STATE OF NEW YORK

3129

2017-2018 Regular Sessions

IN SENATE

January 19, 2017

Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to enacting the "local government jobs and revenue protection act of 2017"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the "local government jobs and revenue protection act of 2017."

§ 2. Legislative intent. New York state, New York city and county governments throughout the state are the recipients of hundred of millions of dollars each year under the master settlement agreement. The total of all master settlement payments to these governments over the years has so far exceeded fourteen billion dollars. These funds are vitally important and any disruption in these payments would put the recipients at financial risk. The legislature hereby finds that it is in the public interest to enact the "local government jobs and revenue protection act of 2017" in order to continue the flow of these funds to the state and local governments which depend on this revenue during the appeal of a judgement against master settlement agreement signatories, affiliates, successors and non-participating manufacturers.

§ 3. The civil practice law and rules is amended by adding a new section 5519-a to read as follows:

§ 5519-a. Stay of enforcement for tobacco product master settlement agreement participating or non-participating manufacturers or their successors or affiliates. (a) In civil litigation under any legal theory involving a participating manufacturer or a non-participating manufacturer, as those terms are defined in the master settlement agreement, or any of their successors or affiliates, the undertaking required during the pendency of all appeals or discretionary reviews by any appellate courts in order to stay the execution of any judgment or order granting legal, equitable or other relief during the entire course of appellate

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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review, including review by the United States supreme court, shall be set pursuant to the applicable provisions of law or court rules; provided, however that the total undertaking required of all appellants collectively shall not exceed two hundred fifty million dollars, regardless of the value of the judgment appealed.

(b) Notwithstanding the provisions of subdivision (a) of this section, upon proof by a preponderance of the evidence, by an appellee, that an appellant is dissipating assets outside the course of ordinary business to avoid payment of a judgment, a court may require the appellant to post a bond in an amount up to the total amount of the judgement.

§ 4. This act shall take effect on the thirtieth day after it shall have become a law, and shall apply to any cause of action pending on or filed on or after such effective date.