

# HOUSE BILL No. 5128

October 26, 2011, Introduced by Reps. Walsh and Heise and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," (MCL 600.101 to 600.9947) by adding chapter 10B

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER 10B

BUSINESS COURTS

SEC. 1085. (1) AS USED IN THIS CHAPTER:

(A) "BUSINESS ENTERPRISE" MEANS 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. BUSINESS ENTERPRISE DOES NOT INCLUDE AN ECCLESIASTICAL OR RELIGIOUS ORGANIZATION.

1 (B) "BUSINESS OR COMMERCIAL DISPUTE" MEANS ANY OF THE  
2 FOLLOWING:

3 (i) AN ACTION IN WHICH ALL OF THE PARTIES ARE BUSINESS  
4 ENTERPRISES.

5 (ii) AN ACTION IN WHICH 1 OR MORE OF THE PARTIES IS A BUSINESS  
6 ENTERPRISE AND THE OTHER PARTIES ARE ITS OR THEIR PRESENT OR FORMER  
7 OWNERS, MANAGERS, SHAREHOLDERS, MEMBERS, DIRECTORS, OFFICERS,  
8 AGENTS, EMPLOYEES, SUPPLIERS, CUSTOMERS, OR COMPETITORS, AND THE  
9 CLAIMS ARISE OUT OF THOSE RELATIONSHIPS.

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

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

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

18 (A) THOSE INVOLVING INFORMATION TECHNOLOGY, SOFTWARE, OR  
19 WEBSITE DEVELOPMENT, MAINTENANCE, OR HOSTING.

20 (B) THOSE INVOLVING THE INTERNAL ORGANIZATION OF BUSINESS  
21 ENTITIES AND THE RIGHTS OR OBLIGATIONS OF SHAREHOLDERS, PARTNERS,  
22 MEMBERS, OWNERS, OFFICERS, DIRECTORS, OR MANAGERS.

23 (C) THOSE ARISING OUT OF CONTRACTUAL AGREEMENTS OR OTHER  
24 BUSINESS DEALINGS, INCLUDING LICENSING, TRADE SECRET, NONCOMPETE,  
25 NONSOLICITATION, AND CONFIDENTIALITY AGREEMENTS.

26 (D) THOSE ARISING OUT OF COMMERCIAL TRANSACTIONS, INCLUDING  
27 COMMERCIAL BANK TRANSACTIONS.

1 (E) THOSE ARISING OUT OF BUSINESS OR COMMERCIAL INSURANCE  
2 POLICIES.

3 (F) THOSE INVOLVING COMMERCIAL REAL PROPERTY.

4 (3) NOTWITHSTANDING SUBSECTIONS (1) AND (2), BUSINESS OR  
5 COMMERCIAL DISPUTES EXPRESSLY EXCLUDE THE FOLLOWING TYPES OF  
6 ACTIONS:

7 (A) PERSONAL INJURY ACTIONS INCLUDING WRONGFUL DEATH AND  
8 MALPRACTICE ACTIONS AGAINST ANY HEALTH CARE PROVIDER.

9 (B) PRODUCT LIABILITY ACTIONS IN WHICH ANY CLAIMANT IS AN  
10 INDIVIDUAL.

11 (C) MATTERS WITHIN THE JURISDICTION OF THE FAMILY DIVISION OF  
12 CIRCUIT COURT.

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

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

17 (F) CRIMINAL MATTERS.

18 (G) CONDEMNATION MATTERS.

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

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

21 (J) LANDLORD-TENANT MATTERS INVOLVING ONLY RESIDENTIAL  
22 PROPERTY.

23 SEC. 1086. (1) THE BUSINESS COURT IS CREATED AS A DIVISION OF  
24 CIRCUIT COURT AND IS ORGANIZED AS PRESCRIBED UNDER THIS CHAPTER.

25 (2) THE PURPOSE OF THE BUSINESS COURT IS TO DO ALL OF THE  
26 FOLLOWING:

27 (A) ESTABLISH JUDICIAL STRUCTURES THAT WILL HELP TO STRENGTHEN

1 AND REVITALIZE THE ECONOMY OF THIS STATE.

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

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

7 (D) ENCOURAGE COMMERCE BY PROVIDING EFFECTIVE AND LOW-COST  
8 MEANS OF RESOLVING DISPUTES BETWEEN BUSINESSES.

