SENATE BILL 232
EMERGENCY BILL

Unofficial Copy   1999 Regular Session
D3   (9lr0538)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **Senators Hogan, Green, Middleton, Blount, Astle, Colburn,**
Collins, Hoffman, DeGrange, Dorman, Ferguson, Jacobs, Lawlah,
Ruben, McFadden, Munson, Neall, Roesser, Mooney, Currie, Hafer,
Hooper, and Dyson

Read and Examined by Proofreaders:

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Proofreader.

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Proofreader.

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

_____
President.

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

1 BY adding to
2   Article - Courts and Judicial Proceedings
3   Section 5-527
4   Annotated Code of Maryland
5   (1998 Replacement Volume)

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

8   **Article - Courts and Judicial Proceedings**

9 5-527.

10   (A)   (1)   IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

12   (2)   "COMPLIANCE PLAN" MEANS A WRITTEN PLAN TO INVENTORY,
13 ASSESS, ~~TEST, AND SCHEDULE REPAIRS AND REMEDIATION OF~~ *AND PROVIDE A*
14 *CONTINGENCY PLAN OF ACTION RELATING TO, Y2K* DATE DATA PROBLEMS IN
15 INFORMATION TECHNOLOGY SYSTEMS AND PRODUCTS.

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

20   ~~(3)~~   *(4)*   "DATE DATA" MEANS DATA THAT CONTAIN DATES OR TIMES OR
21 BOTH.

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

27   *(I)   AUGUST 22, 1999;*

28   *(II)   SEPTEMBER 9, 1999;*

29   *(III)   DECEMBER 31, 1999;*

30   *(IV)   JANUARY 1, 2000;*

31   *(V)   JANUARY 3, 2000;*

32   *(VI)   JANUARY 10, 2000;*

33   *(VII)   FEBRUARY 29, 2000;*

34   *(VIII) OCTOBER 10, 2000; AND*

1   *(IX)*   *JANUARY 1, 2001*.

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

7   ~~(6)~~   *(7)*   (I)   "LOCAL GOVERNMENT" HAS THE MEANING STATED IN §
8 5-301 OF THIS TITLE.

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

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

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

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

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

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

19   (B)   *EXCEPT FOR A WRONGFUL DEATH, SURVIVAL, OR PERSONAL INJURY*
20 *ACTION,* THE STATE OR A LOCAL GOVERNMENT <u>OR AN OFFICIAL OR EMPLOYEE OF A</u>
21 <u>LOCAL GOVERNMENT</u> IS IMMUNE FROM SUIT AND LIABILITY FOR DAMAGES ARISING
22 OUT OF 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 CHIEF EXECUTIVE~~
27 ~~OFFICER, CHIEF ADMINISTRATIVE OFFICER, OR THE DESIGNEE OF EITHER OFFICER,~~
28 ~~THE IMPLEMENTATION OF THE COMPLIANCE PLAN~~ *COMPLETED THE FOLLOWING*
29 *ITEMS IN ITS COMPLIANCE PLAN:*

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

32   *(II)   IDENTIFIED CRITICAL INFORMATION TECHNOLOGY SYSTEMS*
33 *AND PRODUCTS;*

34   *(III)   ASSESSED POTENTIAL Y2K DATE DATA PROBLEMS;*

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

3   *(V)   DEVELOPED A CONTINGENCY PLAN OF ACTION THAT*
4 *SPECIFIES ACTIONS THAT SHALL BE TAKEN IF REMEDIATION FAILS OR IS NOT*
5 *COMPLETED BY DECEMBER 31, 1999.*

6   ~~(C)   AN OFFICIAL OR EMPLOYEE OF THE STATE OR A LOCAL GOVERNMENT IS~~
7 ~~IMMUNE FROM SUIT AND LIABILITY FOR DAMAGES ARISING OUT OF A DATE DATA~~
8 ~~PROBLEM.~~

9   ~~(D)   THE IMMUNITIES SET FORTH IN THIS SECTION ARE IN ADDITION TO ANY~~
10 ~~IMMUNITIES OR LIMITS ON LIABILITY OTHERWISE AVAILABLE TO THE STATE OR A~~
11 ~~LOCAL GOVERNMENT OR AN OFFICIAL OR EMPLOYEE OF THE STATE OR A LOCAL~~
12 ~~GOVERNMENT~~.

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

17   *(D)   NOTHING IN THIS SECTION MAY BE CONSTRUED TO AFFECT THE*
18 *LIABILITY OF THE STATE OR A LOCAL GOVERNMENT OR AN OFFICIAL OR EMPLOYEE*
19 *OF A LOCAL GOVERNMENT FOR:*

20   *(1)   AN INTENTIONALLY TORTIOUS ACT OR OMISSION;*

21   *(2)   A WANTON OR RECKLESS ACT OR OMISSION; OR*

22   *(3)   A GROSSLY NEGLIGENT ACT OR OMISSION.*

23   *(E)   THIS SECTION DOES NOT APPLY TO A CLAIM FOR WORKER'S*
24 *COMPENSATION BENEFITS.*

25   ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall only apply~~
26 ~~to causes of action arising out of a date data problem, as defined in § 5-527(a)(4) of~~
27 ~~the Courts Article as enacted by this Act, occurring before January 1, 2002 June 30,~~
28 ~~2001.~~

29   ~~SECTION 2.3. AND BE IT FURTHER ENACTED, That this Act shall take~~
30 ~~effect July 1, 1999.~~

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 data*
33 *problem, as defined in § 5-527(a)(5) of the Courts Article as enacted by this Act,*
34 *occurring on or before June 30, 2001, and may not be applied or interpreted to have*
35 *any effect on or application to any case filed before the effective date of this Act.*

36   *SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall remain*
37 *effective until January 2, 2004, and at the end of January 2, 2004, with no further*

1 *action required by the General Assembly, this Act shall be abrogated and of no further*
2 *force and effect.*

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