

any notification made on or after March 15, 2000, shall not be effective for purposes of this subsection.

(4) Applicability

This subsection does not apply to transactions upon which a default has occurred before December 15, 1999, or with respect to which an imminent default was foreseeable before December 15, 1999.

(5) Enforcement of obligations merely tolled

This subsection delays but does not prevent the enforcement of financial obligations, and does not otherwise affect or extinguish the obligation to pay.

(6) Definition

In this subsection—

(A) The term “consumer” means a natural person.

(B) The term “residential mortgage” has the meaning given the term “federally related mortgage loan” under section 2602 of title 12.

(C) The term “servicer” means the person, including any successor, responsible for receiving any scheduled periodic payments from a consumer pursuant to the terms of a residential mortgage, including amounts for 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 is set out as a note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6611 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) of this section, 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.

(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).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6617 of this title.

§ 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) of this section, 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

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