9 SEC. 1087. (1) THE BUSINESS COURT HAS JURISDICTION OVER  
10 BUSINESS OR COMMERCIAL DISPUTES IN WHICH THE AMOUNT IN CONTROVERSY  
11 EXCEEDS \$25,000.00.

12 (2) AN ACTION THAT INVOLVES A BUSINESS OR COMMERCIAL DISPUTE  
13 MAY BE MAINTAINED IN THE BUSINESS COURT ALTHOUGH IT ALSO INVOLVES  
14 CLAIMS THAT ARE NOT BUSINESS OR COMMERCIAL DISPUTES.

15 (3) VENUE OF A SUIT IN THE BUSINESS COURT IS AS PROVIDED IN  
16 CHAPTER 16.

17 (4) AN ACTION SHALL BE ASSIGNED TO A BUSINESS COURT JUDGE  
18 WHOSE SEAT IS LOCATED WITHIN THE REGION TO WHICH THE ACTION IS  
19 ASSIGNED BY BLIND DRAW, UNLESS THE JURISDICTION AND VENUE OF THE  
20 CASE LIES IN A COUNTY DESCRIBED IN SECTION 1088(2).

21 SEC. 1088. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), THE  
22 BUSINESS COURT IS DIVIDED INTO 4 REGIONS. THE REGIONS ARE  
23 CONSTITUTED AND NUMBERED AS FOLLOWS:

24 (A) REGION 1 CONSISTS OF THE COUNTIES OF CALHOUN, HILLSDALE,  
25 LENAWEЕ, MONROE, AND WAYNE.

26 (B) REGION 2 CONSISTS OF THE COUNTIES OF GENESEE, MACOMB,  
27 OAKLAND, AND SHIAWASSEE.

1 (C) REGION 3 CONSISTS OF THE COUNTIES OF ALLEGAN, BARRY,  
2 BERRIEN, BRANCH, CASS, EATON, IONIA, JACKSON, KALAMAZOO, KENT,  
3 MUSKEGON, NEWAYGO, OTTAWA, ST. JOSEPH, VAN BUREN, AND WASHTENAW.

4 (D) REGION 4 CONSISTS OF THE COUNTIES OF ALCONA, ALGER,  
5 ALPENA, ANTRIM, ARENAC, BARAGA, BAY, BENZIE, CHARLEVOIX, CHEBOYGAN,  
6 CHIPPEWA, CLARE, CLINTON, CRAWFORD, DELTA, DICKINSON, EMMET,  
7 GLADWIN, GOGEBIC, GRAND TRAVERSE, GRATIOT, HOUGHTON, HURON, INGHAM,  
8 IOSCO, IRON, ISABELLA, KALKASKA, KEWEENAW, LAKE, LAPEER, LEELANAU,  
9 LIVINGSTON, LUCE, MACKINAC, MANISTEE, MARQUETTE, MASON, MECOSTA,  
10 MENOMINEE, MIDLAND, MISSAUKEE, MONTCALM, MONTMORENCY, OCEANA,  
11 OGEMAW, ONTONAGON, OSCEOLA, OSCODA, OTSEGO, PRESQUE ISLE,  
12 ROSCOMMON, SAGINAW, SANILAC, SCHOOLCRAFT, ST. CLAIR, TUSCOLA, AND  
13 WEXFORD.

14 (2) IF A CIRCUIT COURT, INDIVIDUALLY OR IN CONCERT WITH 1 OR  
15 MORE OTHER CIRCUIT COURTS, IMPLEMENTS A SPECIAL DOCKET DEDICATED TO  
16 BUSINESS OR COMMERCIAL DISPUTES WITH THE APPROVAL OF THE SUPREME  
17 COURT, COUNTIES WITHIN THAT CIRCUIT OR CIRCUITS ARE NOT PART OF A  
18 REGION UNDER SUBSECTION (1) SO LONG AS THE SPECIAL DOCKET IS IN  
19 OPERATION IN THE CIRCUIT OR CIRCUITS WITHIN THE COUNTY.

