

**SUBSTITUTE FOR
HOUSE BILL NO. 5128**

A bill to amend 1961 PA 236, entitled
"Revised judiciary act of 1961,"
(MCL 600.101 to 600.9947) 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:

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CHAPTER 80

THE ~~CYBER~~-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,

1 PARTNERSHIP, LIMITED PARTNERSHIP, JOINT VENTURE, LIMITED LIABILITY
2 COMPANY, LIMITED LIABILITY PARTNERSHIP, FOR-PROFIT OR NOT-FOR-
3 PROFIT CORPORATION OR PROFESSIONAL CORPORATION, BUSINESS TRUST,
4 REAL ESTATE INVESTMENT TRUST, OR ANY OTHER ENTITY IN WHICH A
5 BUSINESS MAY LAWFULLY BE CONDUCTED IN THE JURISDICTION IN WHICH THE
6 BUSINESS IS BEING CONDUCTED. BUSINESS ENTERPRISE DOES NOT INCLUDE
7 AN ECCLESIASTICAL OR RELIGIOUS ORGANIZATION.

8 (C) "BUSINESS OR COMMERCIAL DISPUTE" MEANS ANY OF THE
9 FOLLOWING:

10 (i) AN ACTION IN WHICH ALL OF THE PARTIES ARE BUSINESS
11 ENTERPRISES.

12 (ii) AN ACTION IN WHICH 1 OR MORE OF THE PARTIES IS A BUSINESS
13 ENTERPRISE AND THE OTHER PARTIES ARE ITS OR THEIR PRESENT OR FORMER
14 OWNERS, MANAGERS, SHAREHOLDERS, MEMBERS, DIRECTORS, OFFICERS,
15 AGENTS, EMPLOYEES, SUPPLIERS, OR COMPETITORS, AND THE CLAIMS ARISE
16 OUT OF THOSE RELATIONSHIPS.

17 (iii) AN ACTION IN WHICH 1 OF THE PARTIES IS A NONPROFIT
18 ORGANIZATION, AND THE CLAIMS ARISE OUT OF THAT PARTY'S
19 ORGANIZATIONAL STRUCTURE, GOVERNANCE, OR FINANCES.

20 (iv) AN ACTION INVOLVING THE SALE, MERGER, PURCHASE,
21 COMBINATION, DISSOLUTION, LIQUIDATION, ORGANIZATIONAL STRUCTURE,
22 GOVERNANCE, OR FINANCES OF A BUSINESS ENTERPRISE.

23 (2) BUSINESS OR COMMERCIAL DISPUTES INCLUDE, BUT ARE NOT
24 LIMITED TO, THE FOLLOWING TYPES OF ACTIONS:

25 (A) THOSE INVOLVING INFORMATION TECHNOLOGY, SOFTWARE, OR
26 WEBSITE DEVELOPMENT, MAINTENANCE, OR HOSTING.

27 (B) THOSE INVOLVING THE INTERNAL ORGANIZATION OF BUSINESS

1 ENTITIES AND THE RIGHTS OR OBLIGATIONS OF SHAREHOLDERS, PARTNERS,
2 MEMBERS, OWNERS, OFFICERS, DIRECTORS, OR MANAGERS.

3 (C) THOSE ARISING OUT OF CONTRACTUAL AGREEMENTS OR OTHER
4 BUSINESS DEALINGS, INCLUDING LICENSING, TRADE SECRET, INTELLECTUAL
5 PROPERTY, ANTITRUST, SECURITIES, NONCOMPETE, NONSOLICITATION, AND
6 CONFIDENTIALITY AGREEMENTS IF ALL AVAILABLE ADMINISTRATIVE REMEDIES
7 ARE COMPLETELY EXHAUSTED, INCLUDING, BUT NOT LIMITED TO,
8 ALTERNATIVE DISPUTE RESOLUTION PROCESSES PRESCRIBED IN THE
9 AGREEMENTS.

10 (D) THOSE ARISING OUT OF COMMERCIAL TRANSACTIONS, INCLUDING
11 COMMERCIAL BANK TRANSACTIONS.

12 (E) THOSE ARISING OUT OF BUSINESS OR COMMERCIAL INSURANCE
13 POLICIES.

14 (F) THOSE INVOLVING COMMERCIAL REAL PROPERTY.

15 (3) NOTWITHSTANDING SUBSECTIONS (1) AND (2), BUSINESS OR
16 COMMERCIAL DISPUTES EXPRESSLY EXCLUDE THE FOLLOWING TYPES OF
17 ACTIONS:

18 (A) PERSONAL INJURY ACTIONS INCLUDING, BUT NOT LIMITED TO,
19 WRONGFUL DEATH AND MALPRACTICE ACTIONS.

