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## FINANCIAL INSTITUTIONS; YEAR 2000 COMPUTER PROBLEMS

**House Bill 4737**

**Sponsor: Rep. Andrew Richner**

**Committee: Family and Civil Law**

**Complete to 9-21-99**

### **A SUMMARY OF HOUSE BILL 4737 AS INTRODUCED 5-27-99**

The bill would amend the Revised Judicature Act to limit the liability of a financial institution (and its employees, officers and directors) in an action related to a computer date failure, defined as the inability of a computer system to recognize, calculate, or otherwise properly process dates or times in the years 1999 and 2000 and beyond. The bill specifies that if a financial institution had made a good faith effort to make and implement a “Year 2000 Readiness Plan” (a plan reasonably calculated to avoid material disruption of its operations due to computer date failures), it would not be liable to a person “not in privity of contract” (that connection or relationship between two contracting parties) with the institution for damages or other relief relating to a computer date failure. The bill states that if a financial institution had substantially complied with the requirements of its primary state or federal regulator to address readiness for computer date failures, it is presumed to have made a good faith effort as required by the bill.

Under the bill, the liability of a financial institution that experiences computer date failure would be limited to actual damages (direct monetary losses proximately caused by a computer date failure, and not including lost profits, lost revenue, or other indirect, special, consequential, or incidental damages, or noneconomic or exemplary damages). Further, the bill would require a court to reduce the amount of damages recoverable in proportion to the amount of a contributing act or omission that was attributable to a third party engaged by a financial institution to make and implement its Year 2000 Readiness Plan, and in proportion to the amount of responsibility of the person seeking damages.

The bill would apply to all legal and equitable actions that had not been fully and finally adjudicated as of the effective date of the bill. Further, the bill states that it would not create a new cause of action or remedy for computer date failure.

Analyst: D. Martens

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