

legations 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.)

Editorial Notes

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.)

Editorial Notes

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), 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-time violation within a reasonable time not to exceed 5 business days from the time that the small business concern became aware that the first-time violation had occurred.

(e) Exceptions

An agency may impose civil money penalties authorized under Federal law on a small business concern for a first-time violation if—

- (1) the small business concern's failure to comply with Federal rules or regulations resulted in actual harm, or constitutes or creates an imminent threat to public health, safety, or the environment; or
- (2) the small business concern fails to correct the violation not later than 1 month after initial notification to the agency.

(f) Expiration

This section shall not apply to first-time violations caused by a Y2K failure occurring after December 31, 2000.

(Pub. L. 106-37, § 18, July 20, 1999, 113 Stat. 202.)

CHAPTER 93—INSURANCE

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§ 6701. Operation of State law

(a) State regulation of the business of insurance

The Act entitled "An Act to express the intent of Congress with reference to the regulation of the business of insurance" and approved March 9, 1945 (15 U.S.C. 1011 et seq.) (commonly referred to as the "McCarran-Ferguson Act") remains the law of the United States.

(b) Mandatory insurance licensing requirements

No person shall engage in the business of insurance in a State as principal or agent unless such person is licensed as required by the appropriate insurance regulator of such State in accordance with the relevant State insurance law, subject to subsections (c), (d), and (e).

(c) Affiliations

(1) In general

Except as provided in paragraph (2), no State may, by statute, regulation, order, interpretation, or other action, prevent or restrict a depository institution, or an affiliate thereof, from being affiliated directly or indirectly or associated with any person, as authorized or permitted by this Act or any other provision of Federal law.

(2) Insurance

With respect to affiliations between depository institutions, or any affiliate thereof, and any insurer, paragraph (1) does not prohibit—

(A) any State from—

- (i) collecting, reviewing, and taking actions (including approval and disapproval) on applications and other documents or reports concerning any proposed acquisition of, or a change or continuation of control of, an insurer domiciled in that State; and
- (ii) exercising authority granted under applicable State law to collect information concerning any proposed acquisition of, or a change or continuation of control of, an insurer engaged in the business of insurance in, and regulated as an insurer by, such State;

during the 60-day period preceding the effective date of the acquisition or change or continuation of control, so long as the collecting, reviewing, taking actions, or exercising authority by the State does not have the effect of discriminating, intentionally or unintentionally, against a depository institution or an affiliate thereof, or against any other person based upon an association of such person with a depository institution;

(B) any State from requiring any person that is acquiring control of an insurer domiciled in that State to maintain or restore the capital requirements of that insurer to the level required under the capital regulations of general applicability in that State to avoid the requirement of preparing and filing with the insurance regulatory authority of that State a plan to increase the capital of the insurer, except that any determination by the State insurance regulatory authority with respect to such requirement shall be made not later than 60 days after the date of notification under subparagraph (A); or

(C) any State from restricting a change in the ownership of stock in an insurer, or a company formed for the purpose of controlling such insurer, after the conversion of the insurer from mutual to stock form so long as such restriction does not have the effect of discriminating, intentionally or unintentionally, against a depository institution or an affiliate thereof, or against any other