



**Am. S.B. 161**

124th General Assembly

(As Reported by H. Civil and Commercial Law)

**Sens. Jacobson, Austria, Harris**

**Reps. Willamowski, Seitz, Latta**

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**BILL SUMMARY**

- Establishes a cap of \$50 million excluding interest and costs as the maximum allowable amount for a supersedeas bond to obtain a stay of execution during an appeal.

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**CONTENT AND OPERATION**

***Existing law***

Generally, an appeal does not operate as a stay of execution until a stay of execution has been obtained pursuant to the Rules of Appellate Procedure or in another applicable manner and a supersedeas bond is executed by the appellant to the appellee. The supersedeas bond must be executed with sufficient sureties and in a sum that is not less than the amount of the final order, judgment, or decree, and interest involved if applicable. The court that rendered the final order, judgment, or decree sought to be superseded or the court to which the appeal is taken sets the amount of the bond. The requirement of a supersedeas bond applies to all appellate cases unless a substitute for a supersedeas bond is permitted or a supersedeas bond is not required under the Revised Code or in applicable rules governing courts. (R.C. 2505.09.)

When a supersedeas bond is insufficient, on motion the appellate court may order its change or renewal, or that a new supersedeas bond be given, with security to be approved by the court.<sup>1</sup> If that order is not complied with, the stay of execution ceases to operate. (R.C. 2505.16.)

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<sup>1</sup> *A supersedeas bond can be determined to be insufficient if the surety of the bond has left the state, if the surety of the bond is not sufficient, or when the bond is insufficient in form or amount.*

### **Operation of the bill**

The bill modifies existing law's supersedeas bond requirement by instead requiring that a supersedeas bond be executed in a sum that is not less than the cumulative total for all claims covered by the final order, judgment, or decree, and interest involved subject to a cap created by the bill. Under the bill, the bond may not exceed \$50 million excluding interest and costs. (R.C. 2505.09.) The bill also provides that if the appellate court orders the change or renewal of a supersedeas bond, the new bond must comply with the limitation that its amount cannot be less than the cumulative total for all claims covered by the final order, judgement, or decree and applicable interest and the \$50 million limitation. (R.C. 2505.16.)

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### **HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	09-18-01	p. 893
Reported, S. Judiciary on Civil Justice	10-11-01	p. 959
Passed Senate (28-4)	10-11-01	p. 962
Re-referred by H. Rules & Reference	01-10-02	p. 1222
Reported, H. Civil & Commercial Law	01-30-02	pp. 1348-1349

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