

House Bill 4, Article 7

Section 35.006, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 35.006. STAY. (a) If the judgment debtor shows the court that an appeal from the foreign judgment is pending or will be taken, **that the time for taking an appeal has not expired, or that a stay of execution has been granted, has been requested, or will be requested,** and proves that the judgment debtor has furnished **or will furnish** the security for the satisfaction of the judgment required by the state in which it was rendered, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated.

(b) If the judgment debtor shows the court a ground on which enforcement of a judgment of the court of this state would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period and require the same security for **suspending enforcement** ~~—satisfaction~~ of the judgment that is required in this state **in accordance with Section 52.006.**

Chapter 52 of the Civil Practices and Remedies Code, to be amended as follows:

52.001 Definition (No change proposed)

In this chapter, "security" means a bond or deposit posted, as provided by the Texas Rules of Appellate Procedure, by a judgment debtor to suspend execution of the judgment during appeal of the judgment.

52.002 Bond or Deposit for Money Judgment **(Repealed)**

A trial court rendering a judgment that awards recovery of a sum of money, other than a judgment rendered in a bond forfeiture proceeding, a personal injury or wrongful death action, a claim covered by liability insurance, or a workers' compensation claim, may set the security in an amount less than the amount of the judgment, interest, and costs if the trial court, after notice to all parties and a hearing, finds that:

(1) setting the security at an amount equal to the amount of the judgment, interest, and costs would cause irreparable harm to the judgment debtor; and

(2) setting the security at the lesser amount would not substantially decrease the degree to which a judgment creditor's recovery under the judgment would be secured after the exhaustion of all appellate remedies.

52.003 Review for Sufficiency (**Repealed**)

In a manner similar to appellate review under Rule 49, Texas Rules of Appellate Procedure, of the sufficiency of the amount of security set by a trial court, an appellate court may review the sufficiency of the amount of security set by the trial court under Section 52.002.

52.004 Review for Excessiveness (**Repealed**)

(a) In a manner similar to appellate review under Rule 49, Texas Rules of Appellate Procedure, of the sufficiency of the amount of security set by a trial court, an appellate court may review for excessiveness the amount of security set by a trial court under:

- (1) Section 52.002; or
- (2) the Texas Rules of Appellate Procedure if security is not set under Section 52.002.

(b) If the appellate court finds that the amount of security is excessive, the appellate court may reduce the amount.

52.005 Conflict with Texas Rules of Appellate Procedure (No change proposed)

(a) To the extent that this chapter conflicts with the Texas Rules of Appellate Procedure, this chapter controls.

(b) Notwithstanding Section 22.004, Government Code, the supreme court may not adopt rules in conflict with this chapter.

(c) The Texas Rules of Appellate Procedure apply to any proceeding, cause of action, or claim to which Section 52.002 does not apply.

Sec. 52.006. AMOUNT OF SECURITY FOR MONEY JUDGMENT.

(a) Subject to Subsection (b), when a judgment is for money, the amount of security must equal the sum of:

(1) the amount of compensatory damages awarded in the judgment;

(2) interest for the estimated duration of the appeal; and

(3) costs awarded in the judgment.

(b) Notwithstanding any other law or rule of court, when a judgment is for money, the amount of security must not exceed the lesser of:

(1) 50 percent of the judgment debtor's net worth; or

(2) \$25 million.

(c) On a showing by the judgment debtor that the judgment debtor is likely to suffer substantial economic harm if required to post security in an amount required under Subsection (a) or (b), the trial court shall lower the amount of the security to an amount that will not cause the judgment debtor substantial economic harm.

(d) An appellate court may review the amount of security as allowed under Rule 24, Texas Rules of Appellate Procedure, except that when a judgment is for money, the appellate court may not modify the amount of security to exceed the amount allowed under this section.

e) Nothing in this section prevents a trial court from enjoining the judgment debtor from dissipating or transferring assets to avoid satisfaction of the judgment, but the trial court may not make any order that interferes with the judgment debtor's use, transfer, conveyance or dissipation of assets in the normal course of business.

FYI

Post-judgment interest rate 10% to 5% (actually tied to prime rate as published by the federal Reserve Bank of New York on the date of computation but not less than 5%).

Effective Date: "The changes in law made by this article apply in any case in which a final judgment is signed or is subject to appeal on or after the effective date of this Act." (Sept. 1, 2003).