



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB1705

Introduced 2/9/2011, by Sen. Matt Murphy

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-1306 new  
735 ILCS 5/2-1307 new

Amends the Code of Civil Procedure. Provides that a court may stay the execution on a money judgment, if the judgment debtor furnishes the judgment creditor with the required amount of security. Provides that the required amount of security is the lesser of: the sum of the judgment, interest pending appeal, and costs; 25% of the judgment debtor's net worth; or \$25 million. Provides that a court may lower the required amount of security if a judgment debtor shows that the debtor is likely to sustain substantial economic harm if required to post the required security. Provides that a court may increase the required amount of security if a judgment creditor shows that a judgment debtor who obtained a stay is dissipating assets or diverting assets outside of the United States in other than the ordinary course of business. Provides that an appellate court may review the required amount of security, but may not increase it above the statutory limit. Provides that the new provisions apply to any action in which a money judgment is entered after the effective date. Effective immediately.

LRB097 07920 AJO 48035 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by adding  
5 Sections 2-1306 and 2-1307 as follows:

6 (735 ILCS 5/2-1306 new)

7 Sec. 2-1306. Stay of money judgments pending appeal. If a  
8 judgment debtor requests that the trial court enter a stay of  
9 execution upon a money judgment and demonstrates to the court  
10 that an appeal from the judgment is pending or will be taken or  
11 that the time for taking an appeal has not expired, and that  
12 security for the satisfaction of the money judgment computed in  
13 accordance with Section 2-1307 has been furnished by the  
14 judgment debtor, then the court shall stay enforcement of the  
15 money judgment until the appeal is concluded, the time for  
16 appeal expires with no appeal taken, or the stay of execution  
17 expires or is vacated.

18 This Section applies to any action in which a money  
19 judgment is entered after the effective date of this Section.

20 (735 ILCS 5/2-1307 new)

21 Sec. 2-1307. Amount of security for appeal of a money  
22 judgment.

1       (a) Security for satisfaction of a money judgment posted by  
2 a judgment debtor seeking a stay of execution of the money  
3 judgment pending appeal shall equal the lesser of:

4           (1) the sum of

5               (i) the amount of compensatory damages awarded in  
6 the judgment;

7               (ii) interest at the statutory post-judgment rate  
8 for the estimated duration of the appeal; and

9               (iii) the costs awarded in the judgment;

10          (2) 25% of the judgment debtor's net worth; or

11          (3) \$25 million.

12       (b) Subject to subsection (c), upon a showing by the  
13 judgment debtor that the judgment debtor is likely to suffer  
14 substantial economic harm if required to post security in an  
15 amount required under subsection (a), the trial court shall  
16 lower the amount of the security to an amount that will not  
17 cause the judgment debtor substantial economic harm.

18       (c) Notwithstanding the provisions of subsections (a) and  
19 (b), if a judgment creditor proves by a preponderance of the  
20 evidence that a judgment debtor prosecuting an appeal of a  
21 money judgment upon which execution has been stayed is  
22 purposefully dissipating its assets or diverting assets  
23 outside the jurisdiction of the United States courts in other  
24 than the ordinary course of business, the trial court may  
25 increase the amount of security required to be deposited by the  
26 judgment debtor in order to protect satisfaction of the

1 judgment, but in no event shall the amount of the security  
2 required exceed an amount calculated in accordance with  
3 paragraph (1) of subsection (a).

4 (d) An appellate court may review the amount of security  
5 required by the trial court under this Section, except that  
6 when a judgment is for money, the appellate court may not  
7 modify the amount of security to exceed the amount allowed  
8 under this Section.

9 (e) This Section applies to any action in which a money  
10 judgment is entered after the effective date of this Section.

11 Section 99. Effective date. This Act takes effect upon  
12 becoming law.