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REVISE PROVISIONS FOR CYBER COURTS

House Bill 6447

Sponsor: Rep. Marc Shulman

Committee: Civil Law and the Judiciary

Complete to 10-28-02

A SUMMARY OF HOUSE BILL 6447 AS INTRODUCED 9-24-02

Chapter 80 of the Revised Judicature Act specifies that a “cyber court” is a court of record with concurrent jurisdiction over business and commercial actions involving more than \$24,000. Among other provisions, the stated purpose of the cyber court is to “allow disputes between business and commercial entities to be resolved with the expertise, technology, and efficiency required by the information age economy.” House Bill 6447 would add the following provisions to the act:

Business and Commercial Enterprises. The bill would define “business enterprise” to mean 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. The definition would exclude an ecclesiastical or religious organization.

Currently, the act defines “business and commercial actions” to mean disputes arising between business owners, associates, or competitors or between a business entity and its customers. The bill would redefine “business and commercial actions.” (The bill would refer to “business or commercial *disputes*,” rather than “business or commercial *actions*.”) Under the bill, business or commercial disputes would include any of the following:

- An action in which all of the parties were business enterprises.
- An action in which one or more of the parties was a business enterprise and the other parties were its or their present or former owners, managers, shareholders, members, directors, officers, agents, employees, suppliers, customers, or competitors, and the claims arose out of those relationships.
- An action in which one of the parties was a nonprofit organization and the claims arose out of organizational structure, governance, or finances.
- An action involving the sale, merger, purchase, combination, dissolution, liquidation, or governance of a business enterprise.

Jurisdiction. Currently, the cyber court has concurrent jurisdiction over business and commercial litigation actions in which the amount in controversy exceeds \$25,000. These include but are not limited to, actions involving commercial real property other than

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landlord/tenant disputes. Under the bill, landlord/tenant disputes would be expressly excluded from the cyber court's jurisdiction.

The act currently excludes from "business and commercial actions" the following types of disputes: tort actions, including, but not limited to, personal injury, wrongful death, or medical malpractice matters; landlord/tenant matters; employee/employer disputes; administrative agency, tax, zoning, and other appeals; criminal matters; and proceedings to enforce judgments of any type. House Bill 6447 would specify, instead, that the following types of actions would be excluded from business or commercial disputes:

- Personal injury actions involving only physical injuries to one or more individuals, including wrongful death and malpractice actions against any health care provider.
- Product liability actions in which any of the claimants were individuals.
- Matters within the Family Division of the Circuit Court's jurisdiction.
- Proceedings under the Probate Code (MCL 710.21 to 712A.21).
- Proceedings under the Estates and Protected Individuals Code (MCL 700.1101 to 700.8102).
- Criminal matters.
- Condemnation matters.
- Appeals from lower courts or any administrative agency.
- Proceedings to enforce judgments of any kind.
- Landlord-tenant matters involving only residential property.

Removal to Circuit Court. Currently, the act specifies that a defendant can have an action removed to circuit court within 14 days of the deadline for filing an answer to a complaint. House Bill 6447 would specify, instead, that a defendant in an action commenced in the cyber court, a plaintiff against whom a counterclaim was filed in that action, or any party added by motion of the original parties as a plaintiff, defendant, or third-party defendant, could cause the entire case to be transferred to the circuit court, in a county in which venue was proper, by filing a notice of transfer with the clerk of the cyber court within 42 days after the date on which the party had been served with the pleading that gave it the right to transfer. The bill would also specify that any determination by a cyber court judge made under the following provisions would be final and could not be reviewed or altered by the circuit court to which a case had been transferred or by an appellate court:

- Within 21 days after the filing of an answer to a complaint or a motion by a defendant for summary disposition, whichever was earlier, the judge to whom the case had been assigned could make a determination, based solely upon the complaint and answer or the motion, whether the case was primarily a business and commercial dispute. If the judge determined that it was not, the court would have to notify the plaintiff of that decision, and the plaintiff would have 14

days after the court's notification to transfer the case to circuit court had been served. If the plaintiff did not transfer the case to the circuit court, the judge of the cyber court could do so. Subject to the bill's conditions for actions in which parties or claims may be added or deleted, if the judge determined that it was primarily a business or commercial dispute, the case would proceed in cyber court.

- If at the time of, or after the filing of, the defendant's answer or motion for summary disposition, parties or claims were added or deleted, the judge to whom the case had been assigned could -- with 21 days after the answer or motion had been filed -- again make a determination, based solely upon the pleadings as they then existed, whether the case was then primarily a business or commercial dispute. Should the judge determine that it was not, the court would have to notify the plaintiff of that decision, and the plaintiff would have 14 days after service of the court's notification to transfer the case to the circuit court in a county in which venue was proper. If the plaintiff did not transfer the case to the circuit court, the cyber court judge would have to do so. If the judge determined that it was primarily a business or commercial dispute, the case would proceed in cyber court. However, if parties or claims were later added or deleted, then the procedures outlined under the bill for those actions would apply.

- If a defendant in an action commenced in cyber court, a plaintiff against whom a counterclaim had been filed in such an action, or any party added by motion of the original parties as a plaintiff, defendant, or third-party defendant, transferred the action to the circuit court, or if it were determined that the case was not primarily a business or commercial dispute and was transferred to the circuit court, as provided under the bill, then the clerk of the cyber court would be required to forward to the circuit court, as a filing fee, a portion of the filing fee paid at the commencement of the action in the cyber court that was equal to the filing fee otherwise required in the circuit court.

MCL 600.8001 et al.

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