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**SFA****BILL ANALYSIS**

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House Bill 4737 (Substitute S-1 as reported by the Committee of the Whole)  
Sponsor: Representative Andrew Richner  
House Committee: Family and Civil Law  
Senate Committee: Technology and Energy

## **CONTENT**

The bill would amend the Revised Judicature Act to limit the liability of a financial institution related to a computer date failure, if the financial institution had made a good faith effort to implement a "year 2000 readiness plan". The bill also would limit a foreclosure on a residential mortgage due to an inaccurate or late payment caused by a computer date failure. ("Computer date failure" would mean a malfunction that was caused directly or indirectly by the failure of a computer, a computer network, program, or system, an embedded chip, or computer software accurately to recognize, calculate, display, sort, or process dates or times in the years 1999 and 2000, and beyond.) The bill would be repealed on January 1, 2003.

A financial institution and its employees, officers, and directors would not be liable to a person not in privity of contract with the financial institution for damages or other relief relating to a computer date failure. In addition, liability would be limited to actual damages.

Except for an action to recover damages for a wrongful death or injury to a person resulting from a computer date failure, the bill would govern every action against a financial institution or an employee, officer, or director of a financial institution to recover damages resulting directly or indirectly from an alleged computer failure, if the financial institution had made a good faith effort to make and implement a year 2000 readiness plan. A court would have to reduce the amount of damages recoverable in proportion to a contributing act or omission attributable to a third party engaged by a financial institution to make and implement its year 2000 readiness plan and in proportion to the responsibility of the person seeking damages.

Further, a person could not cause or permit a foreclosure on a residential mortgage against an individual if the basis for the foreclosure were an inaccurate or late payment on the mortgage that was caused by a computer date failure (unless default occurred, or imminent default was foreseeable, before December 15, 1999). Within seven business days after an individual learned of the computer date failure that caused his or her inaccurate or late payment (and before March 15, 2000), the individual would have to notify his or her mortgage servicer of the computer date failure, and give the servicer available related documentation.

If a mortgage payment were not made and the servicer did not grant an extension, an act to foreclose the mortgage could be initiated or resumed, but not before January 29, 2000, or 28 days after the servicer requested the notice required by the bill, whichever was later.

Proposed MCL 600.2969

Legislative Analyst: S. Lowe

## **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Date Completed: 12-7-99

Fiscal Analyst: B. Bowerman

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Analysis available @ <http://www.michiganlegislature.org>

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.