

**HB**

**82**

*Removes all P.I.  
deletes Mediator*

1-LS0398N  
Ford  
5/13/99

*adopted  
modified  
amended*

SENATE CS FOR CS FOR HOUSE BILL NO. 82( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG, Dyson, Halcro, Harris

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to certain claims arising out of or in connection with the year  
2 2000 date change; amending Rule 23, Alaska Rules of Civil Procedure; and  
3 providing for an effective date."

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

5 \* Section 1. FINDINGS AND INTENT. (a) The legislature finds that

6 (1) the majority of responsible business enterprises in Alaska are committed  
7 to working in cooperation with their contracting partners towards the timely and cost-effective  
8 resolution of the many technological, business, and legal issues associated with the year 2000  
9 date change;

10 (2) it is important to encourage businesses to concentrate their attention and  
11 resources in the short time remaining before January 1, 2000, on addressing, assessing,  
12 remediating, and testing their year 2000 date change problems, and to minimize any possible  
13 business disruptions associated with year 2000 date change issues;

14 (3) it is appropriate for the legislature to enact legislation to ensure that year

1 2000 date change problems do not unnecessarily disrupt state commerce or create unnecessary  
2 caseloads in the courts and to provide initiatives to help businesses prepare and be in a  
3 position to withstand the potentially devastating economic affect of the year 2000 date change;

4 (4) year 2000 date change issues potentially affect practically all business  
5 enterprises to at least some degree, possibly giving rise to a large number of disputes;

6 (5) resorting to the legal system for resolution of year 2000 date change  
7 problems is not feasible for many businesses, particularly small businesses, because of the  
8 complexity and expense of pursuing resolution through the legal system;

9 (6) the delays, expense, uncertainties, loss of control, adverse publicity, and  
10 animosities that frequently accompany litigation of business disputes can only exacerbate the  
11 difficulties associated with the year 2000 date change and work against the successful  
12 resolution of those difficulties.

13 (b) It is the intent of the legislature that

14 (1) this Act encourage businesses to approach their year 2000 date change  
15 disputes responsibly and to avoid unnecessary, time-consuming, and costly litigation about  
16 year 2000 date change related failures, particularly those that are not material;

17 (2) good faith negotiations occur between parties when there is a dispute over  
18 a year 2000 date change problem;

19 (3) in resolving year 2000 date change related disputes, the parties rely on a  
20 valid and enforceable contract, and that the provisions of this Act are inapplicable when a  
21 provision would supersede, intervene, or change a contractual obligation or provision;

22 (4) if a party is unsuccessful in asserting the year 2000 date change defenses  
23 created in this Act, nothing in this Act would preclude a court or jury from awarding  
24 compensatory or punitive damages as provided by law;

25 (5) if a party to a contract uses reasonable care to prevent or remedy year 2000  
26 date change damages, the party not be liable for most civil damages resulting from the year  
27 2000 date change.

28 \* Sec. 2. AS 09.65 is amended by adding a new section to read:

29 **Sec. 09.65.260. Claims against persons engaged in business arising out of**  
30 **or in connection with the year 2000 date change.** (a) In a civil action based on a  
31 contract, a business or a member of the board of directors of a business is not liable

*Compliance Program*

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for damages arising from the year 2000 date change and caused directly or indirectly by a failure of an electronic computing device used in the business if the business shows by a preponderance of the evidence that

(1) the business made substantial efforts to avoid the damages claimed in the civil action, such as

(A) inventorying the electronic computing devices used by the business that may experience year 2000 date change failures;

(B) identifying critical electronic computing devices necessary to conduct the operations of the business;

(C) identifying the potential for year 2000 date change failures associated with electronic computing devices used by the business;

(D) preparing a plan to reprogram, fix, repair, replace, or otherwise remedy the electronic computing devices necessary to avert failure resulting from the year 2000 date change;

(E) complying with generally accepted practices of a business sector related to the year 2000 date change, including testing information systems for compliance with the year 2000 date change; and

(F) developing contingency plans in the event of an electronic computing device failure; or

(2) the business used reasonable care to prevent or remedy damages arising from the year 2000 date change and caused directly or indirectly by a failure of an electronic computing device.

