

any escrow account, and for making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the mortgage. Such term includes the person, including any successor, who makes or holds a loan if such person also services the loan.

(i) Applicability to securities litigation

In any Y2K action in which the underlying claim arises under the securities laws (as defined in section 78c(a) of this title), the provisions of this chapter, other than section 6612(b) of this title, shall not apply.

(Pub. L. 106-37, § 4, July 20, 1999, 113 Stat. 188.)

REFERENCES IN TEXT

The Year 2000 Information and Readiness Disclosure Act, referred to in subsec. (f), is Pub. L. 105-271, Oct. 19, 1998, 112 Stat. 2386, which was formerly set out as a note under section 1 of this title.

§ 6604. Punitive damages limitations

(a) In general

In any Y2K action in which punitive damages are permitted by applicable law, the defendant shall not be liable for punitive damages unless the plaintiff proves by clear and convincing evidence that the applicable standard for awarding damages has been met.

(b) Caps on punitive damages

(1) In general

Subject to the evidentiary standard established by subsection (a), punitive damages permitted under applicable law against a defendant described in paragraph (2) in a Y2K action may not exceed the lesser of—

- (A) three times the amount awarded for compensatory damages; or
- (B) \$250,000.

(2) Defendant described

A defendant described in this paragraph is a defendant—

- (A) who—
 - (i) is sued in his or her capacity as an individual; and
 - (ii) whose net worth does not exceed \$500,000; or

(B) that is an unincorporated business, a partnership, corporation, association, or organization, with fewer than 50 full-time employees.

(3) No cap if injury specifically intended

Paragraph (1) does not apply if the plaintiff establishes by clear and convincing evidence that the defendant acted with specific intent to injure the plaintiff.

(c) Government entities

Punitive damages in a Y2K action may not be awarded against a government entity.

(d) Institutions of higher education

(1) In general

Subject to paragraph (2), punitive damages in a Y2K action may not be awarded against an institution¹ of higher education as defined in section 1001(a) of title 20.

¹ So in original. Probably should be “institution”.

(2) Exception

Paragraph (1) shall not apply to an institution of higher education if the Y2K failure in the Y2K action occurred in a computer-based student financial aid system of that institution of higher education, and the institution—

(A) has passed Y2K data exchange testing with the Department of Education; or

(B) is not or was not in the process of performing data exchange testing with the Department of Education at the time the Department terminates such testing.

(Pub. L. 106-37, § 5, July 20, 1999, 113 Stat. 192; Pub. L. 106-113, div. B, § 1000(a)(4) [title III, § 311], Nov. 29, 1999, 113 Stat. 1535, 1501A-265.)

AMENDMENTS

1999—Subsec. (d). Pub. L. 106-113 added subsec. (d).

§ 6605. Proportionate liability

(a) In general

Except in a Y2K action that is a contract action, and except as provided in subsections (b) through (g), a person against whom a final judgment is entered in a Y2K action shall be liable solely for the portion of the judgment that corresponds to the relative and proportionate responsibility of that person. In determining the percentage of responsibility of any defendant, the trier of fact shall determine that percentage as a percentage of the total fault of all persons, including the plaintiff, who caused or contributed to the total loss incurred by the plaintiff.

(b) Proportionate liability

(1) Determination of responsibility

In any Y2K action that is not a contract action, the court shall instruct the jury to answer special interrogatories, or, if there is no jury, the court shall make findings with respect to each defendant, including defendants who have entered into settlements with the plaintiff or plaintiffs, concerning—

(A) the percentage of responsibility, if any, of each defendant, measured as a percentage of the total fault of all persons who caused or contributed to the loss incurred by the plaintiff; and

(B) if alleged by the plaintiff, whether the defendant (other than a defendant who has entered into a settlement agreement with the plaintiff)—

- (i) acted with specific intent to injure the plaintiff; or
- (ii) knowingly committed fraud.

(2) Contents of special interrogatories or findings

The responses to interrogatories or findings under paragraph (1) shall specify the total amount of damages that the plaintiff is entitled to recover and the percentage of responsibility of each defendant found to have caused or contributed to the loss incurred by the plaintiff.

(3) Factors for consideration

In determining the percentage of responsibility under this subsection, the trier of fact shall consider—