,952.15	\$1,217,970.74	\$29,812,995.31
N. Marianas \$202,503.22	\$0.00	\$541,000.00	\$584,193.09	\$701,445.39	\$708,083.81	\$590,971.89	\$602,700.20	\$675,348.22	\$16,530,900.80
Guam \$526,489.51	\$0.00	\$1,406,549.63	\$1,518,847.65	\$1,823,692.71	\$1,840,951.99	\$1,536,471.89	\$1,566,964.41	\$1,755,842.52	\$42,978,803.27
US Virgin Island \$416,623.09	\$0.00	\$1,113,034.64	\$1,201,896.51	\$1,443,129.42	\$1,456,787.08	\$1,215,845.06	\$1,239,974.49	\$1,389,438.02	\$34,010,102.11
Puerto Rico \$26,910,657.33	\$0.00	\$71,893,502.96	\$77,633,434.04	\$93,215,094.84	\$94,097,274.89	\$78,534,268.30	\$80,092,843.87	\$89,747,042.15	\$2,196,791,813.07
\$2,400,000,000.00	\$0.00	\$6,411,750,000.00	\$6,923,660,000.00	\$8,313,294,800.00	\$8,391,971,144.00	\$7,004,000,000.00	\$7,143,000,000.00	\$8,003,999,997.00	\$195,918,675,920.00

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES

*superoneratio*

*superoneratio* (s[y]oo-pär-on-ä-ray-shee-oh). [Law Latin] *Hist.* 1. The act or practice of surcharging a common. 2. The placement of more cattle on a common than is allowed; overstocking.

*superoneratione pasturae*. See DE SUPERONERATIONE PASTURAE.

*superplusagium* (s[y]oo-pär-plä-say-jee-äm), *n.* [Law Latin] *Hist.* A surplus; a remainder.

*super praerogativa regis* (s[y]oo-pär pri-rog-ä-ti-vä ree-jis), *n.* [Law Latin] *Hist.* A writ against the king's tenant's widow for marrying without royal permission.

*superpriority*. *Bankruptcy*. The special priority status granted by the court to a creditor for extending credit to a debtor or trustee that cannot obtain unsecured credit from a willing lender. • This priority may be either an administrative claim outranking other administrative claims or, if certain statutory requirements are met, a security interest in property. 11 USCA § 364(c)(1).

*supersede*, *vb.* 1. To annul, make void, or repeal by taking the place of <the 1996 statute supersedes the 1989 act>. 2. To invoke or make applicable the right of supersedeas against (an award of damages) <what is the amount of the bond necessary to supersede the judgment against her?>. — *supersession* (for sense 1), *n.*

*supersedeas* (soo-pär-seed-ee-äs), *n.* [Latin "you shall desist"] A writ or bond that suspends a judgment creditor's power to levy execution, usu. pending appeal. — Also termed *writ of supersedeas*. Pl. *supersedeases* (soo-pär-see-dee-äs-iz).

*supersedeas bond*. See BOND (2).

*superseding cause*. See CAUSE (1).

*super statuto* (s[y]oo-pär stä-t[y]oo-toh), *n.* [Law Latin] *Hist.* A writ against tenants-in-chief who transferred their land without the king's permission in violation of the Statute of Westminster II, chs. 12 & 13.

*super statuto de articulis cleri* (s[y]oo-pär stä-t[y]oo-toh dee ähr-tik-yä-lis klee-rī), *n.* [Law Latin] *Hist.* A writ against a sheriff who unlawfully distrains goods.

*super s*  
*shal*  
poor s  
[Law l  
the M  
side th

*super :*  
*tores*  
*van-te*  
*Hist.*  
labore  
ments  
to wor

*superst*

*superv*  
*der CA*

*superv*  
*gence*

*superv*  
*CLEAR*

*superv*  
or ov  
*vise,*  
*adj.*

*superv*  
others:  
Natio:  
any ir  
fer, st  
discip  
poyee  
The c  
count  
*adj.*

*superv*  
who,  
tion,  
tial tr  
has re

*superv*  
a high  
iting  
tional  
acts. f

*supple*  
tional  
rules:

23-LS1609VI  
Bullock  
2/23/04

**CS FOR SENATE BILL NO. 307(JUD)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY THE SENATE JUDICIARY COMMITTEE**

**Offered:**

**Referred:**

**Sponsor(s): SENATE JUDICIARY COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the amount of the bond required to stay execution of a judgment in  
2 civil litigation involving a signatory, a successor of a signatory, or an affiliate of a  
3 signatory to the tobacco product Master Settlement Agreement during an appeal;  
4 amending Rules 204 and 205, Alaska Rules of Appellate Procedure; and providing for  
5 an effective date."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 \* **Section 1.** AS 45.53 is amended by adding a new section to read:

8           **Sec. 45.53.050. Stays pending appeal in civil cases.** (a) Except as provided  
9 in (b) of this section, in order to secure and protect the money to be received as a result  
10 of the Master Settlement Agreement, in civil litigation under any legal theory  
11 involving a signatory, a successor of a signatory, or an affiliate of a signatory to the  
12 Master Settlement Agreement, the supersedeas bond to be furnished in order to stay  
13 the execution of the judgment during the entire course of appellate review shall be set

1 in accordance with applicable laws or court rules, except that the total bond that is  
2 required of all appellants collectively may not exceed \$100,000,000, regardless of the  
3 value of the judgment.

4 (b) If a court finds that an appellant is dissipating assets outside the ordinary  
5 course of business to avoid the payment of a judgment, the court may require the  
6 appellant to post a bond in an amount up to the full amount of the judgment.

7 \* Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to  
8 read:

9 INDIRECT COURT RULE AMENDMENT. AS 45.53.050, added by sec. 1 of this  
10 Act, has the effect of changing Rules 204 and 205, Alaska Rules of Appellate Procedure, by  
11 limiting the court's discretion to determine the amount of a supersedeas bond in certain cases.

12 \* Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to  
13 read:

14 APPLICABILITY. This Act applies to all cases pending on or filed on or after the  
15 effective date of this Act.

16 \* Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to  
17 read:

18 CONDITIONAL EFFECT. AS 45.53.050, added by sec. 1 of this Act, takes effect  
19 only if sec. 2 of this Act receives the two-thirds majority vote of each house required by art.  
20 IV, sec. 15, Constitution of the State of Alaska.

21 \* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).