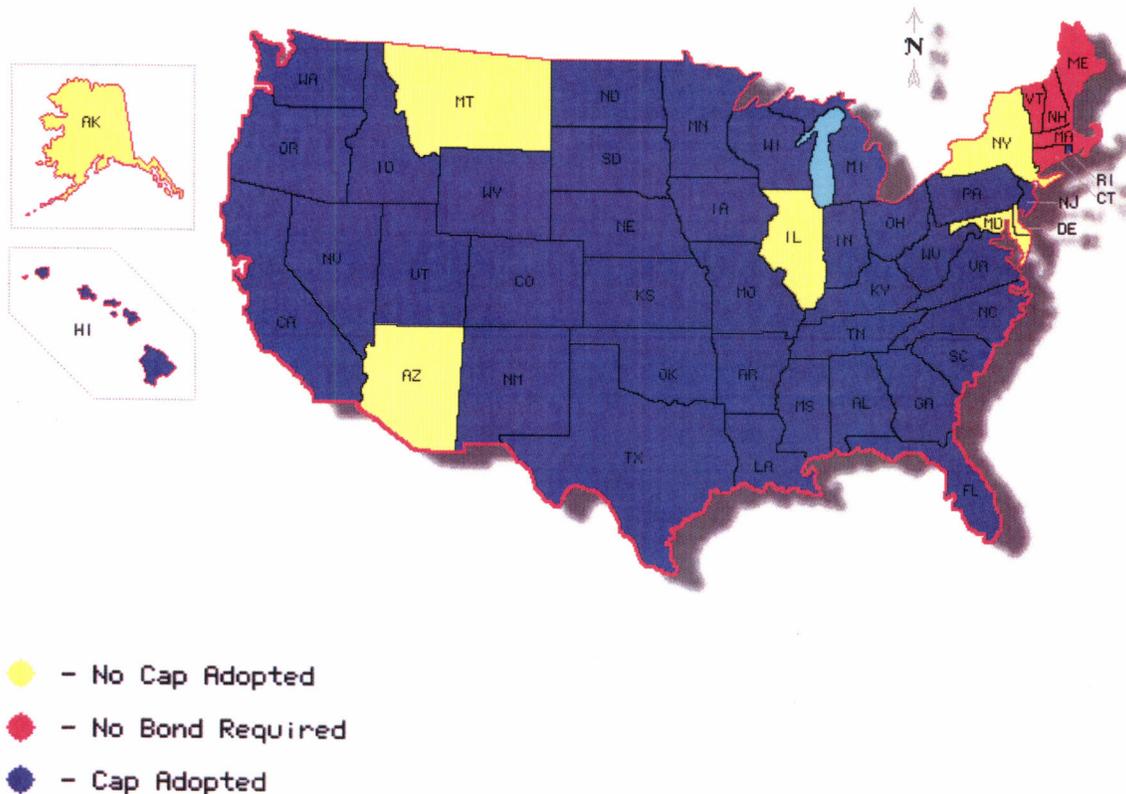


Appeal Bond Reform

Many states require defendants to post an appeal bond – sometimes equal to 150 percent of a verdict – in order to secure the right to appeal.

PROBLEM: In an era when billion-dollar verdicts are no longer uncommon, appealing a jury verdict can force an individual, a company, or an industry into bankruptcy.

ATRA's POSITION: ATRA supports appeal bond reform legislation that limits the size of an appeal bond when a company is not liquidating its assets or attempting to flee from justice.



Arizona

Appeal Bond Reform: S.B. 1212 (2011), A.R.S. § 12-2108

Limits the amount of an appeal bond to the lesser of the total amount of damages awarded excluding punitive damages, 50% of the appellant's net worth, or \$25 million.

WILSON

100
100
100

Tennessee

Appeal Bond Reform: HB 2008 / SB 1522 (2011); Tenn. Code Ann. § 27-1-124.

Lowers the amount a defendant can be required to pay to appeal a decision from \$75 million to \$25 million not to exceed 125% of the judgment.

Appeal Bond Reform: SB 1687 (2003).

Limits the amount a defendant can be required to pay to secure the right to appeal to \$75 million.

