

BY: House Judiciary Committee

AMENDMENTS TO SENATE BILL NO. 232

(Third Reading File Bill)

AMENDMENT NO. 1

At the top of page 1, insert "EMERGENCY BILL".

On page 1, strike in their entirety lines 3 through 12, inclusive, and substitute:

"FOR the purpose of providing that the State or a local government or an official or employee of the State or local government is immune under certain circumstances from suit and liability for damages arising out of certain date data problems if the State or local government has taken certain actions; providing that the immunities under this Act are in addition to any immunities or limits on liability otherwise available to the State or a local government or an official or employee of the State or local government; defining certain terms; providing for the application of this Act; making this Act an emergency measure; providing for the termination of this Act; and generally relating to State and local government immunity."

AMENDMENT NO. 2

On pages 2 and 3, strike in their entirety the lines beginning with line 5 on page 2 through line 10 on page 3, inclusive, and substitute:

"(2) "COMPLIANCE PLAN" MEANS A WRITTEN PLAN TO INVENTORY, ASSESS, OBTAIN INFORMATION FROM CRITICAL SUPPLIERS, TEST, SCHEDULE REPAIRS, REMEDIATE, AND PROVIDE A CONTINGENCY PLAN OF ACTION RELATING TO Y2K DATE DATA PROBLEMS IN INFORMATION TECHNOLOGY SYSTEMS AND PRODUCTS.

(3) "CRITICAL INFORMATION TECHNOLOGY SYSTEM OR PRODUCT" MEANS AN INFORMATION TECHNOLOGY SYSTEM OR PRODUCT THE FAILURE OF

(Over)

WHICH MAY RESULT IN AN IMMINENT AND SUBSTANTIAL THREAT TO PUBLIC HEALTH OR SAFETY.

(4) “DATE DATA” MEANS DATA THAT CONTAIN DATES OR TIMES OR BOTH.

(5) “INFORMATION TECHNOLOGY SYSTEM OR PRODUCT” INCLUDES ANY SOFTWARE, FIRMWARE, MICROCODE, HARDWARE, EMBEDDED CHIPS, OR OTHER SYSTEM, PRODUCT, OR PROCESS, OR ANY COMBINATION OF THOSE ITEMS, THAT CREATES, READS, WRITES, CALCULATES, COMPARES, SEQUENCES, OR OTHERWISE PROCESSES DATE DATA.

(6) (I) “LOCAL GOVERNMENT” HAS THE MEANING STATED IN § 5-301 OF THIS TITLE.

(II) “LOCAL GOVERNMENT” INCLUDES A COUNTY BOARD OF EDUCATION AS DEFINED IN § 1-101 OF THE EDUCATION ARTICLE.

(7) “STATE” MEANS THE STATE OF MARYLAND OR ANY OF ITS UNITS.

(8) “YEAR 2000-READY” MEANS ANY PRODUCT OR SERVICE THAT:

(I) RELIES UPON AN INFORMATION TECHNOLOGY SYSTEM OR PRODUCT THAT INCLUDES DATE DATA;

(II) OPERATES IN A MANNER CONSISTENT WITH THE DESIGN REQUIREMENTS OR OTHER SPECIFICATION FOR THE PRODUCT OR SERVICE; AND

(III) DOES NOT CAUSE A Y2K DATE DATA PROBLEM.

(9) “Y2K DATE DATA PROBLEM” MEANS THE FAILURE, MALFUNCTION, OR INADEQUACY OF AN INFORMATION TECHNOLOGY SYSTEM PRODUCT, OR PROCESS TO RECOGNIZE, PROCESS, DISTINGUISH, INTERPRET, OR ACCEPT CORRECTLY DATE DATA RELATING TO THE YEAR 2000, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING SPECIFIC DATES:

(I) AUGUST 22, 1999;

- (II) SEPTEMBER 9, 1999;
- (III) DECEMBER 31, 1999;
- (IV) JANUARY 1, 2000;
- (V) JANUARY 3, 2000;
- (VI) JANUARY 10, 2000;
- (VII) FEBRUARY 29, 2000;
- (VIII) OCTOBER 10, 2000; AND
- (IX) JANUARY 1, 2001.

