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LIMIT LIABILITY FOR YEAR 2000 COMPUTER PROBLEMS

House Bill 4424

Sponsor: Rep. Janet Kukuk

Committee: Family and Civil Law

Complete to 9-21-99

A SUMMARY OF HOUSE BILL 4424 AS INTRODUCED 3-18-99

The bill would amend the Revised Judicature Act to limit the liability of defendants in actions brought for damages resulting from a computer date failure, defined as a present or future inability (or the possibility of such inability) of a computer system to process data from, into, and between the years 1999 and 2000 and beyond, provided that all other technology used in the computer system, program, or software operates properly.

Under the bill, the exclusive remedy in an action against a computer designer, developer or manufacturer resulting from a computer date failure would be an action based solely in contract (i.e., there would be no tort liability), if all of the following applied:

1. the plaintiff had not suffered any personal injury, excluding emotional harm, as a result of the computer date failure; and
2. the defendant had made available, at no charge, a repair or replacement for an off-the-shelf software program first introduced for license or sale after December 31, 1997, and had given notice by mail to all registered buyers of a computer system, component, or software that experienced (or could experience) a computer date failure (or, if unable to notify each buyer by mail, had given notice by publication in a newspaper of general circulation in each county in the state, once a week for four consecutive weeks, and by posting notice on the defendant's Internet website).

The required notice would have to specify the computer system, component, or software program and explain how the buyer could obtain repair or replacement for the item, or obtain additional information. Further, the notice would be inadmissible in court for any purpose other than proof of the fact that notice was given.

For actions based on a computer date failure against any defendant other than a computer designer, developer, or manufacturer, the bill specifies that the exclusive remedy would be an action based solely in contract (i.e., there would be no tort liability) if the plaintiff had not suffered any personal injury, excluding emotional harm.

House Bill 4424 (9-21-99)

Nothing in the bill could be construed to recognize, endorse, or suggest the existence or validity of any purported cause of action; create a cause of action where none otherwise existed; limit the ability of contracting party to enter into an agreement it finds appropriate on the issue of liability, damages, or both, for computer date failure; or affect the validity of an agreement arising on or before enactment of the bill regarding issues of liability, damages, or both, for computer date failure.

MCL 600.2969

Analyst: D. Martens

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