20 (B) PRODUCT LIABILITY ACTIONS IN WHICH ANY CLAIMANT IS AN
21 INDIVIDUAL.

22 (C) MATTERS WITHIN THE JURISDICTION OF THE FAMILY DIVISION OF
23 CIRCUIT COURT.

24 (D) PROCEEDINGS UNDER THE PROBATE CODE OF 1939, 1939 PA 288,
25 MCL 710.21 TO 712A.32.

26 (E) PROCEEDINGS UNDER THE ESTATES AND PROTECTED INDIVIDUALS
27 CODE, 1998 PA 386, MCL 700.1101 TO 700.8206.

1 (F) CRIMINAL MATTERS.

2 (G) CONDEMNATION MATTERS.

3 (H) APPEALS FROM LOWER COURTS OR ANY ADMINISTRATIVE AGENCY.

4 (I) PROCEEDINGS TO ENFORCE JUDGMENTS OF ANY KIND.

5 (J) LANDLORD-TENANT MATTERS INVOLVING ONLY RESIDENTIAL
6 PROPERTY.

7 (K) LAND CONTRACT OR MORTGAGE FORECLOSURE MATTERS INVOLVING
8 RESIDENTIAL PROPERTY.

9 (L) MOTOR VEHICLE INSURANCE COVERAGE UNDER THE INSURANCE CODE
10 OF 1956, 1956 PA 218, MCL 500.100 TO 500.8302, EXCEPT WHERE 2 OR
11 MORE PARTIES TO THE ACTION ARE INSURERS AS THAT TERM IS DEFINED
12 UNDER SECTION 106 OF THE INSURANCE CODE OF 1956, 1956 PA 218, MCL
13 500.106.

14 (M) INSURANCE COVERAGE DISPUTES IN WHICH AN INSURED OR AN
15 ALLEGED INSURED IS AN INDIVIDUAL CONSUMER.

16 (N) EMPLOYMENT DISCRIMINATION.

17 (O) CIVIL RIGHTS INCLUDING, BUT NOT LIMITED TO, AN ACTION
18 BROUGHT UNDER ANY OF THE FOLLOWING:

19 (i) THE ELLIOTT-LARSEN CIVIL RIGHTS ACT, 1976 PA 453, MCL
20 37.2101 TO 37.2804.

21 (ii) THE PERSONS WITH DISABILITIES CIVIL RIGHTS ACT, 1976 PA
22 220, MCL 37.1101 TO 37.1607.

23 (iii) CHAPTER XXI OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
24 750.146 TO 750.148.

25 (P) WRONGFUL DISCHARGE, EXCEPT FOR ACTIONS INVOLVING CORPORATE
26 OFFICERS OR DIRECTORS.

27 (Q) WORKER'S COMPENSATION CLAIMS UNDER THE WORKER'S DISABILITY

1 COMPENSATION ACT, 1969 PA 317, MCL 418.101 TO 418.941.

2 SEC. 8033. (1) EVERY CIRCUIT WITH NOT FEWER THAN 3 CIRCUIT
3 JUDGES SHALL HAVE A BUSINESS COURT AND SHALL SUBMIT A PLAN FOR THE
4 OPERATION OF THE BUSINESS COURT TO THE STATE COURT ADMINISTRATIVE
5 OFFICE AND THE SUPREME COURT FOR APPROVAL.

6 (2) A CIRCUIT OTHER THAN A CIRCUIT DESCRIBED IN SUBSECTION (1)
7 MAY SUBMIT AN ADMINISTRATIVE ORDER FOR THE OPERATION OF A BUSINESS
8 COURT TO THE STATE COURT ADMINISTRATIVE OFFICE AND THE SUPREME
9 COURT FOR REVIEW AS PART OF A CONCURRENT JURISDICTION PLAN.

10 (3) THE PURPOSE OF A BUSINESS COURT IS TO DO ALL OF THE
11 FOLLOWING:

12 (A) ESTABLISH JUDICIAL STRUCTURES THAT WILL HELP ALL COURT
13 USERS BY IMPROVING THE EFFICIENCY OF THE COURTS.

14 (B) ALLOW BUSINESS OR COMMERCIAL DISPUTES TO BE RESOLVED WITH
15 THE EXPERTISE, TECHNOLOGY, AND EFFICIENCY REQUIRED BY THE
16 INFORMATION AGE ECONOMY.

17 (C) ENHANCE THE ACCURACY, CONSISTENCY, AND PREDICTABILITY OF
18 DECISIONS IN BUSINESS AND COMMERCIAL CASES.

19 SEC. 8035. (1) A BUSINESS COURT HAS JURISDICTION OVER BUSINESS
20 DISPUTES AND COMMERCIAL DISPUTES IN WHICH THE AMOUNT IN CONTROVERSY
21 EXCEEDS \$25,000.00.

