



# SUPPORT

## Supersedeas Reform

### HB 4381 by DeAyala

TEXAS CIVIL  
JUSTICE  
LEAGUE

March 2023

## Allow Small Businesses to Post Alternative Security for Judgments

Under current law, a party seeking to appeal a judgment for money damages in a civil case must post or deposit security for payment of the judgment. In general, the amount of security (also called a “supersedeas bond”) required by statute must equal the sum of the amount of compensatory damages awarded in the judgment, interest for the estimated duration of the appeal, and costs awarded in the judgment. § 52.006(a), Civil Practice & Remedies Code. The law further provides that the amount of security may not exceed the lesser of 50% of the party’s net worth or \$25 million. § 52.006(b).

While these amounts might not seem problematic for large businesses, they can pose significant concerns for smaller businesses, especially those with assets primarily, if not exclusively, in non-liquid assets, such as real estate or personal property. For these businesses, withdrawing a substantial amount of working capital from their operations could cripple their ability to sustain the business pending appeal of a judgment. And because they *must* post security in order to pursue their right to appeal, these businesses may be faced with the choice of either trying to convince a trial court and prevailing party that the amount of security should be reduced or giving up their right to appeal altogether.

This proposal seeks to address this problem by allowing a judgment debtor with a net worth of less than \$10 million to post alternative security. The bill provides that if the debtor can show that posting the amount of security required by existing law would require substantial liquidation of the debtor’s interests in real or personal property necessary to the normal course of the debtor’s business, the trial court shall allow the debtor to post alternate security sufficient to secure the judgment. The bill further provides that during an appeal, the debtor shall continue to manage, use, and receive earnings from interests in real or personal property in the normal course of business.

This proposal represents a simple, common sense approach that will preserve the ability of small businesses to appeal judgments against them while protecting the ability of judgment creditors to collect a judgment once it becomes final.

- Texas businesses need reforms to the laws on “superseding money judgments”: providing security to plaintiffs (judgment creditors) so that business defendants can pursue appeals.
- Currently businesses that cannot remove \$25 million from operations for years of an appeal cannot easily supersede judgments; nor can businesses that own mostly real-estate assets or other assets that cannot quickly be turned into cash.
- Plaintiffs (judgment creditors) do not benefit from putting financial strain on businesses – which only depletes potential assets for collection.

## Please Vote FOR HB 4381

**TEXAS CIVIL JUSTICE LEAGUE**

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