

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Regular Session, 2004

ENROLLED

SENATE BILL NO. 671

(By Senators Ross and Love)

PASSED March 11, 2004

In Effect ninety days from Passage

SB 671

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Senate Bill No. 671

(BY SENATORS ROSS AND LOVE)

[Passed March 11, 2004; in effect ninety days from passage.]

AN ACT to amend and reenact §4-11A-4 and §4-11A-5 of the code of West Virginia, 1931, as amended, all relating to the appeal bond that master settlement agreement signatories must post to stay the execution of a judgment pending appeal; and providing for effective date of this amendment.

Be it enacted by the Legislature of West Virginia:

That §4-11A-4 and §4-11A-5 of the code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 11A. LEGISLATIVE APPROPRIATION OF TOBACCO SETTLEMENT FUNDS.

§4-11A-4. Limitation on appeal bond.

1 The bond that any appellant who is a signatory or a
2 successor to a signatory of the master settlement agree-
3 ment or who controls or is under common control with a

4 signatory of the master settlement agreement may be
5 required to post to stay execution on a judgment during an
6 appeal in any cause of action shall be set in accordance
7 with the provisions of section fourteen, article five,
8 chapter fifty-eight of this code and the West Virginia rules
9 of civil procedure: *Provided*, That an appeal bond may not
10 exceed one hundred million dollars for compensatory
11 damages and all other portions of a judgment other than
12 punitive damages and one hundred million dollars for
13 punitive damages unless the appellee proves by a prepon-
14 derance of the evidence that the appellant or appellants
15 are purposefully dissipating or diverting assets outside of
16 the ordinary course of its business to the effect that the
17 ability to pay the ultimate judgment is impaired. For
18 purposes of this section, multiple judgments resulting from
19 cases that have been consolidated or aggregated for
20 purposes of trial proceedings shall be treated as a single
21 judgment.

§4-11A-5. Applicability.

1 The provisions of section four of this article, as originally
2 passed or later amended, apply to all actions pending in
3 the courts of this state on the effective date of this section
4 and to any action filed in this state on or after the effective
5 date: *Provided*, That the provisions of section four of this
6 article providing for the maximum amount of an appeal
7 bond shall not apply in any action brought by any signa-
8 tory to the master settlement agreement seeking to enforce
9 compliance with the terms of the master settlement
10 agreement or for a breach of the master settlement agree-
11 ment.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Calvin...
.....
Chairman Senate Committee

Greg Butcher
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Carroll Edgema
.....
Clerk of the Senate

Gregg A. Smith
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

Robert Bliss
.....
Speaker House of Delegates

The within is approved this the 5th
Day of April, 2004.

Bob Wise
.....
Governor

PRESENTED TO THE
GOVERNOR
DATE 3/22/04
TIME 9:55 am