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2001 MAY -2 P 10:42

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2001



ENROLLED

Committee Substitute for

SENATE BILL NO. *661*

(By Senator *Fanning and Ross* **)**



PASSED *April 14, 2001*

In Effect *from* **Passage**

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 661

(SENATORS FANNING AND ROSS, *original sponsors*)

[Passed April 14, 2001; in effect from passage.]

AN ACT to amend and reenact section one, article eleven-a, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto two new sections, designated sections four and five, all relating to providing a limit of two hundred million dollars on the maximum appeal bond that can be required in litigation in which an appellant is a signatory to a tobacco settlement; providing for applicability; and exceptions.

Be it enacted by the Legislature of West Virginia:

That section one, article eleven-a, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be

further amended by adding thereto two new sections, designated sections four and five, all to read as follows:

ARTICLE 11A. LEGISLATIVE APPROPRIATION OF TOBACCO SETTLEMENT FUNDS.

§4-11A-1. Legislative findings and purpose.

1 (a) On the twenty-third day of November, one thousand
2 nine hundred ninety-eight, tobacco product manufacturers
3 entered into a settlement agreement with the state. This
4 "master settlement agreement" releases those manufactur-
5 ers from past, present and specific future claims against
6 them in return for payment of annual sums of money to the
7 state, obligates the manufacturers to change their adver-
8 tising and marketing practices and requires the establish-
9 ment by the manufacturers of a national foundation for
10 the interests of public health.

11 (b) The revenues received pursuant to the master
12 settlement agreement are directly related to the past,
13 present and future costs incurred by the state for the
14 treatment of tobacco-related illnesses. The purpose of this
15 article is to preserve the revenues received from the
16 settlement.

17 (c) The receipt of funds in accordance with the master
18 settlement agreement shall be deposited only in accor-
19 dance with the provisions of this article.

20 (d) West Virginia receives approximately seventy million
21 dollars in revenue each year under the terms of the master
22 settlement agreement with the tobacco manufacturers.
23 This revenue is used to fund programs of vital importance
24 to the people of West Virginia and the Legislature finds
25 that it is in the best interest of the people of this state to
26 protect these revenues.

§4-11A-4. Limitation on appeal bond.

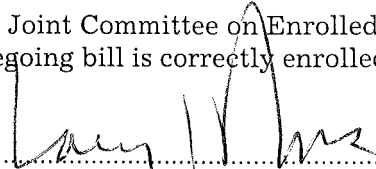
1 The bond that any appellant who is a signatory or a
2 successor to a signatory of the master settlement agree-

3 ment may be required to post to stay execution on a
4 judgment during an appeal in any cause of action shall be
5 set in accordance with the provisions of section fourteen,
6 article five, chapter fifty-eight of this code and the West
7 Virginia rules of civil procedure: *Provided*, That an appeal
8 bond may not exceed one hundred million dollars for
9 compensatory damages and all other portions of a judg-
10 ment other than punitive damages and one hundred
11 million dollars for punitive damages unless the appellee
12 proves by a preponderance of the evidence that the
13 appellant or appellants are purposefully dissipating or
14 diverting assets outside of the ordinary course of its
15 business to the effect that the ability to pay the ultimate
16 judgment is impaired. For purposes of this section,
17 multiple judgments resulting from cases that have been
18 consolidated or aggregated for purposes of trial proceed-
19 ings shall be treated as a single judgment.

§4-11A-5. Applicability.

1 The provisions of section four of this article apply to all
2 actions pending in the courts of this state on the effective
3 date of this section and to any action filed in this state on
4 or after the effective date: *Provided*, That the provisions
5 of section four of this article providing for the maximum
6 amount of an appeal bond shall not apply in any action
7 brought by any signatory to the master settlement agree-
8 ment seeking to enforce compliance with the terms of the
9 master settlement agreement or for a breach of the master
10 settlement agreement.

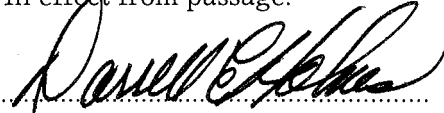
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

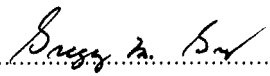

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Chairman Senate Committee

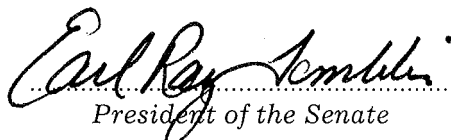

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Chairman House Committee

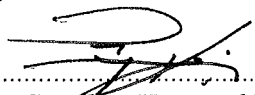
Originated in the Senate.

In effect from passage.

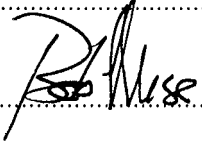

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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within is approved this the 2nd

Day of May, 2001.

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Governor

PRESENTED TO THE

GOVERNOR

Date 4/19/01

Time 5:10 pm