

S- 2/20/02 Judiciary
S- 3/6/02 Do Pass

3/21/02 UNFINISHED BUSINESS CALENDAR

FEB 14 2002
Place On Calendar

HOUSE FILE 2339
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2052)

Passed House (p.419) Date 2/19/02 Passed Senate (p.1121) Date 4-11-02
Vote: Ayes 94 Nays 0 Vote: Ayes 29 Nays 19
Approved Veto 5/9/02
re-passed 4-11-02

(p.1330) vote 75-20

A BILL FOR

1 An Act relating to the filing of a supersedeas bond.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HOUSE FILE 2339

S-5208

1 Amend House File 2339, as passed by the House, as
2 follows:
3 1. Page 1, line 19, by striking the word
4 "district" and inserting the following: "supreme".

adapted 4-11-02 By JEFF ANGELO
(p.1121)

S-5208 FILED MARCH 19, 2002

HF 2339

1 Section 1. Section 625A.9, Code 2001, is amended to read
2 as follows:

3 625A.9 EXECUTION ON UNSTAYED PART OF JUDGMENT --
4 SUPERSEDEAS BOND WAIVED.

5 1. The taking of the appeal from part of a judgment or
6 order, and the filing of a bond as-above-directed, does not
7 stay execution as to that part of the judgment or order not
8 appealed from.

9 2. If the judgment or order appealed from is for money,
10 such bond shall not exceed any of the following amounts,
11 excluding costs:

12 a. One hundred percent of the amount of the money judgment
13 up to and including one million dollars.

14 b. One million dollars, if the amount of the money
15 judgment is in excess of one million dollars, up to and
16 including one hundred million dollars.

17 c. Twenty-five million dollars, if the amount of the money
18 judgment is in excess of one hundred million dollars.

19 3. Upon motion and for good cause shown, the district
20 court may stay all proceedings under the order or judgment
21 being appealed and permit the state or any of its political
22 subdivisions to appeal a judgment or order to the supreme
23 court without the filing of a supersedeas bond.

24 EXPLANATION

25 This bill permits the state or any of its political
26 subdivisions to request the district court upon a showing of
27 good cause to stay all proceedings under the order or judgment
28 being appealed and waive the requirement that the state or any
29 of its political subdivisions file a supersedeas bond upon
30 appeal to the Iowa supreme court.

31 The bill further provides that if the judgment or order
32 appealed from is for money, an appeal bond shall not exceed
33 any of the following amounts, excluding costs:

34 1. One hundred dollars percent of the amount of the money
35 judgment up to and including \$1 million.

1 2. One million dollars, if the amount of the money
2 judgment is in excess of \$1 million, up to and including \$100
3 million.

4 3. Twenty-five million dollars, if the amount of the money
5 judgment is in excess of \$100 million.

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HOUSE FILE 2339

S-5490

1 Amend House File 2339, as passed by the House, as
2 follows:

3 1. Page 1, by striking lines 9 through 18 and
4 inserting the following:

5 "2. If the judgment or order appealed from is for
6 money, such bond shall not exceed fifty million
7 dollars."

8 2. By renumbering as necessary.

By DONALD B. REDFERN

S-5490 FILED APRIL 11, 2002

WITHDRAWN (p.1121)

HOUSE FILE 2339

S-5264

1 Amend House File 2339, as passed by the House, as
2 follows:

3 1. Page 1, by striking lines 14 through 18 and
4 inserting the following:

5 "b. For a money judgment in excess of one million
6 dollars, the sum of one million dollars and twenty
7 percent of the amount by which the money judgment
8 exceeds one million dollars."

9 2. By renumbering as necessary.

By DONALD B. REDFERN

S-5264 FILED MARCH 27, 2002

W/D 4/1/02

(p.1121)

HOUSE FILE 2339

S-5265

1 Amend House File 2339, as passed by the House, as
2 follows:

3 1. Page 1, by striking lines 9 through 18.

4 2. Page 1, line 19, by striking the figure "3"
5 and inserting the following: "2".

6 3. Page 1, by inserting after line 23 the
7 following:

8 "Sec. ____ . STUDY. The supreme court shall
9 conduct a study on the feasibility and impact of
10 placing reasonable limits on appeal bonds in civil
11 actions for money damages. The study shall include,
12 but not be limited to, an analysis of the
13 constitutionality of such limits, as well as a review
14 of states that have enacted similar legislation. The
15 supreme court shall submit a report of the study's
16 recommendations to the general assembly by December 1,
17 2002."

