

HOUSE BILL 901
EMERGENCY BILL

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D3

1999 Regular Session
(9r1994)

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced by **Delegates Montague, Amedori, Rosenberg, K. Kelly, Griffith,
Vallario, and Boschert**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Immunity - State and Local Governments - Year 2000 Litigation**

3 FOR the purpose of providing that the State or a local government or an official or
4 employee of ~~the State or a~~ local government is immune under certain
5 circumstances from suit and liability for damages arising out of certain date
6 data problems if the State or local government has taken certain actions;
7 providing that the immunities under this Act are in addition to any immunities
8 or limits on liability otherwise ~~available~~ provided by law to the State or a local
9 government ~~or an official or employee of the State or a local government~~;
10 defining certain terms; providing for the application of this Act; making this Act
11 an emergency measure; providing for the termination of this Act; and generally
12 relating to State and local government immunity.

13 BY adding to

14 Article - Courts and Judicial Proceedings

15 Section 5-527

1 Annotated Code of Maryland
2 (1998 Replacement Volume)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article - Courts and Judicial Proceedings**

6 5-527.

7 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

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

14 (3) "CRITICAL INFORMATION TECHNOLOGY SYSTEM OR PRODUCT"
15 MEANS AN INFORMATION TECHNOLOGY SYSTEM OR PRODUCT THE FAILURE OF
16 WHICH MAY RESULT IN AN IMMINENT AND SUBSTANTIAL THREAT TO PUBLIC
17 HEALTH OR SAFETY.

18 (3) (4) "DATE DATA" MEANS DATA THAT CONTAIN DATES OR TIMES OR
19 BOTH.

20 (4) (5) "~~DATE~~ Y2K DATE DATA PROBLEM" MEANS THE FAILURE,
21 MALFUNCTION, OR INADEQUACY OF AN INFORMATION TECHNOLOGY SYSTEM ~~OR~~
22 ~~PRODUCT, PRODUCT, OR PROCESS~~ TO RECOGNIZE, PROCESS, DISTINGUISH,
23 INTERPRET, OR ACCEPT CORRECTLY DATE DATA RELATING TO THE YEAR 2000,
24 INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING SPECIFIC DATES:

25 (I) AUGUST 22, 1999;

26 (II) SEPTEMBER 9, 1999;

27 (III) DECEMBER 31, 1999;

28 (IV) JANUARY 1, 2000;

29 (V) JANUARY 3, 2000;

30 (VI) JANUARY 10, 2000;

31 (VII) FEBRUARY 29, 2000;

32 (VIII) OCTOBER 10, 2000; AND

33 (IX) JANUARY 1, 2001.

1 ~~(5)~~ (6) "INFORMATION TECHNOLOGY SYSTEM OR PRODUCT" INCLUDES
 2 ANY SOFTWARE, FIRMWARE, MICROCODE, HARDWARE, EMBEDDED CHIPS, OR OTHER
 3 ~~SYSTEM OR PRODUCT, PRODUCT, OR PROCESS,~~ OR ANY COMBINATION OF THOSE
 4 ITEMS, THAT CREATES, READS, WRITES, CALCULATES, COMPARES, SEQUENCES, OR
 5 OTHERWISE PROCESSES DATE DATA.

6 ~~(6)~~ (7) (I) "LOCAL GOVERNMENT" HAS THE MEANING STATED IN §
 7 5-301 OF THIS TITLE.

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

10 ~~(7)~~ (8) "STATE" MEANS THE STATE OF MARYLAND OR ANY OF ITS
 11 UNITS.

12 (9) "YEAR 2000-READY" MEANS ANY PRODUCT OR SERVICE THAT:

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

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

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

18 (B) ~~SUBJECT TO SUBSECTION (C) OF THIS SECTION EXCEPT FOR A WRONGFUL~~
 19 ~~DEATH, SURVIVAL, OR PERSONAL INJURY ACTION,~~ THE STATE OR A LOCAL
 20 GOVERNMENT OR AN OFFICIAL OR EMPLOYEE OF ~~THE STATE OR A LOCAL~~
 21 GOVERNMENT IS IMMUNE FROM SUIT AND LIABILITY FOR DAMAGES ARISING OUT OF
 22 A Y2K DATE DATA PROBLEM IF THE STATE OR LOCAL GOVERNMENT HAS:

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

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

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

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

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

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

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

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

8 ~~(VI)~~ (V) DEVELOPED A CONTINGENCY PLAN OF ACTION THAT
 9 SPECIFIES ACTIONS THAT SHALL BE TAKEN IF REMEDIATION FAILS OR IS NOT
 10 COMPLETED BY DECEMBER 31, 1999.

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

18 ~~(C)~~ THE IMMUNITIES SET FORTH IN THIS SECTION ARE IN ADDITION TO ANY

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

23 ~~(E)~~ (D) NOTHING IN THIS SECTION MAY BE CONSTRUED TO AFFECT THE
 24 LIABILITY OF THE STATE OR A LOCAL GOVERNMENT OR AN OFFICIAL OR EMPLOYEE
 25 OF THE STATE OR A LOCAL GOVERNMENT FOR:

26 (1) AN INTENTIONALLY TORTIOUS ACT OR OMISSION;

27 (2) A WANTON OR RECKLESS ACT OR OMISSION; OR

28 (3) A GROSSLY NEGLIGENT ACT OR OMISSION.

29 ~~(F)~~ (E) THIS SECTION DOES NOT APPLY TO A CLAIM FOR WORKER'S
 30 COMPENSATION BENEFITS.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
 32 construed prospectively only to apply to causes of action arising out of a Y2K date
 33 data problem, as defined in § 5-527(a)(5) of the Courts Article as enacted by this Act,
 34 occurring on or before ~~January 2~~ June 30, 2001, and may not be applied or interpreted
 35 to have any effect on or application to any case filed before the effective date of this
 36 Act.

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

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

10 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
11 ~~July 1, 1999.~~