

Rule 62-I. [Deleted].

COMMENT TO 2019 AMENDMENTS

Rule 62-I, which allowed an appellant who is entitled to a stay on appeal to present a supersedeas bond or undertaking to the court for its approval, was deleted as unnecessary. Rule 62 comprehensively addresses the procedure concerning bonds or other security when a party seeks a stay pending appeal.

The deletion of Rule 62-I does not affect the substantive standards applied by the court to ensure that security pending appeal adequately protects the appellee if the appeal is dismissed or the judgment is affirmed. For example, Rule 62-I(a)(3)(A) provided, "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." Although this provision is deleted, the court still retains authority to require security that will cover the whole amount of a judgment for the recovery of money not otherwise secured and damages for delay, or to fix a different amount for good cause. Likewise, the deletion of Rule 62-I(b) does not affect the appellant's obligation to demonstrate that the security provider has the financial ability to discharge its obligations.

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.