

Resources

Michigan Governor Signs Law Creating New Business Court Docket

New Law Seeks to Improve Consistency in Rulings and to Streamline Proceedings

October 18, 2012

On October 16, 2012, Michigan Gov. Rick Snyder signed House Bill No. 5128, which creates a special business court docket for business and commercial disputes where the amount in controversy exceeds \$25,000. Circuit courts having three or more judges are required to establish a business court docket, while smaller circuits may elect to do so.

The new law, which will take effect on January 1, 2013, is designed to improve court efficiency and enhance the accuracy, consistency, and predictability of court rulings in business and commercial cases. In addition, the legislation encourages the use of streamlined proceedings such as electronic filing, telephone and video conferencing, and early dispute resolution intervention to lower litigant and court costs and bring cases to a faster resolution. Business and commercial disputes covered by the legislation include the following:

- Actions in which all of the parties are “business enterprises,” which the statute defines to include most business associations except for religious and ecclesiastical organizations;
- Actions between a business enterprise and its present or former owners, managers, shareholders, members, directors, officers, agents, employees, suppliers, or competitors, and the claims arise out of those relationships;
- Actions where one of the parties is a nonprofit and the claims arise out of its organizational structure, governance, or finances; and
- Actions involving the sale, merger, purchase, combination, dissolution, liquidation, organizational structure, governance, or finances of a business enterprise.

Once the business court docket is implemented, qualifying actions will be assigned by blind draw to the designated business court judges, whose terms will last six years. While the statute covers a broad range of cases, personal injury and product liability actions, probate matters, landlord-tenant disputes, employment and civil rights cases, residential foreclosure actions, and several other types of cases may not be assigned to a business court docket unless a business and commercial dispute is also involved. One notable exception to the list of excluded matters is for wrongful discharge cases involving a business’s officers or directors. Also, a suit that does not initially contain a business and commercial dispute will be automatically assigned to the business court docket if a designated claim is added by way of cross-claim, counterclaim, third-party claim, amendment to the pleadings, or other modification of action.

While Kent, Macomb, Oakland, and Wayne counties created their own business courts in advance of this legislation, some changes to the operation of those dockets are expected. For example, Oakland County’s business court docket covers cases where the amount in controversy is at least \$500,000, a minimum threshold that conflicts with the new statute. Cases currently pending on pilot business court dockets will remain with the current judge until completion and will not be reassigned to a different business court judge once a formal plan approved by the State Court Administrative Office is put in place.

Please contact **T.L. Summerville** at 313-568-5359, the author of this alert, or your Dykema relationship attorney if you have questions regarding House Bill No. 5128, or its impact on your business’ litigation strategy.

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Michigan Governor Signs Law Creating New Business Court Docket (Cont.)

Practice Areas

Business & Commercial

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