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HOUSE BILL NO. 1663

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Delegate May
on February 3, 1999)

(Patron Prior to Substitute—Delegate May)

A BILL to amend the Code of Virginia by adding a section numbered 8.01-418.3, relating to Year 2000 assessments and documents not actionable.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 8.01-418.3 as follows:

§ 8.01-418.3. Year 2000 assessments and documents not actionable.

A. For purposes of this section, unless the context requires a different meaning:

"Document" means information collected, generated, or developed in the course of, and in the planning for, a Year 2000 assessment, which is clearly marked as such on the face of the document, and includes, but is not limited to, interview notes, audits, records of inspections, findings, opinions, suggestions, conclusions, drafts, memoranda, electronic mail messages, charts, test data, drawings, electronic data, photographs, videotape, computer-generated or electronically recorded information, and surveys. "Document" shall not include information generated or developed prior to the commencement or after the conclusion of a Year 2000 assessment.

"Year 2000 assessment" means a voluntary evaluation of the Year 2000 processing capabilities of the technology systems any person owns or uses. The assessment shall be or have been performed between January 1, 1996, and July 1, 2000; designed to solve a Year 2000 problem or avert a Year 2000 failure; and conducted at the person's request by the person's employees or an independent contractor.

"Year 2000 problem" or "Year 2000 failure" means any computing, physical, enterprise, or distribution system complication that has occurred or may occur as a result of the change of the year from 1999 to 2000 in any person's technology system, including, without limitation, computer hardware, programs, software, or systems; embedded chip calculations or embedded systems; firmware; microprocessors; or management systems, business processes, or computing applications that govern, utilize, drive, or depend on the Year 2000 processing capabilities of the person's technology systems. Such complications may include the common computer programming practice of using a two-digit field to represent a year, resulting in erroneous date calculations; an ambiguous interpretation of the term or field "00"; the failure to recognize 2000 as a leap year; algorithms that use "99" or "00" to activate another function; or the use of any other applications, software, or hardware that are date-sensitive.

"Year 2000 processing" means the processing, calculating, comparing, sequencing, displaying, storing, transmitting, or receiving of date or date-sensitive data from, into, and between the twentieth and twenty-first centuries, during the years 1999 and 2000, and leap year calculations.

B. No cause of action shall lie against a person solely on account of a Year 2000 assessment or document. In any and all other causes of action, Year 2000 assessments and documents shall not be considered confidential and shall be discoverable or admissible in evidence to the extent permitted under applicable laws and rules of evidence and procedure.