

HOUSE BILL No. 6447

September 24, 2002, Introduced by Rep. Shulman and referred to the Committee on Civil Law and the Judiciary.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 8001, 8005, and 8011 (MCL 600.8001, 600.8005, and 600.8011), as added by 2001 PA 262.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8001. (1) The cyber court is created and is a court of
2 record.

3 (2) The purpose of the cyber court is to do all of the
4 following:

5 (a) Establish judicial structures that will help to
6 strengthen and revitalize the economy of this state.

7 (b) Allow BUSINESS OR COMMERCIAL disputes ~~between business~~
8 ~~and commercial entities~~ to be resolved with the expertise,
9 technology, and efficiency required by the information age
10 economy.

1 (c) Assist the judiciary in responding to the rapid
2 expansion of information technology in this state.

3 (d) Establish a technology-rich system to serve the needs of
4 a judicial system operating in a global economy.

5 (e) Maintain the integrity of the judicial system while
6 applying new technologies to judicial proceedings.

7 (f) Supplement other state programs designed to make the
8 state attractive to technology-driven companies.

9 (g) Permit alternative dispute resolution mechanisms to ben-
10 efit from the technology changes.

11 (h) Establish virtual courtroom facilities, and allow the
12 conducting of court proceedings electronically and the electronic
13 filing of documents.

14 (3) The cyber court shall be located in 1 or more counties
15 as determined by the supreme court. The cyber court shall sit in
16 facilities designed to allow all hearings and proceedings to be
17 conducted by means of electronic communications, including, but
18 not limited to, video and audio conferencing and internet
19 conferencing.

20 (4) The cyber court shall hold session and shall schedule
21 hearings or other proceedings to accommodate parties or witnesses
22 who are located outside of this state. A cyber court facility is
23 open to the public to the same extent as a circuit court
24 facility. When technologically feasible, and at the discretion
25 of the judge, pursuant to the court rules, all proceedings of the
26 cyber court shall be broadcast on the internet.

1 (5) The cyber court shall maintain its staff and support
2 services at the seat of government.

3 (6) The cyber court shall be funded from annual appropria-
4 tions to the supreme court.

5 Sec. 8005. (1) The cyber court has concurrent jurisdiction
6 over business ~~and~~ OR commercial ~~actions~~ DISPUTES in which the
7 amount in controversy exceeds \$25,000.00.

8 (2) AN ACTION THAT INVOLVES A BUSINESS OR COMMERCIAL DISPUTE
9 MAY BE MAINTAINED IN THE CYBER COURT ALTHOUGH IT ALSO INVOLVES
10 CLAIMS THAT ARE NOT BUSINESS OR COMMERCIAL DISPUTES.

11 (3) ~~(2)~~ For purposes of this section: ~~, "business and~~

12 (A) "BUSINESS ENTERPRISE" MEANS A SOLE PROPRIETORSHIP, PART-
13 NERSHIP, LIMITED PARTNERSHIP, JOINT VENTURE, LIMITED LIABILITY
14 COMPANY, LIMITED LIABILITY PARTNERSHIP, FOR-PROFIT OR
15 NOT-FOR-PROFIT CORPORATION OR PROFESSIONAL CORPORATION, BUSINESS
16 TRUST, REAL ESTATE INVESTMENT TRUST, OR ANY OTHER ENTITY IN WHICH
17 A BUSINESS MAY LAWFULLY BE CONDUCTED IN THE JURISDICTION IN WHICH
18 THE BUSINESS IS BEING CONDUCTED. BUSINESS ENTERPRISE DOES NOT
19 INCLUDE AN ECCLESIASTICAL OR RELIGIOUS ORGANIZATION.

20 (B) "BUSINESS OR commercial ~~actions~~ DISPUTE" means
21 ~~disputes arising between business owners, associates, or compet-~~
22 ~~itors or between a business entity and its customers.~~ ANY OF THE
23 FOLLOWING ACTIONS:

24 (i) AN ACTION IN WHICH ALL OF THE PARTIES ARE BUSINESS
25 ENTERPRISES.

26 (ii) AN ACTION IN WHICH 1 OR MORE OF THE PARTIES IS A
27 BUSINESS ENTERPRISE AND THE OTHER PARTIES ARE ITS OR THEIR

1 PRESENT OR FORMER OWNERS, MANAGERS, SHAREHOLDERS, MEMBERS,
2 DIRECTORS, OFFICERS, AGENTS, EMPLOYEES, SUPPLIERS, CUSTOMERS, OR
3 COMPETITORS, AND THE CLAIMS ARISE OUT OF THOSE RELATIONSHIPS.