(b) The defense in (a) of this section may not be asserted by a business that develops or manufactures software, firmware, microcode, hardware, or embedded microchips that create, read, write, calculate, compare, sequence, or otherwise process data that consists of dates, times, or both dates and time if the business represented that the software, firmware, microcode, hardware, or microchips were year 2000 date change compliant. This subsection does not apply to a business that only sells, rents, or leases software, firmware, microcode, or hardware that is developed or manufactured by another person.

(c) In a civil action based on a contract against a business, or member of the

1 board of directors of a business, for damages arising from the year 2000 date change  
 2 and caused directly or indirectly by a failure of an electronic computing device used  
 3 in the business may not be brought as a class action unless ~~each~~ member of the class  
 4 has a claim for economic loss ~~that~~ exceeds \$25,000 (150,000).

5 (d) In a civil action based on a contract against a business, or member of the  
 6 board of directors of a business, for damages arising from the year 2000 date change  
 7 and caused directly or indirectly by a failure of an electronic computing device used  
 8 in the business,

9 (1) damages may not be awarded for noneconomic losses if the party  
 10 bringing the claim is unable to prove by a preponderance of the evidence that the party  
 11 defending the claim knew, or should have known, that the failure of the electronic  
 12 computing device would cause the damages claimed in the civil action;

13 (2) the civil action may not proceed to trial until the person bringing  
 14 the action *if appropriate: if able to do so*

15 (A) provides *mechanism which contains an* written notice to the business that describes the  
 16 failure of the electronic computing device arising from the year 2000 date  
 17 change; and

18 (B) gives the business the opportunity to fix the problem,  
 19 including reasonable access to electronic computing devices or software  
 20 affected by the failure described under (A) of this paragraph;

21 (3) ~~a~~ *provision* of this section that conflicts with *in 2000 date change* a provision contained  
 22 in a valid and enforceable contract between the parties to the civil action may not be  
 23 applied in that civil action.

24 (e) This section does not apply to a civil action against a business, or a  
 25 member of the board of directors of a business, for damages for personal injury or  
 26 wrongful death arising from the year 2000 date change and caused directly or  
 27 indirectly by a failure of an electronic computing device.

28 (f) In this section,

29 (1) "business" means a person or a for profit or a nonprofit entity  
 30 engaged in a trade, service, profession, or activity with the goal of receiving a financial  
 31 benefit in exchange for the provision of services, goods, or other property;

1 (2) "electronic computing device" includes any computer hardware or  
2 software, a computer chip, an embedded chip, process control equipment, or other  
3 information system that is used to capture, store, manipulate, or process data;

4 (3) "year 2000 date change" includes processing date or time data from,  
5 into, and between the Twentieth and Twenty-First Centuries, and leap-year  
6 calculations; in this paragraph, "processing" includes calculating, comparing,  
7 sequencing, displaying, and storing.

8 \* Sec. 3. AS 09.65.260 is repealed January 1, 2006.

9 \* Sec. 4. AS 09.65.260(c), enacted by sec. 2 of this Act, has the effect of amending  
10 Rule 23, Alaska Rules of Civil Procedure, by requiring, in a class action relating to the year  
11 2000 date change, that ~~each~~ <sup>the aggregate claim of all</sup> members of the class ~~have a claim~~ for economic loss ~~that~~ exceeds  
12 \$25,000. (150,000.)

13 \* Sec. 5. APPLICABILITY. This Act applies to a cause of action arising from any failure  
14 described in AS 09.65.260, enacted by sec. 2 of this Act, that accrues on or after the effective  
15 date of this Act but before January 1, 2006.

