

Rule 62-I. Supersedeas Bond

(a) IN GENERAL.

(1) *Court Approval.* An appellant who is entitled to a stay on appeal may present a supersedeas bond or undertaking to the court for its approval.

(2) *Requirements.* The bond or undertaking must:

(A) have a surety or sureties if the court so requires; and

(B) be conditioned to satisfy the judgment in full, together with costs, interest, and damages for delay, if for any reason the appeal is dismissed or if the judgment is affirmed, and to satisfy in full any modification of the judgment and the costs, interest, and damages awarded by the appellate court, if any.

(3) *Value of Bond or Undertaking.*

(A) *Unsecured Monetary Judgments.* When the judgment is for the recovery of money not otherwise secured, the amount of the bond or undertaking will be fixed at such sum as will cover the whole amount of the judgment remaining unsatisfied, costs on the appeal, interest, and damages for delay, unless the court, after notice and hearing and for good cause shown, fixes a different amount or orders security other than the bond.

(B) *Judgments Determining the Disposition of Property in Controversy.* When the judgment determines the disposition of the property in controversy as in real actions, replevin, and actions to foreclose mortgages or when such property is in the custody of the marshal or when the proceeds of the property or a bond for its value is in the custody or control of the court, the amount of the supersedeas bond or undertaking must be fixed at a sum that will secure but not exceed the amount recovered for the use and detention of the property, the costs of the action, costs on appeal, interest, and damages for delay.

When the defendant in an action to recover possession of real estate seeks review, the undertaking must also provide for the payment of all intervening damages to the property sought to be recovered and compensation for its use and occupation from the date of the judgment to the date of the satisfaction if the judgment is not reversed.

(4) *Supplementing a Bond or Undertaking.* Unless the court orders otherwise, when the appellant has already filed, in the trial court, security that was intended to include adequate security in the event of an appeal, a separate supersedeas bond need not be given, except for the difference in amount, if any.

(b) **EVIDENCE OF FINANCIAL ABILITY.** Before the court approves any bond or undertaking, the party offering the bond or undertaking must furnish to the court any evidence establishing the financial ability of the surety or sureties to discharge the financial obligations of the bond as might be required by the court.

COMMENT TO 2017 AMENDMENTS

Stylistic changes were made to this rule to conform with the 2007 amendments to the Federal Rules of Civil Procedure.

COMMENT

This Rule contemplates that although the party securing the bond must make diligent efforts to provide adequate security, the ultimate burden is on prevailing parties to assure themselves that the surety is solvent and to bring any issues to the Court's attention.