

## TRAP 24.2 Amount of Bond, Deposit or Security

### (c) Determination of Net Worth

- (1) ***Judgment Debtor's Affidavit Required; Contents; Prima Facie Evidence.*** A judgment debtor who provides a bond, deposit, or security under (a)(2) in an amount based on the debtor's net worth must simultaneously file with the trial court clerk an affidavit that states the debtor's net worth and states complete, detailed information concerning the debtor's assets and liabilities from which net worth can be ascertained. ~~The affidavit is prima facie evidence of the debtor's net worth.~~ A trial court clerk must receive and file a net worth affidavit tendered for filing by a judgment debtor. A net worth affidavit filed with the trial court clerk is prima facie evidence of the debtor's net worth for the purpose of establishing the amount of the bond, deposit or security required to suspend enforcement of the judgment.
- (2) ***Contest; Discovery; Hearing.*** A judgment creditor may file a contest to the debtor's claimed net worth. The contest need not be sworn. The creditor may conduct reasonable discovery concerning the judgment debtor's net worth.

The trial court must hear a judgment creditor's contest of the claimed net worth of the judgment debtor promptly after any discovery has been completed. The judgment debtor has the burden of proving net worth. The trial court must issue an order that states the debtor's net worth and states with particularity the factual basis for that determination.

If the trial court orders additional or other security to supersede the judgment, the enforcement of the judgment will be suspended for twenty days after the trial court's order. If the judgment debtor does not comply with the order within that period, the judgment may be enforced against the judgment debtor.

## ALTERNATIVE

- (C)(2) **Contest; Discovery; Hearing.** A judgment creditor may file a contest to the debtor's claimed net worth. The contest need not be sworn. The creditor may conduct reasonable discovery concerning the judgment debtor's net worth.

The trial court must hear a judgment creditor's contest of the claimed net worth of the judgment debtor promptly after any discovery has been completed. The judgment debtor has the burden of proving net worth. The trial court must issue an order that states the debtor's net worth and states with particularity the factual basis for that determination. [Alternative: or why the proof of claimed net worth is insufficient to allow the court to make a net worth finding. Should the trial court sustain the judgment creditor's contest due to the judgment debtors' failure to sustain its burden of proof or because it determines the judgment debtor's proof is not credible, it may order enforcement of the trial court judgment is no longer suspended.]

If the trial court orders additional or other security [Alternative: If the trial court orders additional monetary security] to supersede the judgment, the enforcement of the judgment will be suspended for twenty days after the trial court's order. If the judgment debtor does not comply with the order within that period, the judgment may be enforced against the judgment debtor.

## **Chapter 52, Civil Practice and Remedies Code**

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)

52.003 Review for Sufficiency (repealed)

52.004 Review for Excessiveness (repealed)

## 52.005 Conflict with Texas Rules of Appellate Procedure

(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.