1   State of Arkansas   *As Engrossed: H3/18/99 H4/1/99 S4/7/99*

2   82nd General Assembly   A Bill

3   Regular Session, 1999   HOUSE BILL   1968

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5   By: Representatives Rackley, *T. Thomas, Hunt*

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8   **For An Act To Be Entitled**

9   "AN ACT CONCERNING IMMUNITY FOR YEAR 2OOO COMPUTER

10   ERRORS; AND FOR OTHER PURPOSES."

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12   **Subtitle**

13   "AN ACT CONCERNING IMMUNITY FOR YEAR 2OOO

14   COMPUTER ERRORS."

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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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19   SECTION 1. Definitions. As used in this act:

20   (1) "Computer system" means any electronic device or collection of

21 devices, including support devices, networks and embedded chips, that contains

22 computer programs, electronic instructions, input data and output data, and

23 that performs functions, including, but not limited to, logic, arithmetic,

24 data storage and retrieval, communication and control. "Computer system" does

25 not include calculators that are not programmable;

26   (2) "Government computer system" means any computer system owned or

27 operated by a governmental entity;

28   (3) "Government employee" includes an officer or employee of a

29 governmental entity, including a person acting on behalf of a governmental

30 entity in an official capacity, temporarily or permanently, whether with or

31 without compensation;

32   (4) "Governmental entity" means the State of Arkansas, or any office,

33 department, commission, council, board, committee, legislative body, agency,

34 institution, or any other establishment of the executive, judicial, or

35 legislative branch of the state, or any municipality, county, school district,

36 improvement district, or any political district or subdivision thereof; and

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1   *(5) "Year 2000 compliant" means, with respect to a government computer*

2   *system, that the system accurately processes date and time data from, into,*

3   *and between the twentieth (20th) and twenty-first (21st) centuries and the*

4   *years 1999 and 2000, and leap year calculations. The processing of date and*

5   *time data includes but is not limited to calculating, comparing, projecting,*

6   *and sequencing.*

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8   *SECTION 2. Findings.*

9   *The General Assembly finds that:*

10   *(1) The state and the state's political subdivisions have taken*

11   *due care to prepare for the date change that will accompany the year 2000;*

12   *(2) Beginning as early as 1995, the state began preparations and*

13   *corrections for the computer systems. The state hired consulting companies*

14   *having expertise and experience in year 2000 issues. The Governor took action*

15   *to ensure that all agencies of state government were actively addressing year*

16   *2000 issues and had adequate resources to support their efforts. The General*

17   *Assembly appropriated funds in 1997 for year 2000 corrections and held*

18   *hearings from time to time to monitor the state's progress. The state has*

19   *actively communicated with units of local government and the federal*

20   *government to ensure that year 2000 efforts were broadly coordinated;*

21   *(3) It is estimated that state agencies will spend between fifty*

22   *and sixty million dollars ($50,000,000 and $60,000,000) in assessment,*

23   *remediation and testing costs to prevent failures in computer systems and*

24   *embedded systems. The efforts of the state are ongoing with respect to year*

25   *2000; and*

26   *(4) The state has acted with diligence in addressing the year*

27   *2000 issue and in providing remedies when problems are identified. All of*

28   *these actions have been taken with every care to ensure the continuity of*

29   *state services and government operations to the citizens of Arkansas as the*

30   *first century of the technological era draws to a close.*

31

32   *SECTION 3. Immunity against suits.*

33   *(a) No action, except for declaratory or injunctive relief or illegal*

34   *exactions, may be brought against a governmental entity or a government*

35   *employee, arising out of or based upon any failure of or error produced,*

36   *calculated, or generated by a government computer system, which failure or*

1 *error was a result of the system's not being year 2000 compliant, regardless*

2 *of the cause for the system's not being year 2000 compliant.*

3 *(b) Nothing in this act shall provide immunity or release from liability*

4 *to any person who:*

5 *(1) Deliberately tampers with a government computer system for the*

6 *purpose of preventing it from being year 2000 compliant; or*

7 *(2) Receives and fails to immediately return a benefit which the*

8 *person is not legally entitled to arising out of or based upon any failure of*

9 *or error produced, calculated, or generated by a government computer system as*

10 *a result of the system's not being year 2000 compliant.*

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12 *SECTION 4. Remedial measures.*

13 *Nothing in this act shall prevent a governmental entity or a government*

14 *employee from taking steps to remedy any failure of or error produced,*

15 *calculated, or generated by a government computer system as a result of the*

16 *system's not being year 2000 compliant, once the failure or error is verified.*

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18 *SECTION 5. All provisions of this act of a general and permanent nature*

19 *are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code*

20 *Revision Commission shall incorporate the same in the Code.*

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22 *SECTION 6. If any provision of this act or the application thereof to*

23 *any person or circumstance is held invalid, such invalidity shall not affect*

24 *other provisions or applications of the act which can be given effect without*

25 *the invalid provision or application, and to this end the provisions of this*

26 *act are declared to be severable.*

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28 *SECTION 7. All laws and parts of laws in conflict with this act are*

29 *hereby repealed.*

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31 *SECTION 8. EMERGENCY CLAUSE. It is hereby found and determined by the*

32 *Eighty-second General Assembly that the state and units of local government*

33 *have taken due care to prepare for the date change that will accompany the*

34 *year 2000; that the state has acted with diligence in addressing the year 2000*

35 *issue and in providing remedies when problems are identified; that these*

36 *actions have been taken in an effort to ensure the continuity of state*

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1 *services to the citizens of Arkansas as the twentieth (20th) century nears an*

2 *end; and that this act is immediately necessary. Therefore, an emergency is*

3 *declared to exist and this act being immediately necessary for the*

4 *preservation of the public peace, health and safety shall become effective on*

5 *the date of its approval by the Governor. If the bill is neither approved nor*

6 *vetoed by the Governor, it shall become effective on the expiration of the*

7 *period of time during which the Governor may veto the bill. If the bill is*

8 *vetoed by the Governor and the veto is overridden, it shall become effective*

9 *on the date the last house overrides the veto.*

10   */s/ Rackley*

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