

CERTIFICATION OF ENROLLMENT

SENATE BILL 6541

59th Legislature
2006 Regular Session

Passed by the Senate March 7, 2006
YEAS 44 NAYS 4

President of the Senate

Passed by the House March 3, 2006
YEAS 87 NAYS 11

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6541** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 6541

AS AMENDED BY THE HOUSE

Passed Legislature - 2006 Regular Session

State of Washington 59th Legislature 2006 Regular Session

By Senators Prentice and Zarelli

Read first time 01/13/2006. Referred to Committee on Ways & Means.

1 AN ACT Relating to appeal bond requirements involving judgments
2 against signatories of the tobacco master settlement agreement; adding
3 a new section to chapter 43.340 RCW; and creating new sections.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6 (a) Over the past five years, Washington has received more than
7 seven hundred million dollars from the tobacco master settlement
8 agreement;

9 (b) While the state has securitized a portion of the moneys it was
10 promised under the master settlement agreement, the remainder of the
11 master settlement agreement payments is used to fund important health
12 programs such as the state's basic health plan, children's health
13 insurance, childhood vaccines, and public health;

14 (c) Litigation now pending in the state or filed in the future
15 could result in damage awards against master settlement agreement
16 signatories or their successors or affiliates that are so large that
17 the defendants could obtain a stay of the execution of the judgment
18 while they appeal only by declaring bankruptcy, rather than posting an
19 appeal bond under state law;

1 (d) Should a master settlement agreement signatory declare
2 bankruptcy, issues might be raised about whether that disrupts or
3 jeopardizes the payments that fund important state programs;

4 (e) The legislature has the substantive obligation to raise revenue
5 and to protect the financial well-being of the state and its citizens.
6 Pursuant to that obligation, it is the legislature's responsibility to
7 ensure the continued receipt of master settlement agreement funds to
8 the maximum extent possible.

9 (2) Therefore, the legislature intends to place a maximum limit on
10 the appeal bond a master settlement agreement signatory or a successor
11 or affiliate of a master settlement agreement signatory can be required
12 to post in litigation in order to stay execution of the judgment
13 without being forced into bankruptcy while it exercises its right to
14 appeal an adverse judgment.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.340 RCW
16 to read as follows:

17 (1) Except as provided in subsection (2) of this section, in order
18 to secure and protect the moneys to be received as a result of the
19 master settlement agreement in civil litigation under any legal theory
20 involving a signatory, a successor of a signatory, or any affiliate of
21 a signatory to the master settlement agreement, the supersedeas bond to
22 be furnished in order to stay the execution of the judgment during the
23 entire course of appellate review shall be set in accordance with
24 applicable laws or court rules, except that the total bond that is
25 required of all appellants collectively shall not exceed one hundred
26 million dollars, regardless of the value of the judgment.

27 (2) If an appellee proves by a preponderance of the evidence that
28 an appellant is dissipating assets outside the ordinary course of
29 business to avoid the payment of a judgment, a court may require the
30 appellant to post a bond in an amount up to the amount of the judgment.

31 NEW SECTION. **Sec. 3.** This act applies to all actions pending on
32 or filed on or after the effective date of this section.

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