

106TH CONGRESS  
1ST SESSION

# H. R. 192

To establish judicial and administrative proceedings for the resolution of  
year 2000 processing failures.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1999

Mr. MANZULLO (for himself, Mr. DELAY, and Mr. DREIER) introduced the  
following bill; which was referred to the Committee on the Judiciary

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## A BILL

To establish judicial and administrative proceedings for the  
resolution of year 2000 processing failures.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Year 2000 Consumer  
5 Protection Plan Act of 1999”.

6 **SEC. 2. DEFINITIONS.**

7 (1) COVERED ACTION.—The term “covered ac-  
8 tion” means a civil action of any kind, whether aris-  
9 ing under Federal or State law, except for an action  
10 brought by a Federal, State, or other public entity,

1 agency, or authority acting in a regulatory, super-  
2 visory, or enforcement capacity.

3 (2) END USER.—The term “end user” means a  
4 party in possession of and using software or hard-  
5 ware.

6 (3) EXPRESS WRITTEN CONTRACT.—The term  
7 “express written contract” means terms with respect  
8 to which confirmatory memoranda of the parties  
9 agree or which are otherwise set forth in writing in-  
10 tended by the parties as a final expression of their  
11 agreement with respect to such terms as are in-  
12 cluded therein and which may be explained or  
13 supplemented—

14 (A) by course of dealing or usage of trade  
15 or by course of performance; and

16 (B) by evidence consistent additional terms  
17 unless the court finds the writing to have been  
18 intended also as a complete and exclusive state-  
19 ment of the terms of the agreement.

20 (4) YEAR 2000 PROCESSING.—The term “year  
21 2000 processing” means the processing (including  
22 calculating, comparing, sequencing, displaying, or  
23 storing), transmitting, or receiving of date data  
24 from, into, and between the 20th and 21st centuries,

1 and during the years 1999 and 2000, and leap year  
2 calculations.

3 **SEC. 3. JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.**

4 (a) IN GENERAL.—Any covered action, wherever  
5 brought, seeking damages caused by a year 2000 process-  
6 ing failure, disruption, or error and any arbitration or me-  
7 diation proceedings brought as a result of the initiation  
8 of such action shall be governed by this Act.

9 (b) PROCEDURE.—When a person files a complaint  
10 in a court seeking damages caused by a year 2000 process-  
11 ing failure, disruption, or error, the clerk of the court shall  
12 refer the complaint to a mandatory arbitration proceeding.

13 (c) STANDARD OF PROOF.—A person may recover  
14 damages for a year 2000 processing failure, disruption,  
15 or error if the person shows by a preponderance of the  
16 evidence that—

17 (1) the failure, disruption, or error in year  
18 2000 processing caused a loss which was foreseeable;

19 (2) the defendant's action or inaction as an end  
20 user was unreasonable under the circumstances; and

21 (3) the loss was proximately caused by the de-  
22 fendant.

23 (d) DIRECTORS AND OFFICERS.—A director or officer  
24 of a corporation which is a defendant to an action brought  
25 for a year 2000 processing failure, disruption, or error

1 shall be responsible only if the director or officer failed  
2 to exercise due diligence in overseeing the direction of an  
3 act cited by the plaintiff under subsection (c).

4 (e) DAMAGE AWARDS.—In any action for a year 2000  
5 processing failure, error, or disruption, damages may be  
6 awarded for the following:

7 (1) Personal injury, including—

8 (A) medical and hospital expenses, past  
9 and future;

10 (B) loss of earnings, past and future; and

11 (C) pain and suffering but in an amount  
12 not to exceed the amount of medical and hos-  
13 pital expenses.

14 (2) Wrongful death.

15 (3) Property damage, including—

16 (A) loss of profits; and

17 (B) cost of repairs and replacements.

18 (4) Punitive damages but only for willful and  
19 wanton conduct proved by clear and convincing evi-  
20 dence and not to exceed 3 times the actual damages,  
21 except that punitive damages may not be awarded in  
22 an action involving only property damage.

23 (e) STATUTE OF LIMITATIONS.—No action may be  
24 brought for a year 2000 processing failure, error, or dis-

1 ruption after the expiration of 2 years after January 1,  
2 2000.

3 **SEC. 4. CLASS ACTIONS.**

4 Any class action brought for damages for a year 2000  
5 processing failure, disruption, or error which is governed  
6 by this Act or State law shall be brought in the United  
7 States district court for the district in which the failure  
8 occurred.

9 **SEC. 5. APPLICABILITY.**

10 This Act does not apply to any action arising out of  
11 an express written contract between the parties.

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