16 \* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

*Ellis: Aggregate claim  
concern w/ court Rule*

*Junder Kitty Asap  
est. 1000 mesdow (joil)*

# FISCAL NOTE

No: 1

Bill Version: CSHB 82(L&C)

(H) Publish Date: 3/5/99

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

|               |                          |                      |                     |
|---------------|--------------------------|----------------------|---------------------|
| Revision Date |                          | Dept. Affected       | Alaska Court System |
| Title         | Immunity from Y2K Claims | BRU                  | Alaska Court System |
| Sponsor       | Rep. Rokeberg            | Component            | Trial Courts        |
| Requester     | House Labor & Commerce   | Component Serial No. | 769                 |

**Expenditures/Revenues** (Thousands of Dollars)

| OPERATING EXPENDITURES | FY 2000 | FY 2001 | FY 2002 | FY 2003 | FY 2004 | FY 2005 |
|------------------------|---------|---------|---------|---------|---------|---------|
| Personal Services      |         |         |         |         |         |         |
| Travel                 |         |         |         |         |         |         |
| Contractual            |         |         |         |         |         |         |
| Supplies               |         |         |         |         |         |         |
| Equipment              |         |         |         |         |         |         |
| Land & Structures      |         |         |         |         |         |         |
| Grants & Claims        |         |         |         |         |         |         |
| Miscellaneous          |         |         |         |         |         |         |
| <b>TOTAL OPERATING</b> | 0.0     | 0.0     | 0.0     | 0.0     | 0.0     | 0.0     |

|                      |  |  |  |  |  |  |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES |  |  |  |  |  |  |
|----------------------|--|--|--|--|--|--|

|                        |  |  |  |  |  |  |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES ( ) |  |  |  |  |  |  |
|------------------------|--|--|--|--|--|--|

**FUND SOURCE** (Thousands of Dollars)

|                          |     |     |     |     |     |     |
|--------------------------|-----|-----|-----|-----|-----|-----|
| 1002 Federal Receipts    |     |     |     |     |     |     |
| 1003 GF Match            |     |     |     |     |     |     |
| 1004 GF                  | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1005 GF/Program Receipts |     |     |     |     |     |     |
| 1037 GF/Mental Health    |     |     |     |     |     |     |
| Other (Specify Type)     |     |     |     |     |     |     |
| <b>TOTAL</b>             | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY99) cost: None

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

**ANALYSIS:** *(Attach a separate page if necessary)*

No fiscal impact

|              |  |           |                |
|--------------|--|-----------|----------------|
| Prepared by: | Doug Wooliver, Administrative Attorney     | Phone     | 264-8265       |
| Agency       | Alaska Court System                        | Date/Time | 2/8/99 8:58 AM |
| Approved by: | Stephanie J. Cole, Administrative Director | Date      | 2/8/99         |
| Agency       | Alaska Court System                        |           |                |

# FISCAL NOTE

Bill Version: CSHB 82 (L&C)

(H) Publish Date: 3/5/99

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

|  |                      |                      |
|--|----------------------|----------------------|
| Revision Date/Time (Note if correction)  | Dept. Affected       | Law                  |
| Title " ... relating to immunity for certain claims arising out of or in connection with the year 2000 date change; ..." | BRU                  | Civil Division       |
| Sponsor Representative Rokeberg  | Component            | Governmental Affairs |
| Requester House Labor and Commerce Committee   | Component Serial No. | 2207/2214            |

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2000 | FY 2001 | FY 2002 | FY 2003 | FY 2004 | FY 2005 |
|------------------------|---------|---------|---------|---------|---------|---------|
| Personal Services      |         |         |         |         |         |         |
| Travel                 |         |         |         |         |         |         |
| Contractual            |         |         |         |         |         |         |
| Supplies               |         |         |         |         |         |         |
| Equipment              |         |         |         |         |         |         |
| Land & Structures      |         |         |         |         |         |         |
| Grants & Claims        |         |         |         |         |         |         |
| Miscellaneous          |         |         |         |         |         |         |
| <b>TOTAL OPERATING</b> | 0.0     | 0.0     | 0.0     | 0.0     | 0.0     | 0.0     |

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|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES |  |  |  |  |  |  |
|----------------------|--|--|--|--|--|--|

|                        |  |  |  |  |  |  |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES ( ) |  |  |  |  |  |  |
|------------------------|--|--|--|--|--|--|

**FUND SOURCE** (Thousands of Dollars)

|                          |     |     |     |     |     |     |
|--------------------------|-----|-----|-----|-----|-----|-----|
| 1002 Federal Receipts    |     |     |     |     |     |     |
| 1003 GF Match            |     |     |     |     |     |     |
| 1004 GF                  |     |     |     |     |     |     |
| 1005 GF/Program Receipts |     |     |     |     |     |     |
| 1037 GF/Mental Health    |     |     |     |     |     |     |
| Other (Specify Type)     |     |     |     |     |     |     |
| <b>TOTAL</b>             | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY99) cost: \_\_\_\_\_

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

ANALYSIS: (Attach a separate page if necessary)

HB 82 provides immunity for claims against persons engaged in business arising out of or in connection with the year 2000 date change.

