

Act No. 164
Public Acts of 2013
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**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013**

Introduced by Senators Jones, Brandenburg and Marleau

ENROLLED SENATE BILL No. 652

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of the courts, and of the judges and other officers of the courts; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in the courts; pleading, evidence, practice, and procedure in civil and criminal actions and proceedings in the courts; to provide for the powers and duties of certain state governmental officers and entities; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending sections 308, 841, 6404, 6407, 6410, 6413, 6419, 6421, 6422, and 8304 (MCL 600.308, 600.841, 600.6404, 600.6407, 600.6410, 600.6413, 600.6419, 600.6421, 600.6422, and 600.8304), section 308 as amended by 2012 PA 333, sections 841 and 8304 as amended by 2012 PA 338, section 6410 as amended by 1986 PA 308, and sections 6419 and 6421 as amended by 1984 PA 212; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 308. (1) The court of appeals has jurisdiction on appeals from the following orders and judgments, which are appealable as a matter of right:

(a) All final judgments from the circuit court, court of claims, and recorder's court, except judgments on ordinance violations in the traffic and ordinance division of recorder's court and final judgments and orders described in subsections (2) and (3).

(b) Those orders of the probate court from which an appeal as of right may be taken under section 861.

(2) The court of appeals has jurisdiction on appeal from the following orders and judgments that shall be reviewable only upon application for leave to appeal granted by the court of appeals:

(a) A final judgment or order made by the circuit court under any of the following circumstances:

(i) In an appeal from an order, sentence, or judgment of the probate court under section 863(1) and (2).

(ii) In an appeal from a final judgment or order of the district court appealed to the circuit court under section 8342.

(iii) An appeal from a final judgment or order of a municipal court.

(iv) In an appeal from an ordinance violation conviction in the traffic and ordinance division of recorder's court of the city of Detroit, if the conviction occurred before September 1, 1981.

(b) An order, sentence, or judgment of the probate court, if the probate court certifies the issue or issues under section 863(3).

(c) A final judgment or order made by the recorder's court of the city of Detroit in an appeal from the district court in the thirty-sixth district under section 8342(2).

(d) A final order or judgment from the circuit court or recorder's court for the city of Detroit based upon a defendant's plea of guilty or nolo contendere.

(e) Any other judgment or interlocutory order as determined by court rule.

(3) An order concerning the assignment of a case to the business court under chapter 80 shall not be appealed to the court of appeals.

(4) The court of appeals has exclusive original jurisdiction over any action challenging the validity of section 6404, 6410, 6413, or 6419.

Sec. 841. (1) The probate court has jurisdiction and power as follows:

(a) As conferred upon it under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206.

(b) As conferred upon it under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(c) As conferred upon it under this act.

(d) As conferred upon it under another law or compact.

(2) In a judicial circuit in which the probate court is affected by a plan of concurrent jurisdiction adopted under chapter 4, the probate court has concurrent jurisdiction with the circuit court or the district court, or both, as provided in the plan of concurrent jurisdiction, except as to the following matters:

(a) The circuit court has exclusive jurisdiction over appeals from the district court and from administrative agencies as authorized by law.

(b) The circuit court has exclusive jurisdiction and power to issue, hear, and determine prerogative and remedial writs consistent with section 13 of article VI of the state constitution of 1963.

Sec. 6404. (1) The court of claims consists of 4 court of appeals judges from at least 2 court of appeals districts assigned by the supreme court. A court of appeals judge while sitting as a judge of the court of claims may exercise the jurisdiction of the court of claims as provided by law.

(2) All matters pending in the court of claims as of the effective date of the amendatory act that added this subsection shall be transferred to the clerk of the court of appeals, acting as the clerk of the court of claims, for assignment to a court of appeals judge sitting as a court of claims judge pursuant to section 6410. The transfer shall be effective on the effective date of the amendatory act that added this subsection.

