



1999

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Recommended Citation

Berges, Anabelle (1999) "Recent Developments: Senate Bill 554: Commercial Law - Year 2000 Commerce Protection Act," *University of Baltimore Law Forum*: Vol. 29 : No. 2 , Article 19.

Available at: <http://scholarworks.law.ubalt.edu/lf/vol29/iss2/19>

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**SENATE BILL 554: COMMERCIAL LAW - YEAR 2000 COMMERCE
PROTECTION ACT**

By Anabelle Berges

Senate Bill 554 (crossfiled with House Bill 3) establishes the legal remedies available for Maryland government, business, commerce, and consumers for damages caused by Year 2000 information technology failures. The Bill limits the available remedies to remedies provided under the Bill, or to specific remedies provided under a contract. In addition, a person is only liable under this Bill where the failure to be Year 2000-Ready is the proximate cause of the damages.

The law also provides an affirmative defense for a person whose product or service is not Year 2000-Ready. The law states that the person must have “determined and implemented actions necessary for the person to become Year 2000-Ready” as stated under current law. Senate Bill 554 sets forth the following four factors that the court shall consider when determining whether the person has met the affirmative defense: (1) whether the person has inventoried its products and services to determine whether they are Year 2000- ready; (2) whether the person can evidence a plan to make its products and services to be Year 2000 ready; (3) whether the person has contacted its critical suppliers to determine whether they have Year 2000 readiness plans; and (4) whether the person has fully implemented a plan to make its products and services Year 2000 ready.

The Bill also allows an audit, information technology review, or other review of whether a product is Year 2000-Ready to be discoverable and admissible in evidence in a civil action pursuant to a Year 2000 claim.

The requirements set forth in Senate Bill 554 will likely discourage persons from filing Year 2000 related lawsuits. Small businesses will benefit from the affirmative defense and limited remedies provided by the Bill.

This Bill took effect on June 1, 1999.