22 (2) VENUE OF A SUIT IN THE BUSINESS COURT IS AS PROVIDED IN
23 CHAPTER 16.

24 (3) AN ACTION SHALL BE ASSIGNED TO A BUSINESS COURT IF ALL OR
25 PART OF THE ACTION INCLUDES A BUSINESS OR COMMERCIAL DISPUTE. AN
26 ACTION THAT INVOLVES A BUSINESS OR COMMERCIAL DISPUTE THAT IS FILED
27 IN A COURT WITH A BUSINESS DOCKET SHALL BE MAINTAINED IN A BUSINESS

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1 COURT ALTHOUGH IT ALSO INVOLVES CLAIMS THAT ARE NOT BUSINESS OR
2 COMMERCIAL DISPUTES, INCLUDING EXCLUDED CLAIMS UNDER SECTION
3 8031(3).

4 (4) AN ACTION SHALL BE ASSIGNED TO A BUSINESS COURT JUDGE BY
5 BLIND DRAW, UNLESS THE JURISDICTION AND VENUE OF THE CASE LIES IN A
6 COUNTY DESCRIBED IN SECTION 8033(2).

7 (5) AN ACTION ASSIGNED TO A BUSINESS COURT JUDGE MAY, WITHIN
8 THE DISCRETION OF THE BUSINESS COURT JUDGE, BE REASSIGNED BY BLIND
9 DRAW TO ANOTHER JUDGE IF THE ACTION CEASES TO INCLUDE A BUSINESS OR
10 COMMERCIAL DISPUTE.

11 (6) AN ACTION THAT DOES NOT INITIALLY INCLUDE A BUSINESS OR
12 COMMERCIAL DISPUTE BUT THAT SUBSEQUENTLY INCLUDES A BUSINESS OR
13 COMMERCIAL DISPUTE AS A RESULT OF A CROSS-CLAIM, COUNTERCLAIM,
14 THIRD-PARTY COMPLAINT, AMENDMENT, OR ANY OTHER MODIFICATION OF THE
15 ACTION, MAY, WITHIN THE DISCRETION OF THE ASSIGNED JUDGE, BE
16 REASSIGNED BY BLIND DRAW TO A BUSINESS COURT AFTER THE ACTION IS
17 MODIFIED TO INCLUDE A BUSINESS OR COMMERCIAL DISPUTE.

18 (7) UPON MOTION OF A PARTY, THE CHIEF JUDGE OF THE JUDICIAL
19 CIRCUIT MAY REVIEW DETERMINATIONS UNDER SUBSECTIONS (3), (5), AND
20 (6) FOR AN ABUSE OF DISCRETION.

21 SEC. 8037. (1) EXCEPT AS PROVIDED IN SUBSECTION (7), A
22 BUSINESS COURT CONSISTS OF [SITTING] CIRCUIT JUDGES ASSIGNED BY THE
23 SUPREME
24 COURT IN A NUMBER REASONABLY REFLECTING THE CASELOAD OF THE
25 BUSINESS COURT. WHILE SITTING AS A JUDGE OF A BUSINESS COURT, A
26 CIRCUIT JUDGE MAY EXERCISE THE JURISDICTION OF THE BUSINESS COURT
27 AS PROVIDED BY LAW.

(2) A CIRCUIT JUDGE ASSIGNED AS A JUDGE OF A BUSINESS COURT IS

1 ASSIGNED FOR A TERM OF 6 YEARS AND MAY BE REASSIGNED AT THE
2 EXPIRATION OF THE JUDGE'S TERM.

3 (3) THE TERM OF A JUDGE OF A BUSINESS COURT EXPIRES ON APRIL
4 1, 2019, AND ON APRIL 1 OF EVERY SIXTH YEAR AFTER THAT.

5 (4) IF A CIRCUIT JUDGE ACTING AS A BUSINESS COURT JUDGE BEFORE
6 WHOM A CASE HAS BEEN TRIED OR A MOTION HEARD IS DISABLED OR ABSENT
7 FROM THE PLACE WHERE COURT IS HELD, ANOTHER CIRCUIT JUDGE
8 DESIGNATED TO SIT AS THE JUDGE OF A BUSINESS COURT MAY CONTINUE TO
9 HEAR, DETERMINE, AND SIGN ALL MATTERS THAT HIS OR HER PREDECESSOR
10 COULD HAVE HEARD, DETERMINED, AND SIGNED.

