

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:

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

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

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

17 § 5519-a. Stay of enforcement for tobacco product master settlement
18 agreement participating or non-participating manufacturers or their
19 successors or affiliates. (a) In civil litigation under any legal theory
20 involving a participating manufacturer or a non-participating manufac-
21 turer, as those terms are defined in the master settlement agreement, or
22 any of their successors or affiliates, the undertaking required during
23 the pendency of all appeals or discretionary reviews by any appellate
24 courts in order to stay the execution of any judgment or order granting
25 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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1 review, including review by the United States supreme court, shall be
2 set pursuant to the applicable provisions of law or court rules;
3 provided, however that the total undertaking required of all appellants
4 collectively shall not exceed two hundred fifty million dollars, regard-
5 less of the value of the judgment appealed.

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

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