

2 SSB 6035 - S AMD - 172

3 By Senators Swecker and Heavey

4 ADOPTED 3/12/99

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

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.

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

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

27 (2) The legislature determines that in order to protect the
28 citizens of the state of Washington, it is appropriate to limit their
29 liability against adverse financial ramifications resulting from year
30 2000 failures associated with electronic computing devices.

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

33 The definitions in this section apply throughout sections 3 through
34 7 of this act unless the context clearly requires otherwise.

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

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

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

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

11 (3) "Year 2000 failure" means:

12 (a) With respect to an electronic computing device, a failure,
13 including an electrical or telecommunications failure, that prevents
14 such electronic computing device from accurately interpreting,
15 producing, computing, generating, accounting for, processing,
16 calculating, comparing, or sequencing date or time data from, into, or
17 between the years 1999 and 2000, or with regard to leap year
18 calculations; or

19 (b) An inability of a business to perform an intended or requested
20 function because of the system failure of another party, including, but
21 not limited to, the failure of a governmental body to provide data,
22 transportation delays, energy failures, or communication failures.

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

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

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

29 (a) The default, failure to pay, breach, omission, or other
30 violation that is the basis of the claim against him or her was caused,
31 in whole or in part, by a year 2000 failure associated with an
32 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

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

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

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

17 (4) A person who has established an affirmative defense as set
18 forth in subsection (1) of this section may dispute directly with a
19 credit reporting agency operating in this state any item of information
20 in the person's consumer file relating to the subject of the
21 affirmative defense. The dispute shall be filed in accordance with RCW
22 19.182.090(6). If requested by the person under this subsection (4),
23 the credit reporting agency shall furnish a statement, made in
24 accordance with RCW 19.182.090(7), to the person and include the
25 statement in the person's consumer file. The credit reporting agency
26 may not charge the person a fee for the inclusion of this statement in
27 the person's consumer file.

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

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

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

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

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

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

8 (a) The failure to pay was caused, in whole or in part, by a year
9 2000 failure associated with an electronic computing device;

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

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

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

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

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

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

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

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

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

33 (a) The failure to pay was caused, in whole or in part, by a year
34 2000 failure associated with an electronic computing device;

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

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

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

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

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

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

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

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

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

19 (a) The failure to pay was caused, in whole or in part, by a year
20 2000 failure associated with an electronic computing device;

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

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

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

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

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

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

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

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

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

7 (a) The failure to pay was caused, in whole or in part, by a year
8 2000 failure associated with an electronic computing device;

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

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

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

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

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 the year 2000 date change.

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

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

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

27 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
28 preservation of the public peace, health, or safety, or support of the
29 state government and its existing public institutions, and takes effect
30 immediately."

31 **SSB 6035** - S AMD - 172
32 By Senators Swecker and Heavey

ADOPTED 3/12/99

34 On page 1, line 1 of the title, after "act;" strike the remainder
35 of the title and insert "adding new sections to chapter 4.24 RCW;

1 adding a new section to chapter 48.18 RCW; adding a new section to
2 chapter 51.04 RCW; adding a new section to chapter 82.32 RCW; adding a
3 new section to chapter 84.56 RCW; creating new sections; providing
4 expiration dates; and declaring an emergency."

--- **END** ---