

C.R.C.P. Rule 62

Rule 62. Stay of Proceedings to Enforce a Judgment

Currentness

(a) Automatic Stay; Exceptions; Injunctions; Receiverships. Except as stated herein, no execution shall issue upon a judgment nor shall proceedings be taken for its enforcement until the expiration of 14 days after its entry; provided that an interlocutory or final judgment in an action for an injunction or in a receivership action shall not be stayed during the period after its entry and until an appeal is taken or during the pendency of an appeal. Unless otherwise ordered by the court, the provisions of section (c) of this Rule govern the suspending, modifying, restoring, or granting of an injunction during the pendency of an appeal.

(b) Discretionary Stay. In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of, or any proceedings to enforce, a judgment: (1) pending the disposition of a motion for post-trial relief made pursuant to C.R.C.P. 59; (2) pending a motion for relief from a judgment or order made pursuant to C.R.C.P. 60; (3) during the time permitted for filing of a notice of appeal; or (4) during the pendency of a motion for approval of a supersedeas bond.

(c) Injunction Pending Appeal. When an appeal is taken from an interlocutory or final judgment granting, dissolving, or denying an injunction, the trial court in its discretion may suspend, modify, restore, or grant an injunction during the pendency of the appeal upon such terms as to bond or otherwise as it considers proper for the security of the rights of the adverse party.

(d) Stay upon Appeal. When an appeal is taken the appellant by giving a supersedeas bond may obtain a stay from the trial court subject to the exceptions contained in section (a) of this Rule. The bond may be given at or after the time of filing the notice of appeal or of procuring the order allowing the appeal, as the case may be. The stay is effective when the supersedeas bond is approved by the court.

(e) Stay in Favor of the State of Colorado or Municipalities Thereof. When an appeal is taken by the State of Colorado, or by any county or municipal corporation of this state, or of any officer or agency thereof acting in official capacity and the operation or enforcement of the judgment is stayed, no bond, obligation, or other security shall be required from the appellant unless otherwise ordered by the court.

(f) [There is no section (f).]

(g) Power of Appellate Court Not Limited. The provisions in this Rule do not limit any power of the appellate courts or of a justice or judge thereof to stay proceedings during the pendency of an appeal or to suspend, modify, restore, or grant an injunction during the pendency of an appeal or to make any order appropriate to preserve the status quo or the effectiveness of the judgment subsequently to be entered. (See Rule 8, Colorado Appellate Rules.)

(h) Stay of Judgment as to Multiple Claims or Multiple Parties. When a court has ordered a final judgment under the conditions stated in Rule 54(b), the court may stay enforcement of that judgment until the entering of a subsequent judgment or judgments and may prescribe such conditions as are necessary to secure the benefit thereof to the party in whose favor the judgment is entered.

C.R.C.P. 62

Section 1-23. BONDS IN CIVIL ACTIONS

1. Bonds Which Are Automatically Effective Upon Filing With The Court. The following bonds are automatically effective upon filing with the clerk of the court:

(a) Cash bonds in the amount set by court order, subsection 3 of this rule, or any applicable statute.

(b) Certificates of deposit issued by a bank chartered by either the United States government or the State of Colorado, in the amount set by court order, subsection 3 of this rule, or any applicable statute. The certificate of deposit shall be issued in the name of the clerk of the court and payable to the clerk of the court, and the original of the certificate of deposit must be deposited with the clerk of the court.

(c) Corporate surety bonds issued by corporate sureties presently authorized to do business in the State of Colorado in the amount set by court order, subsection 3 of this rule, or any applicable statute. A power of attorney showing the present or current authority of the agent for the surety signing the bond shall be filed with the bond.

2. Bonds Which Are Effective Only Upon Entry of an Order Approving the Bond.

(a) Letters of credit issued by a bank chartered by either the United States government or the State of Colorado, in the amount set by court order, subsection 3 of this rule, or any applicable statute. The beneficiary of the letter of credit shall be the clerk of the district court. The original of the letter of credit shall be deposited with the clerk of the court.

(b) Any Other Proposed Bond.

3. Amounts of Bond.

(a) *Supersedeas Bonds.* Unless the court otherwise orders, or any applicable statute directs a higher amount, the amount of a supersedeas bond to stay execution of a money judgment shall be 125% of the total amount of the judgment entered by the court (including any prejudgment interest, costs and attorneys fees awarded by the court). The amount of a supersedeas bond to stay execution of a non-money judgment shall be determined by the court. Nothing in this rule is intended to limit the court's discretion to deny a stay with respect to non-money judgments. Any interested party may move the trial court (which shall have jurisdiction notwithstanding the pendency of an appeal) for an increase in the amount of the bond to reflect the anticipated time for completion of appellate proceedings or any increase in the amount of judgment.

(b) *Other Bonds.* The amounts of all other bonds shall be determined by the court or by any applicable statute.

4. Service of Bonds Upon All Parties of Record. A copy of all bonds or proposed bonds filed with the court shall be served on all parties of record in accordance with C.R.C.P. 5(b).

5. No Unsecured Bonds. Except as expressly provided by statute, and except with respect to appearance bonds, no unsecured bond shall be accepted by the court.

6. Objections to Bonds. Any party in interest may file an objection to any bond which is automatically effective under subsection 1 of this rule or to any proposed bond subject to subsection 2 of this rule. A bond, which is automatically effective under subsection 1 remains in effect unless the court orders otherwise. Any objections shall be filed not later than 14 days after service of the bond or proposed bond except that objections based upon the entry of any amended or additional judgment shall be made not later than 14 days after entry of any such amended or additional judgment.

7. Bonding Over a Lien. If a money judgment has been made a lien upon real estate by the filing of a transcript of the judgment record by the judgment creditor, the lien shall be released upon the motion of the judgment debtor or other interested party if a bond for the money judgment has been approved and filed as provided in this section 1-23. The order of the court releasing the lien may be recorded with the clerk and recorder of the county where the property is located. Once the order is recorded, all proceedings by the judgment creditor to enforce the judgment lien shall be discontinued, unless a court orders otherwise.

8. Proceedings against Surety or other Security Provider. When these rules require or permit the giving of a bond or other type of security, the surety or other security provider submits to the jurisdiction of the court. The liability of the surety or other security provider may be enforced on motion without the necessity of an independent action. At the time any party seeks to enforce such liability, it shall provide notice of its motion or other form of request to all parties of record and the surety or other security provider in accordance with C.R.C.P. 5(b).

9. Definition. The term “bond” as used in this rule includes any type of security provided to stay enforcement of a money judgment or any other obligation including providing security under C.R.C.P. 65.