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**SFA****BILL ANALYSIS**

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House Bill 6447 (Substitute H-1 as passed by the House)  
Sponsor: Representative Marc Shulman  
House Committee: Civil Law and the Judiciary  
Senate Committee: Judiciary

Date Completed: 12-4-02

### **CONTENT**

The bill would amend provisions of the Revised Judicature Act concerning the Cyber Court to do the following:

- Specify that an action that involved a business or commercial dispute could be maintained in the Cyber Court, although it also involved claims that were not business or commercial disputes.
- Provide that business or commercial disputes (which may be brought in the Cyber Court if the amount in controversy exceeds \$25,000) would not include product liability actions in which any of the claimants were individuals; matters within the family court's jurisdiction; proceedings under the Probate Code of 1939 or the Estates and Protected Individuals Code; criminal matters; or condemnation matters.
- Allow a defendant in a Cyber Court action, a plaintiff against whom a counterclaim was filed in a Cyber Court action, or any party added by motion of the original parties, to have the entire case transferred to circuit court by filing a notice of transfer with the Cyber Court clerk within 28 days after the party was served with the pleading that gave it the right to transfer. (The bill would delete the current provision that allows the defendant in a Cyber Court action to remove it to circuit court with 14 days after the deadline for filing an answer.)
- Require the Cyber Court judge to whom a case was assigned to determine whether it was primarily a business or commercial dispute; and, if the judge determined that it was not, provide for the case to be transferred to circuit court.
- Specify that the county clerk of the county where the Cyber Court sits would be the clerk of the Cyber Court, and would have to deputize staff designated by the Supreme Court to receive all pleadings filed in the Cyber Court. (Currently, the Supreme Court is required to appoint the Cyber Court clerk.)

Under the Act, the Cyber Court has concurrent jurisdiction over "business and commercial actions" in which the amount in controversy exceeds \$25,000. The Act defines "business and commercial actions" as disputed arising between business owners, associates, or competitors or between a business entity and its customers. The bill, instead, would give the Cyber Court concurrent jurisdiction over "business or commercial disputes" in which the amount in controversy exceeded \$25,000. "Business or commercial dispute" would mean any of the following actions:

- An action in which all of the parties were business enterprises.
- An action in which at least one of the parties was a business enterprise and the other parties were its present or former owners, managers, shareholders, members, directors, officers, agents, employees, suppliers, customers, or competitors, and their claims arose out of those relationships.
- An action in which one of the parties was a nonprofit organization and the claims arose out

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

A "business enterprise" would be 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 could lawfully be conducted. The term would not include an ecclesiastical or religious organization.

MCL 600.8001 et al.

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bill would have minimal implications for the existing Cyber Court structure. While the legislation that created the Cyber Court had an effective date of October 1, 2002, the Supreme Court has not received additional funding to implement the Cyber Court. The FY 2002-03 Judiciary appropriation bill would allow expenditures of up to \$1,000,000 for the development of the Cyber Court. The funding, however, is contingent upon a refund of State penalties paid to the Federal government related to the Child Support Enforcement System.

The State Court Administrative Office estimates the cost to implement the Cyber Court at \$2,030,000, with annual operating costs of \$1,033,000.

Fiscal Analyst: Bill Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.