Senate Study Bill 1136

Bill Text

Section 1. NEW SECTION. 527A.1 LIMITATION OF LIABILITY OF FINANCIAL INSTITUTIONS YEAR 2000.

1. LEGISLATIVE INTENT. The general assembly finds that the ability of financial institutions to continue operations through the transition from the year 1999 to the year 2000 and subsequent years is essential to the economy of this state and the nation. Financial institutions are subject to both state and federal laws and regulations and are regulated by both state and federal regulatory agencies. The general assembly also finds that despite compliance with regulatory guidelines and regulations, certain events may occur during the transition from the year 1999 to the year 2000 and subsequent years that may affect operations of financial institutions. It is the intent of the general assembly to limit the liability of financial institutions that may result from year 2000 problems in order to ensure that financial institutions continue to operate during and after the transition from the year 1999 to the year 2000.

2. DEFINITIONS. As used in this chapter, unless the context otherwise requires:

a. "Actual damages" means actual monetary losses proximately caused by a year 2000 problem.

b. "Financial institution" means a bank incorporated under the provisions of any state or federal law, a savings and loan association or savings bank incorporated under the provisions of any state or federal law, a credit union organized under the provisions of any state or federal law, a corporation licensed as an industrial loan company under chapter 536A, and any affiliate of a bank, savings and loan association, savings bank, credit union, or industrial loan company.

c. "Information technology" means technology involved in computer equipment and software, electrical equipment and software, telecommunications equipment and software, and other equipment, software, and systems involved in the processing of data and information.

d. "Year 2000 problem" means an event, circumstance, disruption, or other problem which prevents information technology from accurately processing, calculating, comparing, or sequencing date or time data or information related to either of the following:

(1) From, into, or between the twentieth and twenty-first centuries, or from, into, or between the years 1999 and 2000.

(2) Leap year calculations.

"Year 2000 problem" also includes an inability of a financial institution to perform its intended or requested functions because of a problem that is the result of a year 2000 problem encountered by a third party including, but not limited to, the failure of a governmental entity to provide data or information, transportation delays, energy failure, or communications failure.

3. TIME FOR COMMENCING ACTION. An action in connection with a year 2000 problem shall not be filed against a financial institution after June 30, 2001. An action not timely filed is forever barred.

4. PRIVITY OF CONTRACT. A financial institution is not liable to persons not in privity of contract with such

financial institution for damages resulting from a year 2000 problem.

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

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

EXPLANATION

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

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

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

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

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

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

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