

ACT 11

H.B. NO. 3250

A Bill for an Act Relating to Supersedeas Bonds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 607, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§607- Limit on supersedeas bond. (a) In any civil action brought under any legal theory, the amount of a supersedeas bond or other form of security necessary to stay execution of a judgment granting legal, equitable, or any other form of relief during the entire course of all appeals or discretionary review of that judgment by all appellate courts shall be set in accordance with applicable law, except that:

- (1) The total amount of the supersedeas bond or other form of security that is required of any party shall not exceed \$25,000,000, regardless of the amount or any other provision of the judgment that is appealed;

- (2) If the party posting the supersedeas bond is a “small business concern” as defined by section 210-1, the supersedeas bond shall not exceed \$1,000,000; and
- (3) If a party in whose favor the judgment has been entered proves to a court by a preponderance of the evidence that an appellant who has posted a supersedeas bond is intentionally dissipating assets outside the ordinary course of its business for the purpose of avoiding payment of the judgment, a court may require the appellant to post a supersedeas bond in an amount up to the total amount of the judgment appealed. Dissipation of assets shall not include expenditures, including payments to the owners of a business, of the kind that the appellant made in the regular course of business prior to entry of the judgment being appealed.

(b) This section shall not apply to the limitation on bonds for tobacco master settlement agreement signatories and their successors and affiliates under section 328L-7.

(c) For purposes of this section:

“Civil action” includes, without limitation, cases involving individual, aggregated, class action, or otherwise joined claims.

“Legal, equitable, or any other form of relief” means all forms of relief, including without limitation, compensatory, special, punitive, exemplary or other damages, injunctive relief, or any other form of relief.”

SECTION 2. This Act shall apply to all judgments entered on or after its effective date, regardless of the date the civil action was filed.

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved April 21, 2006.)

Note

1. Edited pursuant to HRS §23G-16.5.