Enactment of this legislation will have no fiscal impact on the Department of Law.

Prepared by Joan M. Kassort *[Signature]*  
 Division Attorney General's Office  
 Approved by Commissioner Royce M. Boehlke, Attorney General *[Signature]*  
 Agency Department of Law

Phone 465-5370  
 Date/Time 2/11/99, 9:20 AM  
 Date 2/11/99

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# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE ASSIGNMENTS

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JUDICIARY COMMITTEE, MEMBER  
LEGISLATIVE COUNCIL, MEMBER  
SPECIAL COMMITTEE ON UTILITY RESTRUCTURING, MEMBER  
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT &  
TOURISM, MEMBER



INTERIM  
716 WEST 4TH AVENUE, SUITE 640  
ANCHORAGE, AK 99501  
PHONE (907) 269-0117  
FAX (907) 269-0119

SESSION  
ALASKA STATE CAPITOL  
JUNEAU, AK 99801-1182  
PHONE: (907) 465-4968  
FAX (907) 465-2040

e-mail: Representative\_Norman\_Rokeberg@legis.state.ak.us

## Representative Norman Rokeberg

### SPONSOR STATEMENT

#### CSHB 82 (JUD) am

An Act relating to immunity for certain claims arising out of or in connection with the year 2000 date change; amending Rule 23, Alaska Rules of Civil Procedure; and providing for an effective date.

CSHB 82 (JUD) am provides immunity for Alaskan businesses for certain claims arising out of or in connection with the year 2000 date change if such businesses made good faith efforts to correct the problem before it occurred.

The Year 2000 date change (commonly referred to as "Y2K" or "Millenium Bug") could have a tremendous impact on businesses in Alaska. A number of states have adopted or are considering laws in this arena. Governor Knowles has introduced legislation (HB 57) for consideration by the Alaska Legislature to provide immunity for claims arising out of Y2K situations for state and local governments. Other states and the US Congress are considering such measures, as well as measures protecting businesses. CSHB 82 (JUD) am would provide limited immunity for Alaskan businesses.

Across the United States and the world, businesses are facing exposure to lawsuits resulting from possible Y2K claims. Businesses in Alaska are no exception. There have been estimates that it will cost small businesses as much as \$450-600 per affected computer program to address the Y2K problem. Many businesses are making good faith efforts to address the problem but may not be able to fully solve the problem, particularly the issue of embedded chips.

Under CSHB 82 (JUD) am, a business would have the right to cure the Y2K problem before a lawsuit could be initiated. Additionally, the business would have to show by a preponderance of evidence that the business used good faith efforts to avoid the damages claimed in the civil act.

By offering this immunity, CS HB 82 (JUD) am will assist in encouraging small businesses to continue or begin to address the Y2K situation faced by that particular business.

Your support would be appreciated.

ED4:04/19/99

# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE ASSIGNMENTS

LABOR & COMMERCE COMMITTEE, CHAIRMAN  
JUDICIARY COMMITTEE, MEMBER  
LEGISLATIVE COUNCIL, MEMBER  
SPECIAL COMMITTEE ON UTILITY RESTRUCTURING, MEMBER  
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT &  
TOURISM, MEMBER

e-mail: Representative\_Norman\_Rokeberg@legis.state.ak.us



INTERIM:  
718 WEST 4TH AVENUE, SUITE 640  
ANCHORAGE, AK 99501  
PHONE: (907) 269-0117  
FAX: (907) 269-0119

SESSION:  
ALASKA STATE CAPITOL  
JUNEAU, AK 99801-1182  
PHONE: (907) 485-4988  
FAX: (907) 485-2040

## Representative Norman Rokeberg

### SECTIONAL ANALYSIS

#### CSHB 82 (JUD) am

An Act relating to immunity for certain claims arising out of or in connection with the year 2000 date change, amending Rule 23, Alaska Rules of Civil Procedure; and providing for an effective date.

