

2 **EHB 2015** - S AMD TO S AMD (S-2711.2/99) - 333  
3 By Senators Swecker, Hargrove and Heavey

4 ADOPTED 4/15/99

5 On page 1, line 9 of the amendment, after "throughout this section"  
6 insert "and sections 2 through 5 of this act"

7 On page 2, after line 27 of the amendment, insert the following:

8 "NEW SECTION. **Sec. 2.** A new section is added to chapter 4.24 RCW  
9 to read as follows:

10 (1) A person has an affirmative defense to any claim or action,  
11 based on a contract, brought against the person if he or she  
12 establishes that:

13 (a) The default, failure to pay, breach, omission, or other  
14 violation that is the basis of the claim against him or her was caused,  
15 in whole or in part, by a year 2000 failure associated with an  
16 electronic computing device;

17 (b) The year 2000 failure being asserted was not proximately caused  
18 by a failure of the person to update an electronic computing device,  
19 that is under his or her dominion or control, to be year 2000  
20 compliant; and

21 (c) If it were not for the year 2000 failure, the person would have  
22 been able to satisfy the contractual obligation that was the basis of  
23 the claim.

24 (2) If an affirmative defense as set forth in subsection (1) of  
25 this section is established, then the person or entity making the claim  
26 may not reassert the claim against which the affirmative defense was  
27 asserted for a period of thirty days from the date on which the court  
28 dismissed the case as a result of the affirmative defense. Any statute  
29 of limitations applicable to the claim shall be tolled for forty-five  
30 days upon the dismissal of the case under this section.

31 (3) The dismissal of an action as the result of the affirmative  
32 defense under this section does not impair, extinguish, discharge,  
33 satisfy, or otherwise affect the underlying obligation that is the  
34 basis of the claim against which the affirmative defense was asserted.

1 However, the ability of a party to bring the claim based upon the  
2 obligation is delayed as set forth in subsection (2) of this section.

3 (4) A person who has established an affirmative defense as set  
4 forth in subsection (1) of this section may dispute directly with a  
5 credit reporting agency operating in this state any item of information  
6 in the person's consumer file relating to the subject of the  
7 affirmative defense. The dispute shall be filed in accordance with RCW  
8 19.182.090(6). If requested by the person under this subsection (4),  
9 the credit reporting agency shall furnish a statement, made in  
10 accordance with RCW 19.182.090(7), to the person and include the  
11 statement in the person's consumer file. The credit reporting agency  
12 may not charge the person a fee for the inclusion of this statement in  
13 the person's consumer file.

14 (5)(a) The definitions in section 1 of this act apply to this  
15 section unless the context clearly requires otherwise.

16 (b) As used in this section, unless the context clearly requires  
17 otherwise, "person" means a natural person or a small business as  
18 defined in RCW 19.85.020.

19 (6) This section does not affect those transactions upon which a  
20 default has occurred before any disruption of financial or data  
21 transfer operations attributable to a year 2000 failure.

22 (7) This section does not apply to or affect any contract that  
23 specifically provides for a year 2000 failure.

24 (8) This section does not apply to any claim or cause of action  
25 filed after December 31, 2003.

26 (9) This section expires December 31, 2006.

27 NEW SECTION. **Sec. 3.** A new section is added to chapter 48.18 RCW  
28 to read as follows:

29 (1) An insurer shall reinstate back to the effective date of  
30 cancellation, with no penalties or interest, any personal lines  
31 insurance policy, subject to this chapter, that was canceled for  
32 nonpayment of premium, if the named insured:

33 (a) Provides notice to the insurer, no later than ten days after  
34 the effective date of cancellation, that the failure to pay the premium  
35 due for the insurance policy is caused by a year 2000 failure  
36 associated with an electronic computing device that is not under the  
37 named insured's dominion or control;

1 (b) Establishes that a year 2000 failure occurred and that if it  
2 were not for the year 2000 failure, the named insured would have been  
3 able to pay the premium due in a timely manner;

4 (c) Makes a premium payment to bring the insurance policy current  
5 as soon as possible, but no later than ten days after the year 2000  
6 failure has been corrected or reasonably should have been corrected.

7 (2) If the named insured fails to pay the premium due within ten  
8 days after the year 2000 failure has been corrected or reasonably  
9 should have been corrected, the insurer's previous notice of  
10 cancellation for nonpayment of premium remains effective.

11 (3)(a) The definitions in section 1 of this act apply to this  
12 section unless the context clearly requires otherwise.

13 (b) As used in this section, unless the context clearly requires  
14 otherwise, "named insurer" means a natural person or a small business  
15 as defined in RCW 19.85.020.

16 (4) This section does not effect the cancellation of any insurance  
17 policy that is unrelated to a year 2000 failure, or occurs before any  
18 disruption of financial or data transfer operations attributable to the  
19 year 2000 failure.

20 (5) This section does not apply to any claim or cause of action  
21 filed after December 31, 2003.

22 (6) This section expires December 31, 2006.

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 51.04 RCW  
24 to read as follows:

25 (1) No interest or penalties shall be imposed on any employer  
26 because of the failure to pay any premium required by this title to be  
27 made to the state treasury for the accident fund, the medical aid fund,  
28 the supplemental pension fund, or any other fund created under this  
29 title if the employer establishes that:

30 (a) The failure to pay was caused, in whole or in part, by a year  
31 2000 failure associated with an electronic computing device;

32 (b) The year 2000 failure being asserted was not proximately caused  
33 by a failure of the employer to update an electronic computing device,  
34 that is under his or her dominion or control, to be year 2000  
35 compliant; and

36 (c) If it were not for the year 2000 failure, the employer would  
37 have been able to satisfy the payment of premiums in a timely manner.

1 Payment of such premiums shall be made within thirty days after the  
2 year 2000 failure has been corrected or reasonably should have been  
3 corrected.

4 (2)(a) The definitions in section 1 of this act apply to this  
5 section unless the context clearly requires otherwise.

6 (b) As used in this section, unless the context clearly requires  
7 otherwise, "employer" means a natural person or a small business as  
8 defined in RCW 19.85.020.

9 (3) This section does not affect those transactions upon which a  
10 default has occurred before any disruption of financial or data  
11 transfer operations attributable to a year 2000 failure.

12 (4) This section does not apply to any claim or cause of action  
13 filed after December 31, 2003.

14 (5) This section expires December 31, 2006.

15 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.32 RCW  
16 to read as follows:

17 (1) Notwithstanding any other provision in this chapter, no  
18 interest or penalties may be imposed on any person because of the  
19 failure to pay excise taxes on or before the date due for payment if  
20 the person establishes that:

21 (a) The failure to pay was caused, in whole or in part, by a year  
22 2000 failure associated with an electronic computing device;

23 (b) The year 2000 failure being asserted was not proximately caused  
24 by a failure of the person to update an electronic computing device,  
25 that is under his or her dominion or control, to be year 2000  
26 compliant; and

27 (c) If it were not for the year 2000 failure, the person would have  
28 been able to satisfy the payment of taxes in a timely manner.

29 Payment of such taxes shall be made within thirty days after the  
30 year 2000 failure has been corrected or reasonably should have been  
31 corrected.

32 (2)(a) The definitions in section 1 of this act apply to this  
33 section unless the context clearly requires otherwise.

34 (b) As used in this section, unless the context clearly requires  
35 otherwise, "person" means a natural person or a small business as  
36 defined in RCW 19.85.020.

1 (3) This section does not affect those transactions upon which a  
2 default has occurred before any disruption of financial or data  
3 transfer operations attributable to a year 2000 failure.

4 (4) This section does not apply to any claim or cause of action  
5 filed after December 31, 2003.

6 (5) This section expires December 31, 2006.

7 NEW SECTION. **Sec. 6.** A new section is added to chapter 84.56 RCW  
8 to read as follows:

9 (1) Notwithstanding any other provision in this chapter, no  
10 interest or penalties may be imposed on any person because of the  
11 failure to pay real or personal property taxes on or before the date  
12 due for payment if the person establishes that:

13 (a) The failure to pay was caused, in whole or in part, by a year  
14 2000 failure associated with an electronic computing device;

15 (b) The year 2000 failure being asserted was not proximately caused  
16 by a failure of the person to update an electronic computing device,  
17 that is under his or her dominion or control, to be year 2000  
18 compliant; and

19 (c) If it were not for the year 2000 failure, the person would have  
20 been able to satisfy the payment of taxes in a timely manner.

21 Payment of such taxes shall be made within thirty days after the  
22 year 2000 failure has been corrected or reasonably should have been  
23 corrected.

24 (2)(a) The definitions in section 1 of this act apply to this  
25 section unless the context clearly requires otherwise.

26 (b) As used in this section, unless the context clearly requires  
27 otherwise, "person" means a natural person or a small business as  
28 defined in RCW 19.85.020.

29 (3) This section does not affect those transactions upon which a  
30 default has occurred before any disruption of financial or data  
31 transfer operations attributable to a year 2000 failure.

32 (4) This section does not apply to any claim or cause of action  
33 filed after December 31, 2003.

34 (5) This section expires December 31, 2006.

35 NEW SECTION. **Sec. 7.** This act is necessary for the immediate  
36 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect  
2 immediately."

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4 By Senators Swecker, Hargrove and Heavey

5 ADOPTED 4/15/99

6 On page 2, line 33 of the title amendment, after "RCW;" strike the  
7 remainder of the title amendment and insert "adding a new section to  
8 chapter 4.24 RCW; adding a new section to chapter 48.18 RCW; adding a  
9 new section to chapter 51.04 RCW; adding a new section to chapter 82.32  
10 RCW; adding a new section to chapter 84.56 RCW; providing expiration  
11 dates; and declaring an emergency."

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