North Carolina

Appeal Bond Reform: SB 33 (2011).

The amount of the undertaking that shall be required by the court shall be an amount determined by the court after notice and hearing proper and reasonable for the security of the rights of the adverse party, considering relevant factors, including the following: (1) The amount of the judgment; (2) the amount of the limits of all applicable liability policies of the appellant judgment debtor; and (3) The aggregate net worth of the appellant judgment debtor.

Appeal Bond Reform: S. 784 (2003); Amended N.C. Gen. Stat. § 1-289.

Limits the amount a defendant can be required to pay to secure the right to appeal all judgments to \$25 million regardless of legal theory. Provides that foreign judgments cannot be executed in North Carolina if appeal is pending in a foreign jurisdiction or the judgment has been stayed by the court that rendered it and a bond has been posted.

Appeal Bond Reform: SB 2 (2000); Amended N.C. Gen. Stat. § 1C-1750.

Places a \$25 million limit on bond requirements in punitive damages awards during the appeal process. Provides that limits on bond appeals for out-of-state judgments apply during the stay period only.

Oklahoma

Appeal Bond Reform: HB 1603 (2009); 12 Okl. St. § 990.4.

Limits the amount a defendant can be required to pay to secure the right to appeal to \$25 million. Eliminates bonding requirement to appeal a punitive damages judgment.

Appeal Bond Reform: HB 2661 (2004).

The court is given discretion to lower the bond if the judgment debtor can show

that it is likely to suffer substantial economic harm if required to post a bond in the amount required by statute (which is double the judgment). Applies to all cases except those involving signatories to the Master Settlement Agreement.

Appeal Bond Reform: SB 372 (2001).

Limits the amount a signatory to the Master Settlement Agreement can be required to pay to secure the right to appeal to \$25 million.

Florida

Appeal Bond Reform: SB 2198 (2009)

Limits the amount a defendant can be required to pay to secure the right to appeal to \$200 million. The limit applies to *Engle* progeny litigation, and creates an overall appeal bond cap for all of these cases combined. The entities covered by the statute include signatories to the Master Settlement Agreement, successors, and affiliates.

Appeal Bond Reform: H.B. 841 (2006); Fla. Stat. § 45.045

Limits the amount a defendant can be required to pay to secure the right to appeal in any civil action, except for certified class actions subject 768.733, to \$50 million.

Appeal Bond Reform: S 2826 (2003); Fla. Stat. § 569.23

Limits the amount that signatories to the Master Settlement Agreement are required to pay to secure the right to appeal to \$100 million.

Appeal Bond Reform: HB 1721 (2000); Fla. Stat. § 215.56005; Amending Fla. Stat. § 17.41

Limits the amount a defendant can be required to pay to secure the right to appeal punitive damages awards in class actions to the lesser of 10% of the defendants net worth or \$100 million. The reform applies in out-of-state judgments during the stay period only.

Rhode Island

Appeal Bond Reform- S.B. 2509 (2008); R.I. Gen. Laws § 42-133-11.1.

Limits the amount a signatory to the Master Settlement Agreement can be required to pay to secure the right to appeal to \$50 million.

Wyoming

Appeal Bond Reform: H.B. 196 (2007).

Limits the amount a defendant can be required to pay to secure the right to appeal to \$25 million. For small businesses, defined as having 50 or fewer employees, limits the amount to secure the right to appeal to \$2 million.

Hawaii

Appeal Bond Reform

Limits the amount a defendant can be required to pay to secure the right to appeal to \$25 million. Limits the amount a small business can be required to pay to secure the right to appeal to \$1 million.

Washington

Appeal Bond Reform: S.B. 6541 (2006).

Limits the amount a signatory to the Master Settlement Agreement can be required to pay to secure the right to appeal to \$100 million.

Alabama

Appeal Bond Reform: H.B. 220 (2006); Code of Ala. § 6-12-4.

Limits the amount a signatory to the Master Settlement Agreement can be required to pay to secure the right to appeal to \$125 million.

Appeal Bond Reform: (1987).

Repeals Alabama's affirmance fee rule, which assessed a fee of 10% of the judgment against defendants (but not plaintiffs) who appealed cases and lost.

Missouri

Appeal Bond Reform: H.B. 393 (2005); § 512.099 R.S.Mo.

Limits the amount a defendant can be required to pay to secure the right to appeal \$50 million.

Appeal Bond Reform: S.B. 242 (2003); § 512.085 R.S.Mo.

Limits the amount a signatory to the Master Settlement Agreement can be required to pay to secure the right to appeal to \$50 million.

Utah

Appeal Bond Reform: Sup. Ct. Order 2005-03-22 (2005).

The Utah Supreme Court imposed a limit on the amount a defendant can be required to pay to secure the right to appeal by amending UCRP governing appeal bonds. The limitations are: (1) \$25 million for compensatory damages,

applied to class actions and actions involving multiple plaintiffs where damages are not proved for each plaintiff individually; (2) \$0 for punitive damages, applied to all actions and eliminates bond requirements for appealing a punitive damage award.

North Dakota

Appeal Bond Reform: SB 2273 (2005); N.D. Cent. Code, § 28-21-25.

Limits the amount a defendant can be required to pay to secure the right to appeal to \$25 million.

Kansas

Appeal Bond Reform: HB 2457 (2005); Amended K.S.A. § 60-2103.

Provides that if the appellant proves by a preponderance of the evidence that setting the supersedeas bond at the full amount of the judgment will result in the appellant suffering an undue hardship or a denial of the right to appeal, the court may reduce the amount of the bond as follows: (1) if the judgment is less than or equal to \$1 million, the supersedeas bond shall be set at the full amount of the judgment; or (2) if the judgment exceeds \$1 million in value, the supersedeas bond shall be set at a total of \$1 million plus 25 percent of any amount in excess of \$1 million.

Appeal Bond Reform: SB 64 (2003).

Limits the amount that signatories to the Master Settlement Agreement are required to pay to secure the right to appeal to \$25 million.

Minnesota

Appeal Bond Reform: H.F. 1425 (2004); Amended Minn. Stat. § 550.36.

Limits the amount a defendant can be required to pay to secure the right to appeal to \$150 million.

South Carolina

Appeal Bond Reform: H. 4823 (2004).

Provides that judgments are to be stayed during the appeal of a judgment by signatories to the Master Settlement Agreement. Such defendants are not required to post an appeal bond.

Georgia

Appeal Bond Reform: S.B. 411 (2004)

Expands the cap of \$25 million on appeal bonds that applied to punitive damages and expanded the cap to cover all forms of judgments in all civil cases.

Appeal Bond Reform: HB 1346 (2000).

Limits the amount a defendant can be required to pay to secure the right to appeal a punitive damages award to \$25 million.

Nebraska

Appeal Bond Reform: L.B. 1207 (2004); Amended R.R.S. Neb. § 25-1916.

Limits the amount a defendant can be required to pay to secure the right to appeal to the lesser of the amount of the judgment, 50 percent of the appellant's net worth, or \$50 million.

Virginia

Appeal Bond Reform: H.B. 430/S.B. 172 (2004).

Expands limit of \$25 million on appeal bond amounts for punitive damages to apply to appeal bond amounts for all forms of damages.

Appeal Bond Reform: HB 1547 (2000).

Limits the amount a defendant can be required to pay to secure the right to appeal a punitive damages award to \$25 million. Applies in out-of-state judgments during the stay period only.

Indiana

Appeal Bond Reform: HB 1204 (2002); Ind. Code Ann. § 34-49-5-3.

Limits the amount a defendant can be required to pay to secure the right to appeal to \$25 million.

Iowa

Appeal Bond Reform: S.F. 2306 (2004); Amended Iowa Code § 625A.9.

Limits the amount a defendant can be required to pay to secure the right to appeal to \$100 million.

West Virginia

Appeal Bond Reform: SB 671: (2004).

Broadens the \$100 million limit from 2001 to include punitive damage awards.

Appeal Bond Reform: SB 661 (2001).

Limits the amount a signatory to the Master Settlement Agreement can be required to pay to secure the right to appeal to \$100 million. This limit applies to all damages except punitive damages.

Wisconsin

Appeal Bond Reform: A.B. 548 (2003).