*Prepared by: Representative Norman Rokeberg*

**Section 1:** States the Findings and Intent of the Legislature with regard to Y2K, its potential impact on Alaska, and its potential impact on Alaskans and Alaskan businesses.

**Section 2:** 09.65.260 Adds new section concerning claims against persons engaged in business arising out of or in connection with the year 2000 date change.

- (a) Indicates that a business or member of board of director is not liable for damages arising from Y2K and caused by failure of an electronic computing device if the business shows by a preponderance of evidence that it made substantial efforts to avoid damages claimed in a civil action. The business must have used reasonable care to prevent or remedy damages.
- (b) Indicates that the defense in (a) cannot be asserted by a business that develops or manufacturers certain computer items but does not apply to a business that only sells, rents or leases software, firmware, microcode, or hardware developed by another person.
- (c) Provides that class actions may not be brought unless each member of the class has a claim for economic loss exceeding \$25,000.
- (d) Provides that in civil actions against business or board of directors (1) damages may not be awarded for noneconomic losses if the party defending can prove by a preponderance of evidence that it acted in good faith and took reasonable measures or the party bringing the claim is unable to prove by

- (e) clear and convincing evidence that the party defending the claim, knew or should have known that the failure of the electronic computing device would cause damages.

Further provides that a civil action may not proceed until the person bringing the action notifies the business, in writing, and give the business an opportunity to fix the problem.

Requires mediation unless all parties agree to waive medication.

If a provision of this law is contrary to one obtained in a valid and enforceable contract, the contract language prevails.

- (l) Definitions section.

Section 3: Repeals this statute effective January 1, 2006.

Section 4: States that the class action limitations in the bill would change Rule 23, Alaska Rules of Civil Procedure.

Section 5: Applicability.

Section 6: Effective Date: Immediate.

ED4:04/19/99

NFIB Alaska



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**National Federation of Independent Business**

**Statement of Support**

**of HB 82**

**An Act relating to immunity for certain claims arising out of the year  
2000 date change**

**February 10, 1999**

The Alaska Chapter of the National Federation of Independent Business has 3,000 members, making it the largest small-business advocacy group in the state.

The legislative agenda of NFIB is determined by ballot. The October 1998 national member ballot included a question on limiting liability in law suits against small business over Y2K problems. Seventy-three percent of the members voted in favor of liability protection.

Other Alaska legislation has been introduced that provides immunity for the state and municipalities for failures caused directly or indirectly by the year 2000 date change. HB 82 extends that immunity to private business as well.

The Y2K problem is very real and everyone must work together in its solution. NFIB believes that public and private entities that make legitimate efforts to address the Year 2000 problem should be removed from any legal liability that may arise from unintended Y2K failures.

NFIB/Alaska urges support for HB 82.

Submitted by Thyas Shaub on behalf of NFIB/Alaska.

*LETTERS OF SUPPORT*

---

**National Federation of Independent Business**

217 Second Street, Suite 206 • Juneau, AK 99801 • 907-463-5118 • Fax 907-463-5128



ALASKA STATE CHAMBER OF COMMERCE

Position 99 - 23

Year 2000 Legal Liability Protection

FEB 08 1999

ASCC urges the Legislature to adopt legislation limiting the liability of businesses and state and local government entities that make good faith efforts to be Year 2000 compliant.

Rationale:

As the millennium rapidly approaches, all business and government entities should be devoting great effort and time to ascertain that their computer systems achieve Year 2000 compliance. Although if a major supplier or customer is not Y2K compliant, a business may still be in serious trouble on January 1, 2000. The American Bar Association has predicted that there could be up to \$1 trillion in lawsuits over Y2K compliance and an incorrect date being produced or calculated by a computer.