11 (5) IF A CIRCUIT JUDGE DESIGNATED TO SIT AS A JUDGE OF THE
12 BUSINESS COURT LEAVES OFFICE FOR ANY REASON BEFORE SIGNING A
13 JUDGMENT AND AFTER A FINDING OF FACT OR RENDERING AN OPINION UPON
14 PROOF SUBMITTED AND ARGUMENT OF COUNSEL DISPOSING OF ALL OR PART OF
15 THE ISSUES IN THE CASE INVOLVED, A SUCCESSOR AS JUDGE OF THE
16 BUSINESS COURT MAY PROCEED WITH THAT ACTION IN A MANNER CONSISTENT
17 WITH THE FINDING OF FACT OR OPINION. THE SUCCESSOR JUDGE HAS THE
18 SAME POWERS AS IF THE FINDING OF FACT HAD BEEN MADE OR THE OPINION
19 HAD BEEN RENDERED BY THE SUCCESSOR JUDGE.

20 (6) IF A CIRCUIT JUDGE LEAVES OFFICE WHILE SITTING AS A JUDGE
21 OF A BUSINESS COURT, THE SUPREME COURT MAY ASSIGN A CIRCUIT JUDGE
22 TO SERVE FOR THE REMAINDER OF THE JUDGE'S TERM ON THE BUSINESS
23 COURT.

24 (7) A CONCURRENT JURISDICTION PLAN ADOPTED UNDER CHAPTER 4 AND
25 APPROVED BY THE SUPREME COURT MAY PROVIDE THAT 1 OR MORE PROBATE
26 JUDGES OR DISTRICT JUDGES WITHIN THE CIRCUIT MAY EXERCISE THE POWER
27 AND JURISDICTION OF THE BUSINESS COURT.

1 SEC. 8039. (1) WHENEVER POSSIBLE, AN ACTION COMMENCED IN A
2 BUSINESS COURT SHALL BE FILED BY ELECTRONIC COMMUNICATIONS.

3 (2) A BUSINESS COURT SHALL MEET MINIMUM STANDARDS AS
4 DETERMINED BY THE STATE COURT ADMINISTRATIVE OFFICE, WHICH MAY
5 INCLUDE ELECTRONIC FILING, TELEPHONE OR VIDEO CONFERENCING, AND
6 EARLY ALTERNATIVE DISPUTE RESOLUTION INTERVENTION.

7 (3) ALL WRITTEN OPINIONS IN BUSINESS COURT CASES SHALL BE MADE
8 AVAILABLE ON AN INDEXED WEBSITE.

9 (4) THE PRACTICE AND PROCEDURE OF A BUSINESS COURT NOT
10 OTHERWISE GOVERNED BY THE PROVISIONS OF SECTIONS 8031 TO 8047 SHALL
11 BE GOVERNED BY PRACTICES AND PROCEDURES PRESCRIBED FOR THE CIRCUIT
12 COURT. THE SUPREME COURT MAY ADOPT RULES GOVERNING PRACTICE AND
13 PROCEDURE IN THE BUSINESS COURT.

14 SEC. 8041. (1) AN APPEAL FROM A BUSINESS COURT SHALL BE TO THE
15 COURT OF APPEALS, AS PRESCRIBED BY SUPREME COURT RULES.

16 (2) THE TIME WITHIN WHICH AN APPEAL AS OF RIGHT FROM A
17 BUSINESS COURT MAY BE TAKEN SHALL BE GOVERNED BY SUPREME COURT
18 RULES CONCERNING APPEALS FROM THE CIRCUIT COURT.

19 SEC. 8043. THE MICHIGAN JUDICIAL INSTITUTE SHALL PROVIDE
20 APPROPRIATE TRAINING FOR ALL CIRCUIT JUDGES SERVING AS BUSINESS
21 COURT JUDGES.

22 SEC. 8045. THE FEES PAYABLE IN CIVIL ACTIONS IN CIRCUIT COURT
23 APPLY TO CASES IN A BUSINESS COURT, UNLESS OTHERWISE PROVIDED BY
24 LAW.

25 SEC. 8047. ANY CASE THAT IS PENDING ON A PILOT BUSINESS COURT
26 DOCKET ON JANUARY 1, 2013 SHALL REMAIN ON THAT PILOT BUSINESS COURT
27 DOCKET AND ASSIGNED TO THE JUDGE WHO WAS INITIALLY ASSIGNED TO THAT

1 **CASE UNTIL ITS COMPLETION.**

2 Enacting section 1. Sections 8001, 8003, 8005, 8007, 8009,
3 8011, 8013, 8015, 8017, 8019, 8021, 8023, 8025, and 8027 of the
4 revised judicature act of 1961, 1961 PA 236, MCL 600.8001,
5 600.8003, 600.8005, 600.8007, 600.8009, 600.8011, 600.8013,
6 600.8015, 600.8017, 600.8019, 600.8021, 600.8023, 600.8025, and
7 600.8027, are repealed.

8 Enacting section 2. This amendatory act takes effect January
9 1, 2013.