

HOUSE BILL 901
EMERGENCY BILL

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D3

1999 Regular Session
9r1994

By: **Delegates Montague, Amedori, Rosenberg, K. Kelly, Griffith, Vallario,
and Boschert**

Introduced and read first time: February 12, 1999

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 27, 1999

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 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 to the State or a local government or an
9 official or employee of the State or local government; defining certain terms;
10 providing for the application of this Act; making this Act an emergency measure;
11 providing for the termination of this Act; and generally relating to State and
12 local government immunity.

13 BY adding to

14 Article - Courts and Judicial Proceedings

15 Section 5-527

16 Annotated Code of Maryland

17 (1998 Replacement Volume)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

19 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Courts and Judicial Proceedings**

2 5-527.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

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

10 (3) "CRITICAL INFORMATION TECHNOLOGY SYSTEM OR PRODUCT"
11 MEANS AN INFORMATION TECHNOLOGY SYSTEM OR PRODUCT THE FAILURE OF
12 WHICH MAY RESULT IN AN IMMINENT AND SUBSTANTIAL THREAT TO PUBLIC
13 HEALTH OR SAFETY.

14 ~~(3)~~ (4) "DATE DATA" MEANS DATA THAT CONTAIN DATES OR TIMES OR
15 BOTH.

16 ~~(4)~~ (5) "~~DATE~~ Y2K DATE DATA PROBLEM" MEANS THE FAILURE,
17 MALFUNCTION, OR INADEQUACY OF AN INFORMATION TECHNOLOGY SYSTEM ~~OR~~
18 ~~PRODUCT, PRODUCT, OR PROCESS~~ TO RECOGNIZE, PROCESS, DISTINGUISH,
19 INTERPRET, OR ACCEPT CORRECTLY DATE DATA RELATING TO THE YEAR 2000,
20 INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING SPECIFIC DATES:

21 (I) AUGUST 22, 1999;

22 (II) SEPTEMBER 9, 1999;

23 (III) DECEMBER 31, 1999;

24 (IV) JANUARY 1, 2000;

25 (V) JANUARY 3, 2000;

26 (VI) JANUARY 10, 2000;

27 (VII) FEBRUARY 29, 2000;

28 (VIII) OCTOBER 10, 2000; AND

29 (IX) JANUARY 1, 2001.

30 ~~(5)~~ (6) "INFORMATION TECHNOLOGY SYSTEM OR PRODUCT" INCLUDES
31 ANY SOFTWARE, FIRMWARE, MICROCODE, HARDWARE, EMBEDDED CHIPS, OR OTHER
32 ~~SYSTEM OR PRODUCT, PRODUCT, OR PROCESS,~~ OR ANY COMBINATION OF THOSE
33 ITEMS, THAT CREATES, READS, WRITES, CALCULATES, COMPARES, SEQUENCES, OR
34 OTHERWISE PROCESSES DATE DATA.

1 ~~(6)~~ (7) (I) "LOCAL GOVERNMENT" HAS THE MEANING STATED IN §
2 5-301 OF THIS TITLE.

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

5 ~~(7)~~ (8) "STATE" MEANS THE STATE OF MARYLAND OR ANY OF ITS
6 UNITS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (1) AN INTENTIONALLY TORTIOUS ACT OR OMISSION;

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

20 (3) A GROSSLY NEGLIGENT ACT OR OMISSION.

21 (F) THIS SECTION DOES NOT APPLY TO A CLAIM FOR WORKER'S
22 COMPENSATION BENEFITS.

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

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

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

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