20 SEC. 1089. (1) THE BUSINESS COURT CONSISTS OF CIRCUIT JUDGES  
21 ASSIGNED BY THE SUPREME COURT IN A NUMBER REASONABLY REFLECTING THE  
22 CASELOAD OF THE BUSINESS COURT. WHILE SITTING AS A JUDGE OF THE  
23 BUSINESS COURT, A CIRCUIT JUDGE MAY EXERCISE THE JURISDICTION OF  
24 THE BUSINESS COURT AS PROVIDED BY LAW.

25 (2) IF A CIRCUIT JUDGE ACTING AS A BUSINESS COURT JUDGE BEFORE  
26 WHOM A CASE HAS BEEN TRIED OR A MOTION HEARD IS DISABLED OR ABSENT  
27 FROM THE PLACE WHERE COURT IS HELD UNDER THIS CHAPTER, ANOTHER

1 CIRCUIT JUDGE DESIGNATED TO SIT AS THE JUDGE OF THE BUSINESS COURT  
2 MAY CONTINUE TO HEAR, DETERMINE, AND SIGN ALL MATTERS THAT HIS OR  
3 HER PREDECESSOR COULD HAVE HEARD, DETERMINED, AND SIGNED.

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

13 (4) IF A CIRCUIT JUDGE LEAVES OFFICE WHILE SITTING AS A JUDGE  
14 OF THE BUSINESS COURT, THE SUPREME COURT MAY ASSIGN A CIRCUIT JUDGE  
15 TO SERVE FOR THE REMAINDER OF THE JUDGE'S TERM ON THE BUSINESS  
16 COURT.

17 (5) A CIRCUIT JUDGE ASSIGNED AS A JUDGE OF THE BUSINESS COURT  
18 IS ASSIGNED FOR A TERM OF 2 YEARS AND MAY BE REASSIGNED AT THE  
19 EXPIRATION OF THE JUDGE'S TERM.

20 (6) THE TERM OF A JUDGE OF THE BUSINESS COURT EXPIRES ON MAY 1  
21 OF EACH ODD-NUMBERED YEAR.

22 (7) THE SUPREME COURT MAY SELECT A CHIEF JUDGE OF THE BUSINESS  
23 COURT FROM AMONG THE CIRCUIT JUDGES ASSIGNED TO THE BUSINESS COURT.

24 SEC. 1090. (1) A MAJORITY OF CIRCUIT JUDGES WHILE SITTING AS  
25 JUDGES OF THE BUSINESS COURT SHALL APPOINT OR REMOVE THE CLERK OF  
26 THE BUSINESS COURT.

27 (2) FOR MAKING COPIES OF RECORDS, PROCEEDINGS, AND TESTIMONY

1 AND FURNISHING THE SAME AT THE REQUEST OF THE CLAIMANT OR ANY OTHER  
2 PERSON, THE CLERK OF THE BUSINESS COURT OR ANY REPORTER OR RECORDER  
3 SERVING IN THE BUSINESS COURT SHALL BE ENTITLED, IN ADDITION TO  
4 SALARY, TO THE SAME FEES AS ARE BY LAW PROVIDED FOR COURT REPORTERS  
5 OR RECORDERS IN THE CIRCUIT COURT. NO CHARGE SHALL BE MADE AGAINST  
6 THE STATE FOR SERVICES RENDERED FOR FURNISHING COPIES OF RECORDS,  
7 PROCEEDINGS, OR TESTIMONY OR OTHER PAPERS TO THE ATTORNEY GENERAL.

8 (3) PROCESS ISSUED BY THE COURT MAY BE SERVED BY ANY MEMBER OF  
9 THE MICHIGAN STATE POLICE AS WELL AS ANY OTHER OFFICER OR PERSON  
10 AUTHORIZED TO SERVE PROCESS ISSUED OUT OF THE CIRCUIT COURT.

11 SEC. 1091. (1) THE BUSINESS COURT SHALL SIT IN THE JUDICIAL  
12 CIRCUIT WHERE A CIRCUIT JUDGE ASSIGNED TO THE BUSINESS COURT SITS,  
13 UNLESS OTHERWISE DETERMINED BY THE STATE COURT ADMINISTRATOR. THE  
14 STATE SHALL REIMBURSE COUNTIES FOR THE REASONABLE AND ACTUAL COSTS  
15 INCURRED FOR IMPLEMENTING JURISDICTIONAL DUTIES IN THE BUSINESS  
16 COURT IMPOSED ON THAT COUNTY BY THIS CHAPTER.