Several other states already have or are in the process of introducing legislation providing for the legal protection of business and government entities, which make good faith efforts to be Y2K compliant. Federal law (S2392) was passed in 1998 to encourage businesses to voluntarily share information, strategies, solutions and tools, but provides only a limited safe harbor from lawsuits for certain "Year 2000 Readiness Disclosures. Additional protection is needed.

Alaska State law should provide for the free flow of information regarding Y2K readiness by protecting information generated for self examination. This bill could exclude individuals or businesses who knowingly provide information or solutions that are material and are false and misleading. This law should restrict Y2K class action suits after January 1, 2000 unless each member of a class has suffered at least \$50,000 in damages. It should require privacy of contract, so that only parties to a contract can sue. It should provide for damage award limitations for non-economic losses and no damages for emotional "pain and suffering" Y2K injuries. Moreover, under this new law directors of a corporation could not be individually sued over Y2K, and the loser of a Y2K suit would have to pay all costs.

One does not have to be a large business or a state government to be concerned with Year 2000 compliance. Many small businesses and local governments may find some of their important computer software rendered useless as the year 2000 begins. The high risk of Y2K lawsuits for cases not involving personal injury or serious physical damages makes preparing for the Millennium more difficult. An Alaska State law should provide a clear understanding of potential liability and reasonable limitations on Y2K lawsuits.

ADOPTED

December 4, 1998

BY Pamela LaBolle  
Pamela La Bolle  
President

BY Peter Leathard  
Peter Leathard  
Chairman



Anchorage • Star of the North  
Chamber of Commerce

In Support of State of Alaska Limiting Y2K Liability  
Resolution 98/99-11

WHEREAS, the Year 2000 deadline is fixed and immovable; and  
WHEREAS, much effort is underway to minimize, mitigate, or make contingency plans for the impact of Year 2000 date related problems in computer systems and electronic equipment; and

WHEREAS, despite due diligence in preparing for the year 2000, it is impossible to predict and plan for every possible problem; and

WHEREAS, legal specialists are preparing for and predicting a substantial amount of litigation from post Year 2000 rollover failures and related activities; and

WHEREAS, insurance companies are excluding Year 2000 liability coverage from insurance policies, because it is an unknown and unquantifiable risk; and

WHEREAS, businesses need to focus on remediating and preparing for Year 2000 problems, rather than working out how to defend against Year 2000 litigation;

NOW THEREFORE BE IT RESOLVED that the Anchorage Chamber of Commerce urges the Legislature to take all actions necessary to provide a framework of legal protection against excessive and unnecessary lawsuits relating to the Year 2000 issue; and

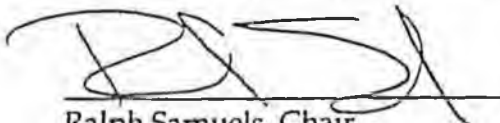
BE IT FURTHER RESOLVED that the Anchorage Chamber of Commerce supports legislation which will limit the liability of a business for damages arising from the Year 2000 date change, provided that the business can demonstrate due diligence in addressing the date change issue; and

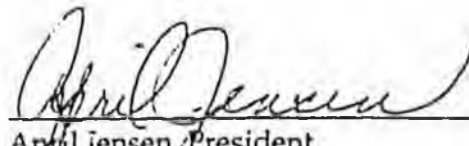
BE IT FURTHER RESOLVED that this resolution by the Anchorage Chamber of Commerce supports legislation which limits Year 2000 liability and contains specific definitions of what a business needs to do in order to demonstrate due diligence in preparation for the Year 2000. This would greatly simplify any legal determination of due diligence; and

BE IT FURTHER RESOLVED that this resolution by the Anchorage Chamber of Commerce supports legislation which limits Year 2000 liability and contains wording to insure that businesses will not use this legislation as a means of circumventing their legal obligations under contract law; and

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to the Governor, the State Chamber of Commerce, and each Legislative member.

Approved this 2nd day of April 1999.

