
ENGROSSED SUBSTITUTE SENATE BILL 6035

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Judiciary (originally sponsored by Senator Swecker)

Read first time 03/03/99.

1 AN ACT Relating to the year 2000 citizens' protection act; adding
2 new sections to chapter 4.24 RCW; adding a new section to chapter 48.18
3 RCW; adding a new section to chapter 51.04 RCW; adding a new section to
4 chapter 82.32 RCW; adding a new section to chapter 84.56 RCW; creating
5 new sections; providing expiration dates; and declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

8 (a) Society is heavily reliant upon computers, technology, and the
9 rapid electronic transfer and exchange of accurate information and
10 data.

11 (b) Society relies heavily upon computer technology for most
12 aspects of daily living and business, including, but not limited to,
13 financial transactions.

14 (c) The rapid growth of technology has often outpaced the
15 capabilities of the electronic equipment, software, and hardware that
16 our society utilizes for the exchange and transfer of data and other
17 information.

1 (d) Recently developed computer technology is the operational basis
2 for much of our current hardware and software, and this technology may
3 not recognize the year 2000 date change.

4 (e) If computer technology fails to recognize the year 2000 date
5 change, many computer-based systems may fail or cause incorrect data or
6 other information to be processed. This potentially world-wide
7 deficiency in computers is often referred to as the "Y2K bug" and may
8 cause significant problems in the transfer and exchange of data and
9 information in the year 2000 and beyond.

10 (2) The legislature determines that in order to protect the
11 citizens of the state of Washington, it is appropriate to limit their
12 liability against adverse financial ramifications resulting from year
13 2000 failures associated with electronic computing devices.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 4.24 RCW
15 to read as follows:

16 The definitions in this section apply throughout sections 3 through
17 7 of this act unless the context clearly requires otherwise.

18 (1) "Electronic computing device" means any computer hardware or
19 software, computer chip, embedded chip, process control equipment, or
20 other information system that:

21 (a) Is used to capture, store, manipulate, or process data; or

22 (b) Controls, monitors, or assists in the operation of physical
23 apparatus that is not primarily used as a computer but that relies on
24 automation or digital technology to function, including, but not
25 limited to, vehicles, vessels, buildings, structures, facilities,
26 elevators, medical equipment, traffic signals, and factory machinery.

27 (2) "Person" means a natural person.

28 (3) "Year 2000 failure" means:

29 (a) With respect to an electronic computing device, a failure,
30 including an electrical or telecommunications failure, that prevents
31 such electronic computing device from accurately interpreting,
32 producing, computing, generating, accounting for, processing,
33 calculating, comparing, or sequencing date or time data from, into, or
34 between the years 1999 and 2000, or with regard to leap year
35 calculations; or

36 (b) An inability of a business to perform an intended or requested
37 function because of the system failure of another party, including, but

1 not limited to, the failure of a governmental body to provide data,
2 transportation delays, energy failures, or communication failures.

3 (4) This section expires December 31, 2006.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 4.24 RCW
5 to read as follows:

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

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

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

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

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

27 (3) The dismissal of an action as the result of the affirmative
28 defense under this section does not impair, extinguish, discharge,
29 satisfy, or otherwise affect the underlying obligation that is the
30 basis of the claim against which the affirmative defense was asserted.
31 However, the inability of a party to bring the claim based upon the
32 obligation is delayed as set forth in subsection (2) of this section.

33 (4) A person who has established an affirmative defense as set
34 forth in subsection (1) of this section may dispute directly with a
35 credit reporting agency operating in this state any item of information
36 in the person's consumer file relating to the subject of the
37 affirmative defense. The dispute shall be filed in accordance with RCW
38 19.182.090(6). If requested by the person under this subsection (4),

1 the credit reporting agency shall furnish a statement, made in
2 accordance with RCW 19.182.090(7), to the person and include the
3 statement in the person's consumer file. The credit reporting agency
4 may not charge the person a fee for the inclusion of this statement in
5 the person's consumer file.

6 (5) This section does not affect those transactions upon which a
7 default has occurred before any disruption of financial or data
8 transfer operations attributable to the year 2000 date change.

9 (6) This section does not apply to or affect any contract that
10 specifically provides for the year 2000 failure.

11 (7) This section does not apply to causes of action that arise on
12 or after December 31, 2003.

13 (8) This section expires December 31, 2006.

14 NEW SECTION. **Sec. 4.** A new section is added to chapter 48.18 RCW
15 to read as follows:

16 (1) Any person who has an insurance policy with an insurer doing
17 business in this state and subject to regulation by the commissioner
18 and who has his or her insurance policy canceled, not renewed, or
19 coverage modified in any way for failure to pay a premium on such
20 policy shall have the policy reinstated with full coverage back to the
21 date the policy was canceled, with no penalties or interest, if the
22 person establishes that:

23 (a) The failure to pay was caused, in whole or in part, by a year
24 2000 failure associated with an electronic computing device;

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

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

31 Payment of such premiums shall be made within thirty days after the
32 year 2000 failure has been corrected.

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

35 (3) This section does not affect those transactions upon which a
36 default has occurred before any disruption of financial or data
37 transfer operations attributable to the year 2000 date change.

1 (4) This section does not apply to causes of action that arise on
2 or after December 31, 2003.

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

4 NEW SECTION. **Sec. 5.** A new section is added to chapter 51.04 RCW
5 to read as follows:

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

11 (a) The failure to pay was caused, in whole or in part, by a year
12 2000 failure associated with an electronic computing device;

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

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

19 Payment of such premiums shall be made within thirty days after the
20 year 2000 failure has been corrected.

21 (2) The definitions in section 2 of this act apply to this section
22 unless the context clearly requires otherwise.

23 (3) This section does not affect those transactions upon which a
24 default has occurred before any disruption of financial or data
25 transfer operations attributable to the year 2000 date change.

26 (4) This section does not apply to causes of action that arise on
27 or after December 31, 2003.

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

29 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.32 RCW
30 to read as follows:

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

35 (a) The failure to pay was caused, in whole or in part, by a year
36 2000 failure associated with an electronic computing device;

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

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

7 Payment of such taxes shall be made within thirty days after the
8 year 2000 failure has been corrected.

9 (2) The definitions in section 2 of this act apply to this section
10 unless the context clearly requires otherwise.

11 (3) This section does not affect those transactions upon which a
12 default has occurred before any disruption of financial or data
13 transfer operations attributable to the year 2000 date change.

14 (4) This section does not apply to causes of action that arise on
15 or after December 31, 2003.

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

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

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

23 (a) The failure to pay was caused, in whole or in part, by a year
24 2000 failure associated with an electronic computing device;

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

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

31 Payment of such taxes shall be made within thirty days after the
32 year 2000 failure has been corrected.

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

35 (3) This section does not affect those transactions upon which a
36 default has occurred before any disruption of financial or data
37 transfer operations attributable to the year 2000 date change.

1 (4) This section does not apply to causes of action that arise on
2 or after December 31, 2003.

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

4 NEW SECTION. **Sec. 8.** This act shall be known and cited as the
5 year 2000 citizens' protection act.

6 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
7 preservation of the public peace, health, or safety, or support of the
8 state government and its existing public institutions, and takes effect
9 immediately.

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