17 (2) COUNTIES SHALL SUBMIT QUARTERLY THEIR ITEMIZED COSTS AS  
18 DESCRIBED IN THIS SECTION TO THE STATE COURT ADMINISTRATIVE OFFICE.  
19 AFTER DETERMINATION BY THE STATE COURT ADMINISTRATOR OF THE  
20 REASONABLENESS OF THE AMOUNT TO BE PAID, PAYMENT SHALL BE MADE  
21 UNDER THE ACCOUNTING LAWS OF THIS STATE. DETERMINATION OF  
22 REASONABLENESS BY THE STATE COURT ADMINISTRATOR SHALL BE  
23 CONCLUSIVE.

24 (3) THE CLERK OF THE BUSINESS COURT AND ITS FULL-TIME  
25 EMPLOYEES ARE EMPLOYEES OF THE CIRCUIT COURT IN WHICH THE BUSINESS  
26 COURT CLERK APPOINTED UNDER THIS CHAPTER IS EMPLOYED.

27 SEC. 1092. (1) AN ACTION COMMENCED IN THE BUSINESS COURT SHALL

1 BE FILED BY ELECTRONIC COMMUNICATIONS ON THE WEBSITE DESCRIBED IN  
2 THIS SECTION.

3 (2) THE SUPREME COURT SHALL ESTABLISH A WEBSITE TO FACILITATE  
4 ALL BUSINESS COURT FILINGS. ALL PLEADINGS AND MOTIONS SHALL BE  
5 FILED IN THE BUSINESS COURT BY MEANS OF ELECTRONIC COMMUNICATION.  
6 THE WEBSITE SHALL DO ALL OF THE FOLLOWING:

7 (A) PERMIT THE COMMENCEMENT OF A SUIT IN A REGION OF THE  
8 BUSINESS COURT DESCRIBED IN SECTION 1088.

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

12 (C) ESTABLISH A TECHNOLOGY-RICH SYSTEM TO SERVE THE NEEDS OF A  
13 JUDICIAL SYSTEM OPERATING IN A GLOBAL ECONOMY.

14 (D) MAINTAIN THE INTEGRITY OF THE JUDICIAL SYSTEM.

15 (3) THE PRACTICE AND PROCEDURE OF THE BUSINESS COURT NOT  
16 OTHERWISE GOVERNED BY THE PROVISIONS OF THIS CHAPTER SHALL BE  
17 GOVERNED BY PRACTICES AND PROCEDURES PRESCRIBED FOR THE CIRCUIT  
18 COURT. THE SUPREME COURT MAY ADOPT RULES GOVERNING PRACTICE AND  
19 PROCEDURE IN THE BUSINESS COURT.

20 SEC. 1093. (1) AN APPEAL FROM THE BUSINESS COURT SHALL BE TO  
21 THE COURT OF APPEALS, AS PRESCRIBED BY SUPREME COURT RULES.

22 (2) THE CLERK OF THE BUSINESS COURT SHALL IMMEDIATELY FURNISH  
23 THE PARTIES TO EVERY ACTION AN ELECTRONIC NOTICE OF ENTRY OF ANY  
24 FINAL ORDER OR JUDGMENT. THE TIME WITHIN WHICH AN APPEAL AS OF  
25 RIGHT MAY BE TAKEN SHALL BE GOVERNED BY SUPREME COURT RULES  
26 CONCERNING APPEALS FROM THE CIRCUIT COURT.

27 SEC. 1094. THE MICHIGAN JUDICIAL INSTITUTE SHALL PROVIDE



1 APPROPRIATE TRAINING FOR ALL CIRCUIT JUDGES WHO ARE SERVING AS  
2 BUSINESS COURT JUDGES.

3 SEC. 1095. THE FEES PAYABLE IN CIVIL ACTIONS IN CIRCUIT COURT  
4 APPLY TO CASES IN THE BUSINESS COURT, UNLESS OTHERWISE PROVIDED BY  
5 LAW.

6 Enacting section 1. This amendatory act takes effect January  
7 1, 2013.