

2 **EHB 2015** - S AMD

3 By Senators Heavey, McDonald, B. Sheldon, Johnson, Zarelli, Goings,  
4 Hochstatter, Jacobsen, Sheahan, Rossi and T. Sheldon

5 ADOPTED AS AMENDED (AMD 365, 365, 333) 4/15/99

6 Strike everything after the enacting clause and insert the  
7 following:

8 "NEW SECTION. **Sec. 1.** A new section is added to chapter 4.22 RCW  
9 to read as follows:

10 (1) The definitions in this section apply throughout this section  
11 and sections 2 through 5 of this act.

12 (a) "Agency" means any state or local government board, commission,  
13 bureau, committee, department, institution, division, or tribunal in  
14 the legislative, executive, or judicial branch, including elective and  
15 legislative offices, institutions of higher education created and  
16 supported by state government, counties, cities, towns, special purpose  
17 districts, local service districts, municipal corporations, quasi-  
18 municipal corporations, and political subdivisions of such agencies and  
19 corporations, and any officer, employee, or agent of these entities  
20 acting within the scope of the officer, employee, or agent's employment  
21 or duties. "Agency" does not include municipal electric or gas  
22 utilities formed under Title 35 RCW or electric public utility  
23 districts formed under Title 54 RCW.

24 (b) "Electric cooperative utility" means any nonprofit, member-  
25 owned cooperative organized under chapter 23.86 RCW and engaged in the  
26 business of distributing electric energy in the state.

27 (c) "Electric mutual utility" means any nonprofit, member-owned  
28 corporation or association organized under chapter 24.06 RCW and  
29 engaged in the business of distributing electric energy in the state.

30 (d) "Electronic computing device" means any computer hardware or  
31 software, computer chip, embedded chip, process control equipment, or  
32 other information system used to capture, store, manipulate, or process  
33 data, or that controls, monitors, or assists in the operation of  
34 physical apparatus that is not primarily used as a computer, but that  
35 relies on automation or digital technology to function, including but  
36 not limited to vehicles, vessels, buildings, structures, facilities,

1 elevators, medical equipment, traffic signals, factory machinery, and  
2 the like.

3 (e) "Public service provider" means any municipal electric or gas  
4 utility formed under Title 35 RCW, electric public utility district  
5 formed under Title 54 RCW, electrical company, as defined in RCW  
6 80.04.010, gas company, as defined in RCW 80.04.010, electric  
7 cooperative utility, and electric mutual utility.

8 (f) "Year 2000 failure" means with respect to an electronic  
9 computing device, a computing failure that prevents such electronic  
10 computing device from accurately interpreting, producing, computing,  
11 generating, accounting for, processing, calculating, comparing, or  
12 sequencing date or time data from, into, or between the years 1999 and  
13 2000, or with regard to leap year calculations.

14 (2) In any action against an agency or public service provider,  
15 whether based in tort, contract, or otherwise, for damages caused in  
16 whole or in part by computational or interpretive errors generated by  
17 an electronic computing device in connection with a year 2000 failure:

18 (a) Any liability shall be several, not joint, and the liability  
19 shall be determined as a percentage of fault in a manner consistent  
20 with RCW 4.22.070; and

21 (b) Agencies as defined in this section shall have no liability for  
22 the first one hundred dollars of damages per claimant that would  
23 otherwise be owed by the agency.

24 (3) This section shall not apply to any action for damages arising  
25 from bodily personal injury, or to wrongful death and survival actions  
26 under chapter 4.20 RCW or RCW 4.24.010.

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

29 (5) This section expires December 31, 2009.

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

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

35 (a) The default, failure to pay, breach, omission, or other  
36 violation that is the basis of the claim against him or her was caused,

1 in whole or in part, by a year 2000 failure associated with an  
2 electronic computing device;

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

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

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

17 (3) The dismissal of an action as the result of the affirmative  
18 defense under this section does not impair, extinguish, discharge,  
19 satisfy, or otherwise affect the underlying obligation that is the  
20 basis of the claim against which the affirmative defense was asserted.  
21 However, the ability of a party to bring the claim based upon the  
22 obligation is delayed as set forth in subsection (2) of this section.

23 (4) A person who has established an affirmative defense as set  
24 forth in subsection (1) of this section may dispute directly with a  
25 credit reporting agency operating in this state any item of information  
26 in the person's consumer file relating to the subject of the  
27 affirmative defense. The dispute shall be filed in accordance with RCW  
28 19.182.090(6). If requested by the person under this subsection (4),  
29 the credit reporting agency shall furnish a statement, made in  
30 accordance with RCW 19.182.090(7), to the person and include the  
31 statement in the person's consumer file. The credit reporting agency  
32 may not charge the person a fee for the inclusion of this statement in  
33 the person's consumer file.

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

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

1 (6) 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 (7) This section does not apply to or affect any contract that  
5 specifically provides for a year 2000 failure.

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

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

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

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

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

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

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

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

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

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

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

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

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

4 NEW SECTION. **Sec. 4.** 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 employer 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 or reasonably should have been  
21 corrected.

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

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

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

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

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

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

35 (1) Notwithstanding any other provision in this chapter, no  
36 interest or penalties may be imposed on any person because of the

1 failure to pay excise taxes on or before the date due for payment if  
2 the person establishes that:

3 (a) The failure to pay was caused, in whole or in part, by a year  
4 2000 failure associated with an electronic computing device;

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

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

11 Payment of such taxes shall be made within thirty days after the  
12 year 2000 failure has been corrected or reasonably should have been  
13 corrected.

14 (2)(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 (3) 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 (4) This section does not apply to any claim or cause of action  
23 filed after December 31, 2003.

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

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

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

31 (a) The failure to pay was caused, in whole or in part, by a year  
32 2000 failure associated with an electronic computing device;

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

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

1 Payment of such taxes 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, "person" 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. 7.** This act is necessary for the immediate  
16 preservation of the public peace, health, or safety, or support of the  
17 state government and its existing public institutions, and takes effect  
18 immediately."

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20 By Senators Heavey, McDonald, B. Sheldon, Johnson, Zarelli, Goings,  
21 Hochstatter, Jacobsen, Sheahan, Rossi and T. Sheldon

22 ADOPTED AS AMENDED 4/15/99

23 On page 1, line 3 of the title, after "devices;" strike the  
24 remainder of the title and insert "adding a new section to chapter 4.22  
25 RCW; adding a new section to chapter 4.24 RCW; adding a new section to  
26 chapter 48.18 RCW; adding a new section to chapter 51.04 RCW; adding a  
27 new section to chapter 82.32 RCW; adding a new section to chapter 84.56  
28 RCW; providing expiration dates; and declaring an emergency."

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