

Act No. 333
Public Acts of 2012
Approved by the Governor
October 16, 2012
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EFFECTIVE DATE: January 1, 2013

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Reps. Walsh and Heise

ENROLLED HOUSE BILL No. 5128

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of the courts, and of the judges and other officers of the courts; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in the courts; pleading, evidence, practice, and procedure in civil and criminal actions and proceedings in the courts; to provide for the powers and duties of certain state governmental officers and entities; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending section 308 (MCL 600.308), as amended by 1994 PA 375, by amending the heading for chapter 80, and by adding sections 8031, 8033, 8035, 8037, 8039, 8041, 8043, 8045, and 8047; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 308. (1) The court of appeals has jurisdiction on appeals from the following orders and judgments which shall be appealable as a matter of right:

(a) All final judgments from the circuit court, court of claims, and recorder's court, except judgments on ordinance violations in the traffic and ordinance division of recorder's court and final judgments and orders described in subsections (2) and (3).

(b) Those orders of the probate court from which an appeal as of right may be taken under section 861.

(2) The court of appeals has jurisdiction on appeal from the following orders and judgments which shall be reviewable only upon application for leave to appeal granted by the court of appeals:

(a) A final judgment or order made by the circuit court under any of the following circumstances:

(i) In an appeal from an order, sentence, or judgment of the probate court under section 863(1) and (2).

(ii) In an appeal from a final judgment or order of the district court appealed to the circuit court under section 8342.

(iii) An appeal from a final judgment or order of a municipal court.

(iv) In an appeal from an ordinance violation conviction in the traffic and ordinance division of recorder's court of the city of Detroit if the conviction occurred before September 1, 1981.

(b) An order, sentence, or judgment of the probate court if the probate court certifies the issue or issues under section 863(3).

(c) A final judgment or order made by the recorder's court of the city of Detroit in an appeal from the district court in the thirty-sixth district under section 8342(2).

(d) A final order or judgment from the circuit court or recorder's court for the city of Detroit based upon a defendant's plea of guilty or nolo contendere.

(e) Any other judgment or interlocutory order as determined by court rule.

(3) An order concerning the assignment of a case to the business court under chapter 80 shall not be appealed to the court of appeals.

CHAPTER 80 THE BUSINESS COURT

Sec. 8031. (1) As used in this section to section 8047:

(a) “Business court” means a special docket as described and organized under section 8033 and administered as provided in this section to section 8047.

(b) “Business enterprise” means a sole proprietorship, partnership, limited partnership, joint venture, limited liability company, limited liability partnership, for-profit or not-for-profit corporation or professional corporation, business trust, real estate investment trust, or any other entity in which a business may lawfully be conducted in the jurisdiction in which the business is being conducted. Business enterprise does not include an ecclesiastical or religious organization.

(c) “Business or commercial dispute” means any of the following:

(i) An action in which all of the parties are business enterprises.

(ii) An action in which 1 or more of the parties is a business enterprise and the other parties are its or their present or former owners, managers, shareholders, members, directors, officers, agents, employees, suppliers, or competitors, and the claims arise out of those relationships.

(iii) An action in which 1 of the parties is a nonprofit organization, and the claims arise out of that party’s organizational structure, governance, or finances.

(iv) An action involving the sale, merger, purchase, combination, dissolution, liquidation, organizational structure, governance, or finances of a business enterprise.

(2) Business or commercial disputes include, but are not limited to, the following types of actions:

(a) Those involving information technology, software, or website development, maintenance, or hosting.

(b) Those involving the internal organization of business entities and the rights or obligations of shareholders, partners, members, owners, officers, directors, or managers.

(c) Those arising out of contractual agreements or other business dealings, including licensing, trade secret, intellectual property, antitrust, securities, noncompete, nonsolicitation, and confidentiality agreements if all available administrative remedies are completely exhausted, including, but not limited to, alternative dispute resolution processes prescribed in the agreements.

(d) Those arising out of commercial transactions, including commercial bank transactions.

(e) Those arising out of business or commercial insurance policies.

(f) Those involving commercial real property.

(3) Notwithstanding subsections (1) and (2), business or commercial disputes expressly exclude the following types of actions:

(a) Personal injury actions including, but not limited to, wrongful death and malpractice actions.

(b) Product liability actions in which any claimant is an individual.

(c) Matters within the jurisdiction of the family division of circuit court.

(d) Proceedings under the probate code of 1939, 1939 PA 288, MCL 710.21 to 712A.32.

(e) Proceedings under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206.

(f) Criminal matters.

(g) Condemnation matters.

(h) Appeals from lower courts or any administrative agency.

(i) Proceedings to enforce judgments of any kind.

(j) Landlord-tenant matters involving only residential property.

(k) Land contract or mortgage foreclosure matters involving residential property.

(l) Motor vehicle insurance coverage under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, except where 2 or more parties to the action are insurers as that term is defined under section 106 of the insurance code of 1956, 1956 PA 218, MCL 500.106.

(m) Insurance coverage disputes in which an insured or an alleged insured is an individual consumer.

(n) Employment discrimination.

- (o) Civil rights including, but not limited to, an action brought under any of the following:
 - (i) The Elliott-Larsen civil rights act, 1976 PA 453, MCL 37.2101 to 37.2804.
 - (ii) The persons with disabilities civil rights act, 1976 PA 220, MCL 37.1101 to 37.1607.
 - (iii) Chapter XXI of the Michigan penal code, 1931 PA 328, MCL 750.146 to 750.148.
- (p) Wrongful discharge, except for actions involving corporate officers or directors.
- (q) Worker's compensation claims under the worker's disability compensation act, 1969 PA 317, MCL 418.101 to 418.941.