18 4. By renumbering as necessary.

By JACK HOLVECK

Lost 4/11/02 (p.1121)

S-5265 FILED MARCH 27, 2002

HOUSE FILE 2339

S-5436

1 Amend House File 2339, as passed by the House, as
2 follows:

3 1. Page 1, by striking lines 12 through 18 and
4 inserting the following:

5 "a. For money judgments up to and including one
6 million dollars, one million dollars.

7 b. For money judgments in excess of one million
8 dollars, the sum of one million dollars plus an amount
9 equal to ten percent of the judgment, not to exceed a
10 total of twenty-five million dollars."

11 2. By renumbering as necessary.

By JEFF ANGELO

W/D 4/1/02 (p.1121)

S-5436 FILED APRIL 9, 2002

SENATE AMENDMENT TO HOUSE FILE 2339

H-8669

1 Amend House File 2339, as passed by the House, as
2 follows:

3 1. Page 1, line 19, by striking the word
4 "district" and inserting the following: "supreme".

RECEIVED FROM THE SENATE

H-8669 FILED APRIL 11, 2002

House Concurred
4-11-02 (P. 1389)

HOUSE FILE 2339

H-8673

1 Amend the Senate amendment, H-8669, to House File
2 2339, as passed by the House, as follows:

3 1. Page 1, by inserting after line 2 the
4 following:

5 "____. Page 1, by striking lines 9 through 18 and
6 inserting the following:

7 "2. If the judgment or order appealed from is for
8 money, such bond shall not exceed one hundred million
9 dollars."

10 2. By renumbering as necessary.

By HATCH of Polk

H-8673 FILED APRIL 11, 2002

W/D
4-11-02

HOUSE FILE 2339

H-8674

1 Amend the Senate amendment, H-8669, to House File
2 2339, as passed by the House, as follows:

3 1. Page 1, by inserting after line 2, the
4 following:

5 "____. Page 1, by striking lines 9 through 18.

6 _____. Page 1, line 19, by striking the figure "3."
7 and inserting the following: "2."

By KREIMAN of Davis

H-8674 FILED APRIL 11, 2002

W/D
4-11-02
(P. 1389)

HOUSE FILE 2339

H-8675

1 Amend the Senate amendment, H-8669, to House File
 2 2339, as passed by the House, as follows:
 3 1. Page 1, by inserting after line 2 the
 4 following:
 5 "____. Page 1, by striking lines 14 through 18 and
 6 inserting the following:
 7 "b. One hundred percent of the amount of the money
 8 judgment if the money judgment is in excess of one
 9 million dollars, up to and including one hundred
 10 million dollars.
 11 c. One hundred million dollars, if the amount of
 12 the money judgment is in excess of one hundred million
 13 dollars."
 14 2. By renumbering as necessary.

By KREIMAN of Davis

H-8675 FILED APRIL 11, 2002

*W/D
4-11-02*

HOUSE FILE 2339

H-8676

1 Amend the Senate amendment, H-8669, to House File
 2 2339, as passed by the House, as follows:
 3 1. Page 1, by inserting after line 2, the
 4 following:
 5 "____. Page 1, by striking lines 9 through 18.
 6 _____. Page 1, line 19, by striking the figure "3"
 7 and inserting the following: "2."
 8 2. Page 1, by inserting after line 4, the
 9 following:
 10 "____. Page 1, by inserting after line 23 the
 11 following:
 12 Sec. _____. STUDY. The supreme court shall conduct
 13 a study on the feasibility and impact of placing
 14 reasonable limits on appeal bonds in civil actions for
 15 money damages. The study shall include, but not be
 16 limited to, an analysis of the constitutionality of
 17 such limits, as well as a review of states that have
 18 enacted similar legislation. The supreme court shall
 19 submit a report of the study's recommendations to the
 20 general assembly by December 1, 2002."
 21 3. By renumbering as necessary.

By KREIMAN of Davis

H-8676 FILED APRIL 11, 2002

*W/D
4-11-02*



OFFICE OF THE GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

THOMAS J. VILSACK
GOVERNOR

May 9, 2002

RECEIVED

MAY 13 2002

LEGISLATIVE SERVICE
BUREAU

The Honorable Chester Culver
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit House File 2339, an Act relating to the filing of a supersedeas bond, which among other things reduces the supersedeas bond amount that a defendant must post when appealing the order or judgment of a lower court. House File 2339 proposes to replace the existing guidelines governing supersedeas bonds, as outlined by the Iowa Supreme Court, with a reduced three-tier system.

