

Senate Study Bill 1136

Bill Text

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1 1 Section 1. NEW SECTION. 527A.1 LIMITATION OF LIABILITY
1 2 OF FINANCIAL INSTITUTIONS YEAR 2000.
1 3 1. LEGISLATIVE INTENT. The general assembly finds that
1 4 the ability of financial institutions to continue operations
1 5 through the transition from the year 1999 to the year 2000 and
1 6 subsequent years is essential to the economy of this state and
1 7 the nation. Financial institutions are subject to both state
1 8 and federal laws and regulations and are regulated by both
1 9 state and federal regulatory agencies. The general assembly
1 10 also finds that despite compliance with regulatory guidelines
1 11 and regulations, certain events may occur during the
1 12 transition from the year 1999 to the year 2000 and subsequent
1 13 years that may affect operations of financial institutions.
1 14 It is the intent of the general assembly to limit the
1 15 liability of financial institutions that may result from year
1 16 2000 problems in order to ensure that financial institutions
1 17 continue to operate during and after the transition from the
1 18 year 1999 to the year 2000.
1 19 2. DEFINITIONS. As used in this chapter, unless the
1 20 context otherwise requires:
1 21 a. "Actual damages" means actual monetary losses
1 22 proximately caused by a year 2000 problem.
1 23 b. "Financial institution" means a bank incorporated under
1 24 the provisions of any state or federal law, a savings and loan
1 25 association or savings bank incorporated under the provisions
1 26 of any state or federal law, a credit union organized under
1 27 the provisions of any state or federal law, a corporation
1 28 licensed as an industrial loan company under chapter 536A, and
1 29 any affiliate of a bank, savings and loan association, savings
1 30 bank, credit union, or industrial loan company.
1 31 c. "Information technology" means technology involved in
1 32 computer equipment and software, electrical equipment and
1 33 software, telecommunications equipment and software, and other
1 34 equipment, software, and systems involved in the processing of
1 35 data and information.
2 1 d. "Year 2000 problem" means an event, circumstance,
2 2 disruption, or other problem which prevents information
2 3 technology from accurately processing, calculating, comparing,
2 4 or sequencing date or time data or information related to
2 5 either of the following:
2 6 (1) From, into, or between the twentieth and twenty-first
2 7 centuries, or from, into, or between the years 1999 and 2000.
2 8 (2) Leap year calculations.
2 9 "Year 2000 problem" also includes an inability of a
2 10 financial institution to perform its intended or requested
2 11 functions because of a problem that is the result of a year
2 12 2000 problem encountered by a third party including, but not
2 13 limited to, the failure of a governmental entity to provide
2 14 data or information, transportation delays, energy failure, or
2 15 communications failure.
2 16 3. TIME FOR COMMENCING ACTION. An action in connection
2 17 with a year 2000 problem shall not be filed against a
2 18 financial institution after June 30, 2001. An action not
2 19 timely filed is forever barred.
2 20 4. PRIVACY OF CONTRACT. A financial institution is not
2 21 liable to persons not in privity of contract with such

2 22 financial institution for damages resulting from a year 2000
2 23 problem.

2 24 5. LIABILITY FOR ACTUAL DAMAGES. A financial institution
2 25 shall only be held liable, if at all, for actual damages
2 26 incurred by reason of a year 2000 problem. A financial
2 27 institution shall not be held liable for projected losses of
2 28 future income or earnings, loss of future business or
2 29 employment opportunities, punitive damages, exemplary damages,
2 30 consequential damages, extraordinary damages, noneconomic
2 31 damages, or any other relief in excess of actual damages
2 32 incurred by reason of a year 2000 problem.

2 33 6. AFFIRMATIVE DEFENSE. It is an affirmative defense of a
2 34 financial institution to any claim, action, or proceeding
2 35 alleging liability arising by reason of a year 2000 problem,
3 1 that the financial institution has substantially complied with
3 2 year 2000 regulations, requirements, and guidelines as set
3 3 forth by such financial institution's primary federal
3 4 regulator.

3 5 EXPLANATION

3 6 This bill limits the liability of financial institutions
3 7 for a claim based upon a year 2000 problem. The bill states
3 8 that it is the intent of the general assembly to limit the
3 9 liability of financial institutions that may result from year
3 10 2000 problems in order to ensure that financial institutions
3 11 continue to operate during and after the transition from the
3 12 year 1999 to the year 2000.

3 13 The bill defines "year 2000 problem" as an event,
3 14 circumstance, disruption, or other problem which prevents
3 15 information technology from accurately processing,
3 16 calculating, comparing, or sequencing date or time data or
3 17 information from, into, or between the twentieth and twenty-
3 18 first centuries, or from, into, or between the years 1999 and
3 19 2000; or with respect to leap year calculations. The bill
3 20 also provides that a year 2000 problem includes an inability
3 21 of a financial institution to perform its intended or
3 22 requested functions because of a problem that is the result of
3 23 a year 2000 problem encountered by a third party including,
3 24 but not limited to, the failure of a governmental entity to
3 25 provide data or information, transportation delays, energy
3 26 failure, or communications failure.

3 27 The bill provides that an action in connection with a year
3 28 2000 problem shall not be filed against a financial
3 29 institution after June 30, 2001, and that an action not timely
3 30 filed is forever barred.

3 31 The bill provides that a financial institution is not
3 32 liable to persons not in privity of contract with such
3 33 financial institution for damages resulting from a year 2000
3 34 problem.

3 35 The bill limits the liability of a financial institution,
4 1 if there is any liability at all, to actual damages incurred
4 2 by reason of a year 2000 problem.

4 3 The bill also establishes that it is an affirmative defense
4 4 of a financial institution to any claim, action, or proceeding
4 5 alleging liability arising by reason of a year 2000 problem
4 6 that the financial institution has substantially complied with
4 7 year 2000 regulations, requirements, and guidelines as set
4 8 forth by such financial institution's primary federal
4 9 regulator.

4 10 LSB 2220SC 78

4 11 mj/jw/5