Limits the amount a defendant can be required to pay to secure the right to appeal to \$100 million.

Louisiana

Appeal Bond Reform: H.B. 1819 (2003); Amended La. R.S. 39:98.6.

Broadens 2003 cap to include affiliates of signatories to the Master Settlement Agreement.

Appeal Bond Reform: HB 1524 (2001); Amended La. C.C.P. Art. 2124.

Places a \$50 million limit on the amount a signatory to the Master Settlement Agreement must post to obtain a bond during the appeals process.

Arkansas

Appeal Bond Reform: HB 1038 (2003); A.C.A. § 16-55-213

Limits the amount a defendant can be required to pay to secure the right to appeal to \$25 million.

Oregon

Appeal Bond Reform: H.B. 2368 (2003).

Limits the amount a signatory to the Master Settlement Agreement can be required to pay to secure the right to appeal to \$150 million.

California

Appeal Bond Reform: AB 1752 (2003)

Limits the amount a signatory to the Master Settlement Agreement can be required to pay to secure the right to appeal to \$150 million and applies to all judgments in civil litigation regardless of legal theory.

Pennsylvania

Appeal Bond Reform: H.B. 1718 (2003).

Limits the amount a signatory to the Master Settlement Agreement can be required to pay to secure the right to appeal to \$100 million.

Colorado

Appeal Bond Reform: HB 1366 (2003); Amended C.R.S. 13-16-125

Limits the amount a defendant can be required to pay to secure the right to appeal to \$25 million.

South Dakota

Appeal Bond Reform: Sup. Ct. Rule 03-13 (2003).

The South Dakota Supreme Court promulgated a rule which limits the amount a defendant can be required to pay to secure the right to appeal to \$25 million.

Texas

Appeal Bond Reform: HB 4 (2003).

Limits the amount a defendant can be required to pay to secure the right to appeal to the lesser of 50% of a defendant's net worth or \$25 million. Provides that defendants are no longer required to post a bond to appeal punitive damages. Provides that foreign judgments cannot be executed in Texas if appeal is pending in a foreign jurisdiction and a bond has been or will be posted.

Idaho

Appeal Bond Reform: HB 92 (2003).

Limits the amount a defendant can be required to pay to secure the right to appeal punitive damages awards in any judgment to only the first of \$1,000,000.

New Jersey

Appeal Bond Reform: SB 2738 (2003); N.J. Stat. § 52:4D-13

Limits the amount a signatory to the Master Settlement Agreement can be required to pay to secure the right to appeal to \$50 million.

Michigan

Appeal Bond Reform: HB 5151 (2002); MCLS § 600.2607.

Limits the amount a defendant can be required to pay to secure the right to appeal to \$25 million. Provides that this limit will be adjusted on January 1, 2008 and again on January 1 every five years after that by an amount determined by the state treasurer to reflect the annual aggregate percentage change in the Detroit consumer price index since the previous adjustment. Provides that a

court will rescind the limit if an appellee proves by a preponderance of the evidence that the party for whom the bond to stay execution has been limited is purposefully dissipating or diverting assets outside of the ordinary course of business for the purpose of avoiding ultimate payment of the judgment.

Ohio

Appeal Bond Reform: HB 161 (2002); ORC Ann. 2505.09.

Limits the amount a defendant can be required to pay to secure the right to appeal to \$50 million.

Mississippi

Appeal Bond Reform: Rule 8 (2001).

By rule, the Mississippi Supreme Court imposed a limit on the amount that defendants can be required to post to secure a bond to appeal a punitive damages award to the lesser of: (1) 125 percent of the judgment; (2) 10 percent of the defendants net worth; or (3) \$100 million.

Nevada

Appeal Bond Reform: AB 576 (2001); Nev. Rev. Stat. Ann. § 20.035.

Limits the amount a signatory to the Master Settlement Agreement can be required to pay to secure the right to appeal to \$50 million.

Kentucky

Appeal Bond Reform: SB 316 (2000); KRS § 411.187.

Limits the amount a defendant can be required to pay to secure the right to appeal a punitive damages award to \$100 million.

Respectfully submitted by,

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