

**ASSEMBLY BILL**

**No. 2154**

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**Introduced by Assembly Member Jones**

February 20, 2014

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An act to amend Section 917.1 of the Code of Civil Procedure, relating to civil actions.

LEGISLATIVE COUNSEL'S DIGEST

AB 2154, as introduced, Jones. Appeals in civil actions: stay of enforcement.

Existing law provides that, unless an undertaking is given, the perfecting of an appeal shall not stay the enforcement of a judgment or order for money or the payment of money, or for costs awarded pursuant to specified provisions.

This bill would provide that the perfecting of an appeal shall also not stay the enforcement of a judgment or order for attorneys' fees or costs, or both, awarded pursuant to specified provisions of the Family Code, unless an undertaking is given and the trial court determines that the enforcement of the judgment or order shall be stayed.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 917.1 of the Code of Civil Procedure is
- 2 amended to read:
- 3 917.1. (a) Unless an undertaking is given, the perfecting of an
- 4 appeal shall not stay enforcement of the judgment or order in the
- 5 trial court if the judgment or order is for any of the following:

1 (1) Money or the payment of money, whether consisting of a  
2 special fund or not, and whether payable by the appellant or another  
3 party to the action.

4 (2) Costs awarded pursuant to Section 998~~which that~~ otherwise  
5 would not have been awarded as costs pursuant to Section 1033.5.

6 (3) Costs awarded pursuant to Section 1141.21~~which that~~  
7 otherwise would not have been awarded as costs pursuant to  
8 Section 1033.5.

9 (4) *Attorney’s fees or costs, or both, awarded pursuant to*  
10 *Section 2030, 3121, 6344, 7605, or 7640 of the Family Code,*  
11 *unless the trial court determines that the enforcement of the*  
12 *judgment or order shall be stayed.*

13 (b) The undertaking shall be on condition that if the judgment  
14 or order or any part of it is affirmed or the appeal is withdrawn or  
15 dismissed, the party ordered to pay shall pay the amount of the  
16 judgment or order, or the part of it as to which the judgment or  
17 order is affirmed, as entered after the receipt of the remittitur,  
18 together with any interest~~which that~~ may have accrued pending  
19 the appeal and entry of the remittitur, and costs~~which that~~ may  
20 be awarded against the appellant on appeal. This section shall not  
21 apply in cases where the money to be paid is in the actual or  
22 constructive custody of the court;~~and such.~~ *Those* cases shall be  
23 governed, instead, by~~the provisions of~~ Section 917.2. The  
24 undertaking shall be for double the amount of the judgment or  
25 order unless given by an admitted surety insurer in which event it  
26 shall be for one and one-half times the amount of the judgment or  
27 order. The liability on the undertaking may be enforced if the party  
28 ordered to pay does not make the payment within 30 days after  
29 the filing of the remittitur from the reviewing court.

30 (c) If a surety on the undertaking pays the judgment, either with  
31 or without action, after the judgment is affirmed, the surety is  
32 substituted to the rights of the creditor and is entitled to control,  
33 enforce, and satisfy the judgment, in all respects as if the surety  
34 had recovered the judgment.

35 (d) Costs awarded by the trial court under Chapter 6  
36 (commencing with Section 1021) of Title 14 shall be included in  
37 the amount of the judgment or order for the purpose of applying  
38 paragraph (1) of subdivision (a) and subdivision (b). However, no  
39 undertaking shall be required pursuant to this section solely for

- 1 costs awarded under Chapter 6 (commencing with Section 1021)
- 2 of Title 14.

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