  
Ralph Samuels, Chair

  
April Jensen, President

Subject: Support for HB 82

Date: Wed, 24 Mar 1999 09:55:23 -0900

From: Jim Rogers <jrogers@resdat.com>

To: "Representative\_Norman\_Rokeberg@legis.state.ak.us" <Representative\_Norman\_Rokeberg@le

Hello,

I would like to express my support for House Bill 82 to limit the litigation which will follow regarding Year 2000 issues. As an owner of an Alaskan software development company, I have had great concern about this, and we have even limited our involvement in helping firms resolve their year 2000 issues due to potential liability.

With a law like this in place, we would be more willing to work with firms to solve problems in areas where the potential for major problems exists, which is actually where our help is needed the most.

Jim Rogers  
President, Resource Data, Inc.

jrogers@resdat.com

Resource Data Inc.

1205 E. Intl. Airport Road  
Anchorage, AK 99518-1409

Phone: (907) 563-8100 x17  
Fax: (907) 561-0159

<http://www.resdat.com>



March 24, 1999

Representative Norman Rokeberg  
House of Representatives  
State Capitol, Room 24  
Juneau, Alaska 99801-1182

MAR 24 1999

Dear Representative Rokeberg:

I am writing to you to let you know I am in favor of moving HB 82 through the legislative process and into law. I am the president of Network Business Systems (NBS), which is one of Alaska's largest computer networking firms. I testified in favor of the bill during a hearing Representative Rokeberg held recently. I believe HB 82 is important to Alaskan businesses and the Alaskan economy.

Insurance people I have spoken with say there is going to be very limited insurance coverage for this situation if there is any at all. This is because this event is unprecedented and it is difficult or conceivably impossible to do a risk assessment, which can then be used to create insurance products. My insurance agent has told me that it is impossible for me to get any Errors and Omissions insurance to cover NBS for Year 2000 (Y2K) problems.

People in my industry estimate that the cost to mitigate the Y2K problems in the US is somewhere around \$600 million. The latest estimates for litigating this issue are running at over a \$one trillion. My company is involved in fixing the Y2K problem. I feel like I have a target on my back simply because I am doing my level best to help our customers get through this dilemma by working to solve their Y2K problems.

If there is anything I can do to help you become more educated on this issue or if you need any testimony supporting the bill, please let me know so I can help and support you as the bill moves through your committee.

In addition to the information on my letterhead, you can reach me via email at the following address:  
[scott@nbsys.com](mailto:scott@nbsys.com)

Sincerely,

A handwritten signature in black ink, appearing to read "S. Thorson".

Scott Thorson  
President

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Updated: Wednesday, Jan. 20, 1999 at 10:00 CST

## Another Y2K pest: Lawsuits

By Aaron Zitner

c.1999 The Boston Globe

WASHINGTON -- Businesses are spending billions of dollars to fix the so-called Y2K bug. Now comes another threat that might be equally expensive: Y2K lawsuits.

Accusing trial lawyers of gearing up to sue over computer failures next year, business lobbyists say one of their top priorities this year is to persuade Congress to block some of those lawsuits.

The heavily hyped Y2K computer bug could cause deliveries to be late, accounting systems to go awry, assembly lines to stall, payments to be misdirected, and any number of other problems, which in turn might lead to lawsuits between companies or by shareholders.

More than 20 cases have already been filed, including one in Massachusetts, according to a tally by the Information Technology Association of America, a trade group based in Arlington, Va. Trial lawyers have already conducted seminars on how to file Y2K lawsuits, said Thomas Donohue, president of the US Chamber of Commerce.

Now, the chamber and its allies are seeking legislation that would limit punitive damages in Y2K cases and require Y2K-related disputes to go to arbitration or to special courts.

Republican Senators John McCain of Arizona and Slade Gorton of Washington last week said they intended to introduce legislation to curb "unnecessary litigation" resulting from Y2K computer glitches. The senators said they were still working on the details of their proposal.

The Y2K bug, also known as the year 2000 bug or the millennium bug, arises from the longstanding practice by software writers of referring to a year by only its last two digits. That has not been a problem when software used "87," for example, to refer to 1987. But unless modified, much software now in use may interpret the digits 00 to mean 1900 instead of the year 2000.

