STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 3038 By: Cargill

AS INTRODUCED

An Act relating to courts; authorizing business courts accept assignments of certain cases; listing certain legal actions to be assigned to business courts; clarifying parties of actions subject to business courts; listing certain legal actions prohibited from business courts; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 91.8 of Title 20, unless there is created a duplication in numbering, reads as follows:

Whenever a business court is created pursuant to Section 91.7 of Title 20 of the Oklahoma Statutes, certain cases, excluding arbitration cases, filed on or after January 1, 2007, may be assigned to the business court docket. Cases qualified shall be among the following types of actions:

1. Actions relating to:

a. the internal affairs or governance, dissolution or liquidation, rights or obligations between or among owners including shareholders, partners, or members,

b. liability or indemnity of managers, including but not limited to officers, directors, managers, trustees or members or partners functioning as managers, of business corporations, or

c. partnerships, limited partnerships, limited liability companies, professional associations, business trusts,

joint ventures or other business enterprises, articles of incorporation, bylaws or agreements governing such enterprises;

2. Disputes between or among two or more business enterprises relating to transactions, business relationships or contracts between or among the business enterprises. Examples of such transactions, relationships and contracts include:

a. Uniform Commercial Code transactions,

b. purchases or sales of businesses or the assets of businesses,

c. sales of goods or services by or to business enterprises,

d. nonconsumer bank or brokerage accounts, including loan, deposit cash managements and investment accounts,

e. surety bonds,

f. purchases or sales or leases of, or security interests in, commercial, real or personal property, and

g. franchisor/franchisee relationships;

3. Actions relating to trade secret or noncompetition agreements;

4. Business torts, such as claims or unfair competition, or interference with contractual relations or prospective contractual relations;

5. Actions relating to intellectual property disputes;

6. Actions relating to securities, or relating to or arising under the Oklahoma Securities Act;

7. Derivative actions and class actions based on claims otherwise falling within the types of actions pursuant to this section, and consumer class actions other than personal injury and products liability claims;

8. Actions relating to corporate trust affairs;

9. Declaratory judgment actions brought by insurers, and coverage disputes and bad faith claims brought by insureds, where the dispute arises from a business or commercial insurance policy, such as a Commercial General Liability policy; and

10. Third-party indemnification claims against insurance companies where the subject insurance policy is a business or commercial policy and where the underlying dispute would otherwise be assigned to the business courts, not including claims where the underlying dispute is principally a personal injury claim.

All of the actions listed in this subsection may involve individuals named as parties, in addition to business enterprises, so long as all other criteria are met and the essential nature of the litigation is a business dispute.

C. The following types of matters are not to be included in or assigned to the business court program:

1. Matters subject to compulsory arbitration or to the jurisdiction of the municipal court, including any appeals;

2. Personal injury, survival or wrongful death matters;

3. Individual consumer claims against businesses or insurers, including products liability and personal injury cases;

4. Matters involving occupational health or safety;

5. Environmental claims not involved in the sale or disposition of a business;

6. Matters of eminent domain;

7. Malpractice claims, other than those brought by business enterprises against attorneys, accountants, architects or other professionals in connection with the rendering of professional services to the business enterprise;

8. Employment law cases;

9. Administrative agency, tax zoning and other appeals;

10. Petition actions in the nature of “change of name”, petitions in mental health, petitions to appoint an arbitrator,

government election matters, leave to issue a subpoena, compel medical examinations;

11. Individual residential real estate and noncommercial landlord-tenant disputes;

12. Domestic relations matters, and actions relating to distribution of marital property, custody and support;

13. Any criminal matter other than criminal contempt in connection with a business court program action; and

14. Other matters as the court shall determine.

SECTION 2. This act shall become effective November 1, 2006.

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