Currently, supersedeas bonds are governed by Iowa R. App. P. 6.7(2), which provides:

If the judgment or order appealed from be for money, the penalty of such bond shall be 125 percent of the amount thereof, including costs, unless, in exceptional cases, the District Court fixes a larger amount; in all other cases, an amount sufficient to save appellee harmless from the consequences of the appeal...

The Supreme Court adopted Iowa R. App. P. 6.7(2) to ensure that parties, who obtained a successful judgment in a lower court, would not be prejudiced by a stay of judgment pending a final ruling on appeal. As in many surrounding states, the Court's supersedeas bond requirement protects the interests of non-appealing parties by requiring any party who seeks to stay the execution of a judgment to demonstrate that all costs, interest lost, and damages resulting from an appeal can be covered.

House File 2339 drastically reduces the level of protection afforded to judgment holders under Iowa law by creating a tiered bonding system that assigns different bonding requirements to different judgment awards. House File 2339 would reduce the amount of bonding required for judgments up to \$1 million from the current level of 125 percent of the judgment amount to 100 percent. For a judgment over \$1 million up to \$100 million, a party requesting a stay of execution would only be required to secure a bond of \$1 million, which would account for just 1 percent of the total amount of a \$100 million judgment, under this bill. For judgments over \$100 million, House File 2339



would require a party to secure bonding in the amount of \$25 million no matter how large the judgment grew.

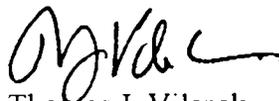
The formula contained in House File 2339 would provide judgment holders with grossly inadequate security coverage during the pendency of their appeal. This would upset the current balance of rights between judgment holders and those seeking to stay the execution of a judgment on appeal. It could also allow some defendants, acting in bad faith, to file frivolous appeals, post very little security, and dissipate assets during appeal, which would defeat the whole purpose of requiring a party to secure a supersedeas bond.

The formula contained in House File 2339 would also seem to defy a rational explanation when applied to various scenarios, since it would provide 100 percent coverage for a damage award between \$1 and \$1 million, 1 percent coverage for a \$100 million damage award, and 25 percent coverage for a judgment of \$100,000,001. Such wide disparities in statutory coverage could be characterized as arbitrary in the best possible light and a potential violation of the equal protection clause in the worst.

House File 2339 also contains a provision that expressly exempts the state or any of its political subdivisions from filing a supersedeas bond upon appeal of a lower court order or judgment if the court finds "good cause shown." Historically, courts have not ordered the state of Iowa to post a bond in order to stay the execution of a judgment on appeal. The state continues to maintain the position that it is not required to post a bond, and furthermore, judgment holders are precluded from executing judgments against it. House File 2339 could create more problems than it solves by prompting a court to conclude that the state is required to post a supersedeas bond in order to avoid the execution of a judgment, absent a Supreme Court Order, in the same manner as a private citizen.

For the reasons stated above, I hereby respectfully disapprove House file 2339.

Sincerely,



Thomas J. Vilsack
Governor

TJV:jmc

cc: Secretary of the Senate
Chief Clerk of the House

Veto

3. Upon motion and for good cause shown, the supreme court may stay all proceedings under the order or judgment being appealed and permit the state or any of its political subdivisions to appeal a judgment or order to the supreme court without the filing of a supersedeas bond.

HOUSE FILE 2339

AN ACT
RELATING TO THE FILING OF A SUPERSEDEAS BOND.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 625A.9, Code 2001, is amended to read as follows:

625A.9 EXECUTION ON UNSTAYED PART OF JUDGMENT --
SUPERSEDEAS BOND WAIVED.

1. The taking of the appeal from part of a judgment or order, and the filing of a bond as-above-directed, does not stay execution as to that part of the judgment or order not appealed from.

2. If the judgment or order appealed from is for money, such bond shall not exceed any of the following amounts, excluding costs:

a. One hundred percent of the amount of the money judgment up to and including one million dollars.

b. One million dollars, if the amount of the money judgment is in excess of one million dollars, up to and including one hundred million dollars.

c. Twenty-five million dollars, if the amount of the money judgment is in excess of one hundred million dollars.

BRENT SIEGRIST
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2339, Seventy-ninth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

VETO 5/9
Approved _____, 2002

THOMAS J. VILSACK
Governor