(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE STATE OR A LOCAL GOVERNMENT OR AN OFFICIAL OR EMPLOYEE OF THE STATE OR A LOCAL GOVERNMENT IS IMMUNE FROM SUIT AND LIABILITY FOR DAMAGES ARISING OUT OF A Y2K DATE DATA PROBLEM IF THE STATE OR LOCAL GOVERNMENT HAS:

(1) PUBLISHED AND MADE AVAILABLE FOR PUBLIC COMMENT A COMPLIANCE PLAN;

(2) BEFORE OCTOBER 1, 1999, ADOPTED A COMPLIANCE PLAN; AND

(3) BEFORE DECEMBER 31, 1999, CERTIFIED BY THE BOARD OF COUNTY COMMISSIONERS, THE CHIEF EXECUTIVE OFFICER, CHIEF ADMINISTRATIVE OFFICER, OR THE DESIGNEE OF EITHER OFFICER, THAT THE STATE OR LOCAL GOVERNMENT HAS COMPLETED THE FOLLOWING ITEMS IN ITS COMPLIANCE PLAN:

(I) INVENTORIED INFORMATION TECHNOLOGY SYSTEMS AND PRODUCTS TO DETERMINE WHETHER THEY ARE YEAR 2000-READY;

(Over)

(II) IDENTIFIED CRITICAL INFORMATION TECHNOLOGY SYSTEMS AND PRODUCTS AND OBTAINED INFORMATION FROM ITS CRITICAL SUPPLIERS REGARDING THEIR Y2K COMPLIANCE PLANS;

(III) ASSESSED POTENTIAL Y2K DATE DATA PROBLEMS AND TESTED, IF PRACTICABLE, ITS CRITICAL INFORMATION TECHNOLOGY SYSTEMS AND PRODUCTS;

(IV) INITIATED REASONABLE EFFORTS TO REMEDIATE Y2K DATE DATA PROBLEMS IN ITS INFORMATION TECHNOLOGY SYSTEMS AND PRODUCTS;

(V) REASONABLY REMEDIATED Y2K DATE DATA PROBLEMS IN ITS CRITICAL INFORMATION TECHNOLOGY SYSTEMS AND PRODUCTS; AND

(VI) DEVELOPED A CONTINGENCY PLAN OF ACTION THAT SPECIFIES ACTIONS THAT SHALL BE TAKEN IF REMEDIATION FAILS.

(C) IF THE STATE OR LOCAL GOVERNMENT DID NOT ACTUALLY PERFORM OR COMPLETE A REQUIREMENT THAT WAS CERTIFIED UNDER SUBSECTION (B)(3) OF THIS SECTION, AND THE FAILURE TO PERFORM OR COMPLETE THAT REQUIREMENT CAUSED A WRONGFUL DEATH, PERSONAL INJURY, PROPERTY DAMAGE, OR OTHER LOSS, THE IMMUNITY DESCRIBED IN SUBSECTION (B) OF THIS SECTION DOES NOT APPLY TO A CAUSE OF ACTION CONCERNING THE WRONGFUL DEATH, PERSONAL INJURY, OR PROPERTY DAMAGE.

(D) NOTHING IN THIS SECTION MAY BE CONSTRUED TO AFFECT ANY IMMUNITIES OR LIMITS ON LIABILITY OTHERWISE PROVIDED BY LAW TO THE STATE OR A LOCAL GOVERNMENT OR AN OFFICIAL OR EMPLOYEE OF THE STATE OR A LOCAL GOVERNMENT.

(E) NOTHING IN THIS SECTION MAY BE CONSTRUED TO AFFECT THE LIABILITY OF THE STATE OR A LOCAL GOVERNMENT OR AN OFFICIAL OR EMPLOYEE

OF THE STATE OR A LOCAL GOVERNMENT FOR:

- (1) AN INTENTIONALLY TORTIOUS ACT OR OMISSION;
- (2) A WANTON OR RECKLESS ACT OR OMISSION; OR
- (3) A GROSSLY NEGLIGENT ACT OR OMISSION.

(F) THIS SECTION DOES NOT APPLY TO A CLAIM FOR WORKERS' COMPENSATION BENEFITS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed prospectively only to apply to causes of action arising out of a Y2K date data problem, as defined in § 5-527(a)(9) of the Courts Article as enacted by this Act, occurring on or before January 2, 2001, and may not be applied or interpreted to have any effect on or application to any case filed before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall remain effective until January 2, 2004, and at the end of January 2, 2004, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health and safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.”.