4 (iii) AN ACTION IN WHICH 1 OF THE PARTIES IS A NONPROFIT
5 ORGANIZATION, AND THE CLAIMS ARISE OUT OF ORGANIZATIONAL STRUC-
6 TURE, GOVERNANCE, OR FINANCES.

7 (iv) AN ACTION INVOLVING THE SALE, MERGER, PURCHASE, COMBI-
8 NATION, DISSOLUTION, LIQUIDATION, OR GOVERNANCE OF A BUSINESS
9 ENTERPRISE.

10 (4) Business ~~and~~ OR commercial ~~actions~~ DISPUTES include,
11 but are not limited to, the following types of ~~disputes~~
12 ACTIONS:

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

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

18 (c) Those arising out of contractual agreements or other
19 business dealings, including licensing, trade secret, noncompete,
20 nonsolicitation, and confidentiality agreements.

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

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

25 (f) Those involving commercial real property. ~~other than~~
26 ~~landlord/tenant disputes.~~

1 (5) ~~(3)~~ Notwithstanding ~~subsection (2)~~ SUBSECTIONS (3)
2 AND (4), business ~~and~~ OR commercial ~~actions~~ DISPUTES
3 expressly exclude the following types of ~~disputes~~ ACTIONS:

4 ~~(a) Tort actions, including, but not limited to, personal~~
5 ~~injury, wrongful death, or medical malpractice matters.~~

6 ~~(b) Landlord/tenant matters.~~

7 ~~(c) Employee/employer disputes.~~

8 ~~(d) Administrative agency, tax, zoning, and other appeals.~~

9 ~~(e) Criminal matters.~~

10 ~~(f) Proceedings to enforce judgments of any type.~~

11 (A) PERSONAL INJURY ACTIONS INVOLVING ONLY PHYSICAL INJURIES
12 TO 1 OR MORE INDIVIDUALS, INCLUDING WRONGFUL DEATH AND MALPRAC-
13 TICE ACTIONS AGAINST ANY HEALTH CARE PROVIDER.

14 (B) PRODUCT LIABILITY ACTIONS IN WHICH ANY OF THE CLAIMANTS
15 ARE INDIVIDUALS.

16 (C) MATTERS WITHIN THE JURISDICTION OF THE FAMILY DIVISION
17 OF CIRCUIT COURT.

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

20 (E) PROCEEDINGS UNDER THE ESTATES AND PROTECTED INDIVIDUALS
21 CODE, 1998 PA 386, MCL 700.1101 TO 700.8102.

22 (F) CRIMINAL MATTERS.

23 (G) CONDEMNATION MATTERS.

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

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

26 (J) LANDLORD-TENANT MATTERS INVOLVING ONLY RESIDENTIAL
27 PROPERTY.

1 Sec. 8011. (1) ~~A defendant in an action filed in the cyber~~
2 ~~court may remove the action to the circuit court not later than~~
3 ~~14 days after the deadline for filing an answer to the~~
4 ~~complaint. If the action is removed to the circuit court, the~~
5 ~~action shall be heard in the circuit court in a county in which~~
6 ~~venue would be proper.~~ A DEFENDANT IN AN ACTION COMMENCED IN THE
7 CYBER COURT, A PLAINTIFF AGAINST WHOM A COUNTERCLAIM IS FILED IN
8 THAT ACTION, OR ANY PARTY ADDED BY MOTION OF THE ORIGINAL PARTIES
9 AS A PLAINTIFF, DEFENDANT, OR THIRD-PARTY DEFENDANT, MAY CAUSE
10 THE ENTIRE CASE TO BE TRANSFERRED TO THE CIRCUIT COURT IN A
11 COUNTY IN WHICH VENUE IS PROPER BY FILING A NOTICE OF TRANSFER
12 WITH THE CLERK OF THE CYBER COURT WITHIN 42 DAYS AFTER THE DATE
13 ON WHICH THE PARTY WAS SERVED WITH THE PLEADING THAT GIVES IT THE
14 RIGHT TO TRANSFER.