(3) Beginning on the effective date of the amendatory act that added this subsection, any matter within the jurisdiction of the court of claims described in section 6419(1) pending or later filed in any court must, upon notice of the state or a department or officer of the state, be transferred to the court of claims described in subsection (1). The transfer shall be effective upon the filing of the transfer notice. The state or a department or officer of this state shall file a copy of the transfer notice with the clerk of the court of appeals, who shall act as the clerk of the court of claims, for assignment to a court of appeals judge sitting as a court of claims judge pursuant to section 6410.

(4) If a judge assigned to serve on the court of claims is disabled, disqualified, or otherwise unable to attend to a matter, another judge assigned to sit as a judge of the court of claims may continue, hear, determine, and sign orders and other documents in the matter.

(5) In case a court of appeals judge designated to sit as the judge of the court of claims dies before signing a judgment and after filing a finding of fact or rendering an opinion upon proof submitted and argument of counsel disposing of all or part of the issues in the case involved, a successor as judge of the court of claims may proceed with that action in a manner consistent with the finding or opinion and the judge is given the same powers as if the finding of fact had been made or the opinion had been rendered by the successor judge.

(6) A judge assigned as a judge of the court of claims shall be assigned for a term of 2 years and may be reassigned at the expiration of that term.

(7) The term of a judge of the court of claims expires on May 1 of each odd-numbered year.

(8) When a judge who is sitting as a judge of the court of claims leaves office or is otherwise unable to serve as a judge of the court of claims, the supreme court may assign a court of appeals judge to serve for the remainder of the judge's term on the court of claims.

(9) The supreme court shall select a chief judge of the court of claims from among the court of appeals judges assigned to the court of claims.

Sec. 6407. The court shall hold at least 4 sessions in each year. Sessions of the court of claims may be held in the various court of appeals districts in the state as the supreme court administrator may determine. The department of technology, management, and budget shall furnish the court with suitable space and equipment.

Sec. 6410. (1) The clerk of the court of appeals shall serve as the clerk of the court of claims.

(2) A plaintiff may file a cause of action in the court of claims in any court of appeals district.

(3) The clerk of the court of claims shall, by blind draw, assign a cause of action filed in the court of claims to a court of appeals judge sitting as a court of claims judge.

(4) For making copies of records, proceedings, and testimony and furnishing the same at the request of the claimant, or any other person, the clerk of the court of claims or any reporter or recorder serving in the court of claims shall be entitled, in addition to salary, to the same fees as are by law provided for court reporters or recorders in the circuit court. No charge shall be made against the state for services rendered for furnishing copies of records, proceedings, or testimony or other papers to the attorney general.

(5) Process issued by the court may be served by any member of the Michigan state police as well as any other officer or person authorized to serve process issued out of the circuit court.

Sec. 6413. The court of claims shall sit in the court of appeals district where a court of appeals judge serving as a judge of the court of claims sits, unless otherwise determined by the chief judge of the court of claims.

Sec. 6419. (1) Except as provided in sections 6421 and 6440, the jurisdiction of the court of claims, as conferred upon it by this chapter, is exclusive. All actions initiated in the court of claims shall be filed in the court of appeals. The state administrative board is vested with discretionary authority upon the advice of the attorney general to hear, consider, determine, and allow any claim against the state in an amount less than \$1,000.00. Any claim so allowed by the state administrative board shall be paid in the same manner as judgments are paid under section 6458 upon certification of the allowed claim by the secretary of the state administrative board to the clerk of the court of claims. Except as otherwise provided in this section, the court has the following power and jurisdiction:

(a) To hear and determine any claim or demand, statutory or constitutional, liquidated or unliquidated, ex contractu or ex delicto, or any demand for monetary, equitable, or declaratory relief or any demand for an extraordinary writ against the state or any of its departments or officers notwithstanding another law that confers jurisdiction of the case in the circuit court.

