

# FINAL BILL REPORT

## EHB 2015

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C 369 L 99

Synopsis as Enacted

**Brief Description:** Restricting liability for year 2000 date-change damages.

**Sponsors:** Representatives Radcliff, Wolfe, Lambert, Romero, DeBolt, Morris, Constantine, Ruderman, D. Schmidt, Crouse, Carrell, Poulsen, Miloscia and Rockefeller; by request of Department of General Administration and Department of Information Services.

**House Committee on Judiciary**  
**Senate Committee on Judiciary**

### **Background:**

#### The Year 2000 Problem:

The year 2000 (Y2K) problem results from using two digits instead of four to represent years in computer programs and computer chips. This may cause some computers to mistake the year 2000 for the year 1900, which may cause the failure of many computer related services.

State agencies have been working to correct the Y2K problem since as early as 1993. Due to the complexity of the problem, however, it is possible that some Y2K failures will nevertheless be experienced.

#### Joint and Several Liability:

In many cases where a plaintiff is injured, more than one defendant is at fault. In such cases, the defendants will either be severally liable or jointly liable.

If the defendants are severally liable, each pays only for his or her share of the damages. For example, if defendants D and E cause \$100 worth of damage to the plaintiff, and D was 30 percent at fault and E was 70 percent at fault, D would pay \$30 and E would pay \$70.

If the defendants are jointly liable, then each is responsible for the total damage done to the plaintiff. In the example above, if D was somehow unavailable to be sued, E could be held liable for the entire \$100.

### **Summary:**

In an action against a state agency or public service provider for damages caused by a Y2K failure, the state agency or public service provider is severally liable only. A state agency is also immune from liability for the first \$100 of damages per claimant. These limitations do not apply to any action for damages arising from bodily personal injury, to wrongful death and survival actions, to actions for the injury or death of a child, or to actions arising after December 31, 2003. "Agency" is defined as any state or local government board, commission, bureau, committee, department, institution, division, or tribunal in the legislative, executive, or judicial branch. "Public service provider" includes municipal electric or gas utilities, electric public utility districts, electrical companies, gas companies, electric cooperative utilities, and electric mutual utilities.

It is an affirmative defense to any claim based on a contract, a default, a failure to pay, a breach, or an omission, that such a claim was caused, in whole or in part, by a Y2K failure associated with an electronic computing device if the person was otherwise able to satisfy the obligation. If the affirmative defense is established, the person making the claim may not reassert the claim for 30 days from the date the cause of action was dismissed by the court. The underlying obligation is not otherwise affected by the dismissal.

A person who has established an affirmative defense based on a Y2K failure has the right to dispute with a credit reporting agency any item of information relating to the Y2K failure, including the right to have a statement placed in the individual's consumer file.

An insurer must reinstate a canceled policy, without penalties or interest, if the insured: 1) provides notice to the insurer of the Y2K failure associated with a computing device not under the insured's control within 10 days of the effective date of the cancellation; 2) establishes that but for the Y2K failure, the insured would have been able to make the payment; and 3) makes a premium payment to make the policy current no later than 10 days after the Y2K problem has been corrected or reasonably should have been corrected. The insurer does not have to reinstate the policy if the cancellation is unrelated to a Y2K problem or if the default occurred before any disruption of financial or data transfer operations attributable to a Y2K failure.

No interest or penalties may be imposed on any individual or small business for failure to pay industrial insurance premiums, property taxes, or state excise taxes if: 1) the failure was caused by a Y2K failure; 2) the individual or small business was otherwise able to pay; and 3) payment occurred within 30 days after the Y2K problem was corrected or reasonably should have been corrected.

**Votes on Final Passage:**

House 88 8

Senate 44 4 (Senate amended)  
House 96 0 (House concurred)

**Effective:** May 17, 1999