

1 AMENDMENT TO SENATE BILL 732

2 AMENDMENT NO. _____. Amend Senate Bill 732 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Civil Procedure is amended by
5 adding Section 2-1405 as follows:

6 (735 ILCS 5/2-1405 new)

7 Sec. 2-1405. Appeal bond.

8 (a) If the court enters a final judgment for money in an
9 amount exceeding \$1,000,000,000 and the party against whom
10 the judgment is entered files a motion for reduced appeal
11 bond, that motion stays enforcement of the judgment pending a
12 hearing on the motion. At the hearing, the movant must
13 establish all of the following by a preponderance of the
14 evidence:

15 (1) An appeal bond in an amount sufficient to cover
16 the amount of the judgment, interest, and costs will
17 result in undue financial hardship for the movant.

18 (2) The movant's net worth as of the end of the
19 quarter immediately preceding the date of the judgment.
20 If the movant's net worth meets or exceeds the amount of
21 the judgment, interest, and costs, the movant must
22 demonstrate that it will maintain a net worth in at least

1 the amount of the judgment, interest, and costs during
2 the pendency of the appeal. If the movant's net worth is
3 less than the amount of the judgment, interest, and
4 costs, the movant must demonstrate that it will maintain
5 that net worth during the pendency of the appeal. In
6 appropriate circumstances, the court may adjust or waive
7 the requirements of this item (2).

8 (3) The movant will not intentionally dissipate or
9 divert assets for the purpose of avoiding payment of the
10 judgment. This provision shall not be interpreted to
11 prevent a movant from disposing of assets in the ordinary
12 course of business.

13 If the court finds that the movant has established all of
14 the conditions set forth in paragraphs (1) through (3) by a
15 preponderance of the evidence, the court shall grant the
16 movant's motion for reduced appeal bond, and the movant's
17 appeal bond shall be in an amount equal to 10% or less of the
18 amount of the judgment. If the movant does not file an appeal
19 bond in that amount within the time set by the court, the
20 stay shall be lifted absent appellate relief sought to review
21 the determination.

22 If the court finds that the movant has not established
23 one or more of the conditions set forth in paragraphs (1)
24 through (3) by a preponderance of the evidence, the court
25 shall deny the movant's motion for reduced appeal bond, and
26 the stay shall no longer be in effect unless the movant files
27 an appeal bond in an amount sufficient to cover the amount of
28 the judgment, interest, and costs within 15 days from the
29 date of the finding. If the movant does not file a new
30 appeal bond in that amount within the 15-day period, the stay
31 shall be lifted absent appellate relief sought to review the
32 determination.

33 (b) In any case in which an appeal bond is reduced as
34 provided in subsection (a), the trial court shall retain

1 limited jurisdiction of the case solely for the purpose of
2 requiring the movant to periodically assure the court that
3 the movant continues to meet the conditions set forth in
4 paragraphs (1) through (3) of subsection (a). If the court
5 at any time finds that the movant no longer meets one or more
6 of the conditions set forth in paragraphs (1) through (3),
7 the court may increase the amount of the appeal bond that the
8 movant must file. If the movant does not file a new appeal
9 bond in the increased amount within the time set by the
10 court, the stay shall be lifted absent appellate relief
11 sought to review the determination.

12 (c) Nothing in this Section shall prohibit a party from
13 seeking relief pursuant to Illinois Supreme Court Rule 305.

14 (d) This Section applies to any action pending on or
15 after the effective date of this amendatory Act of the 93rd
16 General Assembly. An action is pending for purposes of this
17 Section until such time as all appeals or discretionary
18 appellate reviews of the judgment are fully decided, or until
19 the time for filing an appeal or seeking appellate review has
20 expired. It is the express intention of the General Assembly
21 that this amendatory Act apply to actions in which trial
22 proceedings may be complete, so long as the action is still
23 pending.

24 Section 99. Effective date. This Act takes effect upon
25 becoming law."