(b) To hear and determine any claim or demand, statutory or constitutional, liquidated or unliquidated, ex contractu or ex delicto, or any demand for monetary, equitable, or declaratory relief or any demand for an extraordinary writ that may be pleaded by way of counterclaim on the part of the state or any of its departments or officers against any claimant who may bring an action in the court of claims. Any claim of the state or any of its departments or officers may be pleaded by way of counterclaim in any action brought against the state or any of its departments or officers.

(c) To appoint and utilize a special master as the court considers necessary.

(d) To hear and determine any action challenging the validity of a notice of transfer described in section 6404(2) or (3).

(2) The judgment entered by the court of claims upon any claim described in subsection (1), either against or in favor of the state or any of its departments or officers, upon becoming final is res judicata of that claim. Upon the trial of any cause in which any demand is made by the state or any of its departments or officers against the claimant either by way of setoff, recoupment, or cross declaration, the court shall hear and determine each claim or demand, and if the court finds a balance due from the claimant to the state, the court shall render judgment in favor of the state for the balance. Writs of execution or garnishment may issue upon the judgment the same as from the circuit court of this state. The judgment entered by the court of claims upon any claim, either for or against the claimant, is final unless appealed from as provided in this chapter.

(3) The court of claims does not have jurisdiction of any claim for compensation under either of the following:

(a) The worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.

(b) 1937 PA 329, MCL 419.101 to 419.104.

(4) This chapter does not deprive the circuit court of this state of jurisdiction over actions brought by the taxpayer under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, upon the circuit court, or proceedings to review findings as provided in the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75, or any other similar tax or employment security proceedings expressly authorized by the statutes of this state.

(5) This chapter does not deprive the circuit court of exclusive jurisdiction over appeals from the district court and administrative agencies as authorized by law.

(6) This chapter does not deprive the circuit court of exclusive jurisdiction to issue, hear, and determine prerogative and remedial writs consistent with section 13 of article VI of the state constitution of 1963.

(7) As used in this section, "the state or any of its departments or officers" means this state or any state governing, legislative, or judicial body, department, commission, board, institution, arm, or agency of the state, or an officer, employee, or volunteer of this state or any governing, legislative, or judicial body, department, commission, board, institution, arm, or agency of this state, acting, or who reasonably believes that he or she is acting, within the scope of his or her authority while engaged in or discharging a government function in the course of his or her duties.

Sec. 6421. With the approval of all parties, any matter within the jurisdiction of the court of claims described in section 6419(1) may be joined for trial with cases arising out of the same transaction or series of transactions that are pending in any of the various trial courts of the state. A case in the court of claims that has been joined with the approval of all parties shall be tried and determined by the judge even though the trial court action with which it may be joined is tried to a jury under the supervision of the same trial judge.

Sec. 6422. (1) Practice and procedure in the court of claims shall be in accordance with the statutes and court rules prescribing the practice in the circuit courts of this state, except as otherwise provided in this section.

(2) The supreme court may adopt special rules for the court of claims.

(3) All fees in the court of claims shall be at the rate established by statute or court rule for actions in the circuit courts of this state and shall be paid to the clerk of the court of claims.

Sec. 8304. In a district court district in which the district court is affected by a plan of concurrent jurisdiction adopted under chapter 4, the district court has concurrent jurisdiction with the circuit court or the probate court, or both, as provided in the plan of concurrent jurisdiction, except as to the following matters:

(a) The circuit court has exclusive jurisdiction over appeals from the district court and from administrative agencies as authorized by statute.

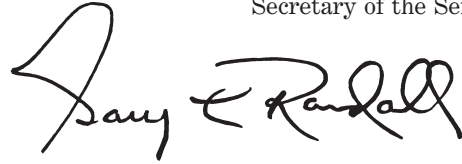
(b) The circuit court has exclusive jurisdiction and power to issue, hear, and determine prerogative and remedial writs consistent with section 13 of article VI of the state constitution of 1963.

Enacting section 1. Section 6419a of the revised judicature act of 1961, 1961 PA 236, MCL 600.6419a, is repealed.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor