

action shall bear the full burden of demonstrating the applicability of the exception.

(3) Procedure if requirements not met

(A) Dismissal or remand

A United States district court shall dismiss, or, if after removal, strike the class allegations and remand, any Y2K action brought or removed under this subsection as a class action if—

(i) the action is subject to the jurisdiction of the court solely under this subsection; and

(ii) the court determines the action may not proceed as a class action based on a failure to satisfy the conditions of Rule 23 of the Federal Rules of Civil Procedure.

(B) Amendment; removal

Nothing in paragraph (A) shall prohibit plaintiffs from filing an amended class action in Federal or State court. A defendant shall have the right to remove such an amended class action to a United States district court under this subsection.

(C) Period of limitations tolled

Upon dismissal or remand, the period of limitations for any claim that was asserted in an action on behalf of any named or unnamed member of any proposed class shall be deemed tolled to the full extent provided under Federal law.

(D) Dismissal without prejudice

The dismissal of a Y2K action under subparagraph (A) shall be without prejudice.

(d) Effect on rules of civil procedure

Except as otherwise provided in this section, nothing in this section supersedes any rule of Federal or State civil procedure applicable to class actions.

(Pub. L. 106-37, §15, July 20, 1999, 113 Stat. 201.)

REFERENCES IN TEXT

Rules of Federal civil procedure, referred to in subsecs. (a)(1), (c)(3)(A)(ii), and (d), are contained in the Federal Rules of Civil Procedure which are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

§ 6615. Applicability of State law

Nothing in this chapter shall be construed to affect the applicability of any State law that provides stricter limits on damages and liabilities, affording greater protection to defendants in Y2K actions, than are provided in this chapter.

(Pub. L. 106-37, §16, July 20, 1999, 113 Stat. 202.)

§ 6616. Admissible evidence ultimate issue in State courts

Any party to a Y2K action in a State court in a State that has not adopted a rule of evidence substantially similar to Rule 704 of the Federal Rules of Evidence may introduce in such action evidence that would be admissible if Rule 704 applied in that jurisdiction.

(Pub. L. 106-37, §17, July 20, 1999, 113 Stat. 202.)

REFERENCES IN TEXT

Rule 704 of the Federal Rules of Evidence, referred to in text, is set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

§ 6617. Suspension of penalties for certain year 2000 failures by small business concerns

(a) Definitions

In this section—

(1) the term “agency” means any executive agency, as defined in section 105 of title 5, that has the authority to impose civil penalties on small business concerns;

(2) the term “first-time violation” means a violation by a small business concern of a federally enforceable rule or regulation (other than a Federal rule or regulation that relates to the safety and soundness of the banking or monetary system or for the integrity of the National Securities markets, including protection of depositors and investors) caused by a Y2K failure if that Federal rule or regulation had not been violated by that small business concern within the preceding 3 years; and

(3) the term “small business concern” has the same meaning as a defendant described in section 6604(b)(2)(B) of this title.

(b) Establishment of liaisons

Not later than 30 days after July 20, 1999, each agency shall—

(1) establish a point of contact within the agency to act as a liaison between the agency and small business concerns with respect to problems arising out of Y2K failures and compliance with Federal rules or regulations; and

(2) publish the name and phone number of the point of contact for the agency in the Federal Register.

(c) General rule

Subject to subsections (d) and (e) of this section, no agency shall impose any civil money penalty on a small business concern for a first-time violation.

(d) Standards for waiver

An agency shall provide a waiver of civil money penalties for a first-time violation, provided that a small business concern demonstrates, and the agency determines, that—

(1) the small business concern previously made a reasonable good faith effort to anticipate, prevent, and effectively remediate a potential Y2K failure;

(2) a first-time violation occurred as a result of the Y2K failure of the small business concern or other entity, which significantly affected the small business concern’s ability to comply with a Federal rule or regulation;

(3) the first-time violation was unavoidable in the face of a Y2K failure or occurred as a result of efforts to prevent the disruption of critical functions or services that could result in harm to life or property;

(4) upon identification of a first-time violation, the small business concern initiated reasonable and prompt measures to correct the violation; and

(5) the small business concern submitted notice to the appropriate agency of the first-