15 (2) WITHIN 21 DAYS AFTER THE FILING OF AN ANSWER TO A COM-
16 PLAIN OR A MOTION BY A DEFENDANT FOR SUMMARY DISPOSITION, WHICH-
17 EVER IS EARLIER, THE JUDGE TO WHOM THE CASE HAS BEEN ASSIGNED
18 SHALL MAKE A DETERMINATION, BASED SOLELY UPON THE COMPLAINT AND
19 ANSWER OR THE MOTION, WHETHER THE CASE IS PRIMARILY A BUSINESS
20 AND COMMERCIAL DISPUTE. IF THE JUDGE DETERMINES THAT IT IS NOT,
21 THE COURT SHALL NOTIFY THE PLAINTIFF OF THAT DECISION, AND THE
22 PLAINTIFF HAS 14 DAYS AFTER SERVICE OF THE COURT'S NOTIFICATION
23 TO TRANSFER THE CASE TO THE CIRCUIT COURT IN A COUNTY IN WHICH
24 VENUE IS PROPER. IF THE PLAINTIFF DOES NOT TRANSFER THE CASE TO
25 THE CIRCUIT COURT, THE JUDGE OF THE CYBER COURT SHALL DO SO.
26 SUBJECT TO SUBSECTION (3), IF THE JUDGE DETERMINES THAT IT IS

1 PRIMARILY A BUSINESS OR COMMERCIAL DISPUTE, THE CASE SHALL
2 PROCEED IN CYBER COURT.

3 (3) IF, AT THE TIME OF OR AFTER THE FILING OF THE
4 DEFENDANT'S ANSWER OR MOTION FOR SUMMARY DISPOSITION, PARTIES OR
5 CLAIMS ARE ADDED OR DELETED, THE JUDGE TO WHOM THE CASE IS
6 ASSIGNED, NOT LATER THAN 21 DAYS AFTER THE ANSWER OR MOTION IS
7 FILED, AGAIN MAKE A DETERMINATION, BASED SOLELY UPON THE PLEAD-
8 INGS AS THEY THEN EXIST, WHETHER THE CASE IS THEN PRIMARILY A
9 BUSINESS OR COMMERCIAL DISPUTE. IF THE JUDGE DETERMINES THAT IT
10 IS NOT, THE COURT SHALL NOTIFY THE PLAINTIFF OF THAT DECISION,
11 AND THE PLAINTIFF HAS 14 DAYS AFTER SERVICE OF THE COURT'S NOTI-
12 FICATION TO TRANSFER THE CASE TO THE CIRCUIT COURT IN A COUNTY IN
13 WHICH VENUE IS PROPER. IF THE PLAINTIFF DOES NOT TRANSFER THE
14 CASE TO THE CIRCUIT COURT, THE JUDGE OF THE CYBER COURT SHALL DO
15 SO. IF THE JUDGE DETERMINES THAT IT IS PRIMARILY A BUSINESS OR
16 COMMERCIAL DISPUTE, THE CASE SHALL PROCEED IN CYBER COURT.
17 HOWEVER, IF PARTIES OR CLAIMS ARE LATER ADDED OR DELETED, THE
18 PROCEDURES IN THIS SUBSECTION APPLY AGAIN.

19 (4) ANY DETERMINATION BY A JUDGE OF THE CYBER COURT MADE
20 UNDER SUBSECTIONS (2) AND (3) IS FINAL AND MAY NOT BE REVIEWED OR
21 ALTERED BY THE CIRCUIT COURT TO WHICH A CASE IS TRANSFERRED OR BY
22 AN APPELLATE COURT.

23 (5) ~~(2) If the defendant removes the action to the circuit~~
24 ~~court as provided in subsection (1),~~ IF A DEFENDANT IN AN ACTION
25 COMMENCED IN CYBER COURT, A PLAINTIFF AGAINST WHOM A COUNTERCLAIM
26 IS FILED IN SUCH AN ACTION, OR ANY PARTY ADDED BY MOTION OF THE
27 ORIGINAL PARTIES AS A PLAINTIFF, DEFENDANT, OR THIRD-PARTY

1 DEFENDANT TRANSFERS THE ACTION TO THE CIRCUIT COURT AS PROVIDED
2 IN SUBSECTION (1), OR THE JUDGE DETERMINES UNDER SUBSECTION (2)
3 OR (3) THAT THE CASE IS NOT PRIMARILY A BUSINESS OR COMMERCIAL
4 DISPUTE AND THE CASE IS TRANSFERRED TO THE CIRCUIT COURT, the
5 clerk of the cyber court shall forward to the circuit court, as a
6 filing fee, a portion of the filing fee paid at the commencement
7 of the action in the cyber court that is equal to the filing fee
8 otherwise required in the circuit court.