

JURISDICTION OF BUSINESS COURT

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Senate Bill 333 as enacted
Public Act 101 of 2017
Sponsor: Sen. Rick Jones
House Committee: Judiciary
Senate Committee: Judiciary
Complete to 8-3-17

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: Senate Bill 333 amended the Revised Judicature Act by clarifying the definitions and jurisdictional requirements for the business courts.

FISCAL IMPACT: The bill would have no fiscal impact on state or local government.

THE APPARENT PROBLEM:

In 2012, Public Act 333 (enrolled House Bill 5128) mandated that every circuit court with three or more circuit judges establish a business court, and allowed smaller courts to do so. These courts have jurisdiction over cases involving business or commercial disputes and are meant to specialize in those areas of the law to streamline the court processes. However, since enactment, unanticipated claims have been brought before the specialized court that technically fit under the current definitions but were not intended for such courts. For instance, members of a credit union were being sued, and residential property disputes, such as foreclosures and evictions, were being heard in the business courts, even though they had not been expected to be included when the legislation was passed. As a result, the cases improperly brought before the business courts have had to be refiled in their proper jurisdictions, causing delays in the court systems and the cases.

THE CONTENT OF THE BILL:

Section 8035

The bill revised Section 8035, which regulates the business courts' jurisdiction. Currently, a business court has jurisdiction over business and commercial disputes in which the amount in controversy exceeds \$25,000. The bill removes the 'amount in controversy' requirement and instead read, "disputes in which equitable or declaratory relief is sought or in which the matter otherwise meets circuit court jurisdictional requirements." The circuit court jurisdictional requirements are provided for in MCL 600.601 et seq.

Section 8031 definitions

Currently, a "business or commercial dispute" is defined in Section 8031(1)(c). Senate Bill 333 would amend the definition, with the changes from current law indicated by **bolded italics**:

- An action in which all of the parties are business enterprises, ***unless the only claims asserted are expressly excluded under subsection (3).***

- An action in which one or more of the parties is a business enterprise and the other parties are its or their present or former owners, managers, shareholders, ***members of a limited liability company or a similar business organization***, directors, officers, agents, employees, suppliers, ***guarantors of a commercial loan***, or competitors, and the claims arise out of those relationships.
- An action in which one of the parties is a nonprofit organization, and the claims arise out of that party's organizational structure, governance, or finances.
- An action involving the sale, merger, purchase, combination, dissolution, liquidation, organizational structure, governance, or finances of a business enterprise.

SB 333 would move this last part of the definition to create a new Subsection (2)(a) so as to clarify the kinds of business or commercial disputes that can be heard by the business courts.

Excluded Disputes

Subsection (3) states which business or commercial disputes are expressly excluded from the business courts. The bill following exclusions would be amended, with the new language indicated by ***bolded italics***.

- Proceedings to enforce judgements of any kind, ***including supplementary hearings***, are excluded.
- Land contract, mortgage, ***construction, and condominium lien*** foreclosure matters involving residential property are excluded.
- The law currently excludes motor vehicle insurance coverage disputes under the Insurance Code, except where two or more parties to the action are insurers. The bill would remove the reference to "two or more parties to the action are insurers," and instead exclude all motor vehicle insurance coverage actions.
- The law excludes proceedings under the Probate Code, and the bill would revise the reference to the sections of the code to make it clear that the exception applies to the entire Probate Code (MCL 710.21 to 712b.41).

MCL 600.8031 et al

HOUSE ACTION:

The bill was amended on the floor of the House to include a 90-day enactment clause.

ARGUMENTS:

For:

Supporters of the bill testified of the importance in maintaining the proper jurisdiction and purpose of the business courts. The landlord and tenant issues, claims against credit union members, and other similar cases should stay out of the business courts to ensure a proper hearing on the case and to not cause confusion in the court systems. The aforementioned

cases are best dealt with in their regular courts (a district or circuit court) and are not suited for the concentrated business disputes the business courts are equipped to handle.

Against:

No positions were submitted in opposition to the bill.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.