American corporations have been spending heavily to make sure their computers will keep operating come Jan. 1, 2000, and most experts say widespread disruptions are unlikely. But sporadic problems are inevitable, experts add, and that's where the potential for litigation arises.

The effort to head off Y2K lawsuits will likely set businesses against trial lawyers. The two sides have often clashed as business groups promote limits on "frivolous" shareholder lawsuits and various versions of tort reform, such as limits on lawsuits over defective products.

Leaders of the trial lawyers' bar have called some Y2K bills a form of tort reform that will unfairly deny plaintiffs their rights to sue. Others have said the estimates of damages to be sought in Y2K lawsuits are as

overblown as the scenarios of massive computer failure that will supposedly cripple the nation next year.

Business lobbyists and their allies are promoting Y2K liability limits by taking aim at the trial bar, saying that lawyers are preparing frivolous lawsuits even against businesses that make good-faith efforts to prepare for the year 2000.

"Without legislation, innocent people may be hurt by aggressive trial lawyers who use the Y2K situation not to help the public, but to enrich their own pockets," McCain said in a statement.

The trial bar is preparing to file lawsuits seeking between \$1 trillion and \$3 trillion, said Donohue of the US Chamber of Commerce. If his figures are right, lawyers will seek more money in damages than businesses will likely spend on fixing Y2K problems.

In the Massachusetts case, consulting giant Andersen Consulting sued retailer J. Baker Inc. of Canton in state court in August. The suit was an attempt by Andersen to show that it had met all of its contractual obligations when it installed a computer system in the early 1990s that might have been susceptible to Y2K problems.

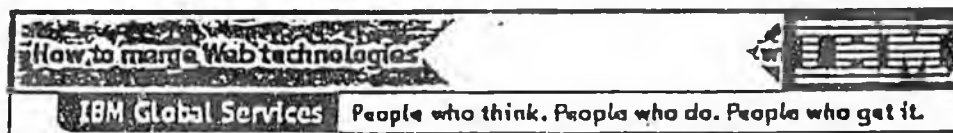
At the time, Andersen said it took legal action after learning J. Baker had hired a law firm to seek reimbursement for the cost of the system. The case was settled in December following a nonbinding review by a mediator, with Andersen making no payment to J. Baker.

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## Judicial group wants Y2K cases in state courts

By [Reuters](#)

Staff, CNET News.com

March 18, 1999, 9:30 a.m. PT

URL: [http://www.news.com/News/Item/0\\_4\\_33955\\_00.html](http://www.news.com/News/Item/0_4_33955_00.html)

The policy-making body for the federal judiciary voted to oppose legislation in Congress that would require federal judges to decide most of the lawsuits dealing with liability for Year 2000 computer problems.

The 27-member group specifically opposed provisions of bills in the House and Senate that would expand federal court jurisdiction over Y2K class-action lawsuits.

The group, chaired by Chief Justice William Rehnquist of the Supreme Court, warned in a news release that shifting the Y2K cases from state courts "holds the potential for overwhelming the federal courts, resulting in substantial costs and delays."

After concluding its biannual meeting, the judicial group added: "The proposed Y2K amendments are inconsistent with the objective of preserving the federal courts as tribunals of limited jurisdiction."

The group said the legislation would "deprive" the nation's judicial system of the contributions that state courts could make in handling Y2K litigation.

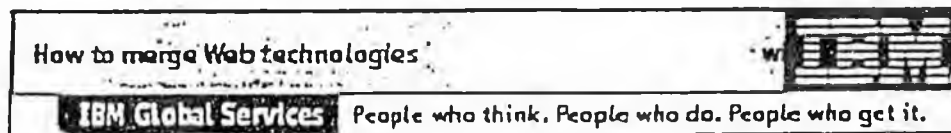
The millennium problem may occur because until recently most computers and their software only allocated two digits for the year in a date.

Unless computers are repaired or replaced, the year 2000 may be read as 1900, causing mistakes, or systems to crash, and prompting a flood of lawsuits seeking damages.

Big business has urged Congress to pass a bill that would limit the amount of damages anyone could collect because of a Y2K glitch. Other bills would limit the amount of money attorneys could collect in any lawsuits stemming from the millennium bug.

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