Sec. 8033. (1) Every circuit with not fewer than 3 circuit judges shall have a business court and shall submit a plan for the operation of the business court to the state court administrative office and the supreme court for approval.

(2) A circuit other than a circuit described in subsection (1) may submit an administrative order for the operation of a business court to the state court administrative office and the supreme court for review as part of a concurrent jurisdiction plan.

(3) The purpose of a business court is to do all of the following:

- (a) Establish judicial structures that will help all court users by improving the efficiency of the courts.
- (b) Allow business or commercial disputes to be resolved with the expertise, technology, and efficiency required by the information age economy.
- (c) Enhance the accuracy, consistency, and predictability of decisions in business and commercial cases.

Sec. 8035. (1) A business court has jurisdiction over business and commercial disputes in which the amount in controversy exceeds \$25,000.00.

(2) Venue of a suit in the business court is as provided in chapter 16.

(3) An action shall be assigned to a business court if all or part of the action includes a business or commercial dispute. An action that involves a business or commercial dispute that is filed in a court with a business docket shall be maintained in a business court although it also involves claims that are not business or commercial disputes, including excluded claims under section 8031(3).

(4) An action shall be assigned to a business court judge by blind draw, unless the jurisdiction and venue of the case lies in a county described in section 8033(2).

(5) An action assigned to a business court judge may be reassigned by blind draw to another judge as prescribed by the plan submitted under section 8033(1) or (2), as applicable, if the action ceases to include a business or commercial dispute.

(6) An action that does not initially include a business or commercial dispute but that subsequently includes a business or commercial dispute as a result of a cross-claim, counterclaim, third-party complaint, amendment, or any other modification of the action shall be reassigned by blind draw to a business court after the action is modified to include a business or commercial dispute as prescribed by the plan submitted under section 8033(1) or (2), as applicable.

(7) Upon motion of a party, the chief judge of the judicial circuit may review assignments under subsections (3), (5), and (6). The ruling of the chief judge under this subsection is not an order that may be appealed under section 308.

Sec. 8037. (1) Except as provided in subsection (7), a business court consists of sitting circuit judges assigned by the supreme court in a number reasonably reflecting the caseload of the business court. While sitting as a judge of a business court, a circuit judge may exercise the jurisdiction of the business court as provided by law.

(2) A circuit judge assigned as a judge of a business court is assigned for a term of 6 years and may be reassigned at the expiration of the judge's term.

(3) The term of a judge of a business court expires on April 1, 2019, and on April 1 of every sixth year after that.

(4) If a circuit judge acting as a business court judge before whom a case has been tried or a motion heard is disabled or absent from the place where court is held, another circuit judge designated to sit as the judge of a business court may continue to hear, determine, and sign all matters that his or her predecessor could have heard, determined, and signed.

(5) If a circuit judge designated to sit as a judge of the business court leaves office for any reason before signing a judgment and after a finding of fact or rendering an opinion upon proof submitted and argument of counsel disposing of all or part of the issues in the case involved, a successor as judge of the business court may proceed with that action in a manner consistent with the finding of fact or opinion. The successor judge has the same powers as if the finding of fact had been made or the opinion had been rendered by the successor judge.

(6) If a circuit judge leaves office while sitting as a judge of a business court, the supreme court may assign a circuit judge to serve for the remainder of the judge's term on the business court.

(7) A concurrent jurisdiction plan adopted under chapter 4 and approved by the supreme court may provide that 1 or more probate judges or district judges within the circuit may exercise the power and jurisdiction of the business court.

Sec. 8039. (1) Whenever possible, an action commenced in a business court shall be filed by electronic communications.

(2) A business court shall meet minimum standards as determined by the state court administrative office, which may include electronic filing, telephone or video conferencing, and early alternative dispute resolution intervention.

(3) All written opinions in business court cases shall be made available on an indexed website.

(4) The practice and procedure of a business court not otherwise governed by the provisions of sections 8031 to 8047 shall be governed by practices and procedures prescribed for the circuit court. The supreme court may adopt rules governing practice and procedure in the business court.

Sec. 8041. (1) An appeal from a business court shall be to the court of appeals, as prescribed by supreme court rules.

(2) The time within which an appeal as of right from a business court may be taken shall be governed by supreme court rules concerning appeals from the circuit court.

Sec. 8043. The Michigan judicial institute shall provide appropriate training for all circuit judges serving as business court judges.

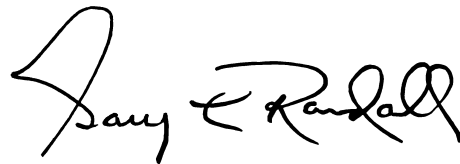
Sec. 8045. The fees payable in civil actions in circuit court apply to cases in a business court, unless otherwise provided by law.

Sec. 8047. Any case that is pending on a pilot business court docket on January 1, 2013 shall remain on that pilot business court docket and assigned to the judge who was initially assigned to that case until its completion.

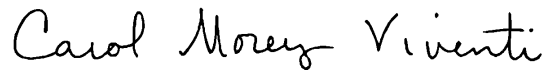
Enacting section 1. Sections 8001, 8003, 8005, 8007, 8009, 8011, 8013, 8015, 8017, 8019, 8021, 8023, 8025, and 8027 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8001, 600.8003, 600.8005, 600.8007, 600.8009, 600.8011, 600.8013, 600.8015, 600.8017, 600.8019, 600.8021, 600.8023, 600.8025, and 600.8027, are repealed.

Enacting section 2. This amendatory act takes effect January 1, 2013.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor