Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boyd
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cramer
Crane
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
DeMint
Dickey
Dooley
Doolittle
Dreier
Edwards
Ehlers
Ehrlich
Emerson
Eshoo
Everett
Ewing
Fletcher
Foley
Forbes
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Granger
Green (WI)
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Minge
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Thune
Tiahrt
Toomey
Turner
Upton
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—6

Barton
Brown (CA)
Cox
Dunn
Napolitano
Slaughter

So the amendment was not agreed to.

¶48.9 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. NADLER:

Strike title IV and redesignate title V, sections therein, and references thereto, accordingly.

It was decided in the negative ..... { Yeas ..... 180 / Nays 244

¶48.10 [Roll No. 125]

AYES—180

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barrett (WI)
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Bonior
Borski
Brady (PA)
Brown (FL)
Brown (OH)
Capuano
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Crowley
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Duncan
Edwards
Engel
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Ganske
Gejdenson
Gephardt
Gonzalez
Green (TX)
Gutierrez
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Hoyer
Hulshof
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Phelps
Price (NC)
Pryce (OH)
Rahall
Rangel
Reyes
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Sherman
Shows
Smith (WA)
Snyder
Spratt
Stabenow
Stark
Strickland
Stupak
Sweeney
Thompson (CA)
Thompson (MS)
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Wise
Woolsey
Wu
Wynn

NOES—244

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Biggert
Bilbray
Bilirakis
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cramer
Crane
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
DeMint
Dickey
Dooley
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Eshoo
Everett
Ewing
Fletcher
Foley
Forbes
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Hill (MT)
Hilleary
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Isakson
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
King (NY)
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Rivers
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Thurman
Tiahrt
Toomey
Upton
Walden
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—9

Barton
Brown (CA)
Cox
Doyle
Herger
Napolitano
Slaughter
Walsh
Weldon (PA)

So the amendment was not agreed to.

After some further time,

¶48.11 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment in the nature of a substitute submitted by Mr. CONYERS:

Strike all after the enacting clause and insert the following:

SECTION. 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Y2K Readiness and Remediation Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings, purposes, and scope.
Sec. 3. Definitions.
Sec. 4. Preemption of State law.

TITLE I—COOLING OFF PERIOD

Sec. 101. Notice and opportunity to cure.
Sec. 102. Out of court settlement.

TITLE II—SPECIFIC PLEADINGS AND DUTY TO MITIGATE

Sec. 201. Pleading requirements.
Sec. 202. Duty to mitigate damages.

TITLE III—YEAR 2000 CIVIL ACTIONS INVOLVING CONTRACTS

Sec. 301. Contract preservation.
Sec. 302. Impossibility or commercial impracticability.

TITLE IV—YEAR 2000 CIVIL ACTIONS INVOLVING TORT AND OTHER NONCONTRACTUAL CLAIMS

Sec. 401. Fair share liability.
Sec. 402. Economic losses.

TITLE V—EFFECTIVE DATE

Sec. 510. Effective date.

SEC. 2. FINDINGS, PURPOSES, AND SCOPE.

(a) FINDINGS.—Congress finds the following:

(1) Many information technology systems, devices, and programs are not capable of recognizing certain dates in 1999 and after December 31, 1999, and will read dates in the year 2000 and thereafter as if those dates represent the year 1900 or thereafter or will fail to process those dates.

(2) If not corrected, the year 2000 problem described above and the resulting failures could incapacitate systems that are essential to the functioning of markets, commerce, consumer products, utilities, Government, and safety and defense systems, in the United States and throughout the world.

(3) It is in the national interest that producers and users of technology products concentrate their attention and resources in the time remaining before January 1, 2000, on assessing, fixing, testing, and developing contingency plans to address any and all outstanding year 2000 computer date change problems, so as to minimize possible disruptions associated with computer failures.

(4) The year 2000 computer date change problems may adversely affect businesses and other users of technology products in a unique fashion, prompting unprecedented litigation and the delays, expense, uncertainties, loss of control, adverse publicity, and animosities that frequently accompany litigation could exacerbate the difficulties associated with the Year 2000 date change and compromise efforts to resolve these difficulties.

(b) PURPOSES.—Based upon the power contained in article I, section 8, clause 3 of the Constitution of the United States, the purposes of this Act are—

(1) to establish uniform legal standards that give all businesses and users of technology products reasonable incentives to solve year 2000 computer date-change problems before they develop;

(2) to encourage the resolution of year 2000 computer date-change disputes involving economic damages without recourse to unnecessary, time consuming, and wasteful litigation; and

(3) to lessen burdens on interstate commerce by discouraging insubstantial lawsuits, while also preserving the ability of individuals and businesses that have suffered real injury to obtain complete relief.

(c) SCOPE.—Except as provided in section 201(c) or other provisions of this Act, this Act applies only to claims for commercial loss.

SEC. 3. DEFINITIONS.

In this Act:

(1) PERSON.—The term ''person'' means any natural person and any entity, organization, or enterprise, including any corporation, company (including any joint stock company), association, partnership, trust, or governmental entity.

(2) PLAINTIFF.—The term ''plaintiff'' means any person who asserts a year 2000 claim.

(3) DEFENDANT.—The term ''defendant'' means any person against whom a year 2000 claim is asserted.

(4) CONTRACT.—The term ''contract'' means a contract, tariff, license, or warranty.

(5) YEAR 2000 CIVIL ACTION.—The term ''year 2000 civil action''—

(A) means any civil action of any kind brought in any court under Federal, State, or foreign law, in which—

(i) a year 2000 claim is asserted; or

(ii) any claim or defense is related to an actual or potential year 2000 failure;

(B) includes a civil action commenced in any Federal or State court by a department, agency, or instrumentality of the United States government or of a State government when acting in a commercial or contracting capacity; but

(C) does not include any action brought by a Federal, State, or other public entity, agency, or authority acting in a regulatory, supervisory, or enforcement capacity.

(6) YEAR 2000 CLAIM.—The term ''year 2000 claim'' means any claim or cause of action of any kind, whether asserted by way of claim, counterclaim, cross-claim, third-party claim, or otherwise, in which the plaintiff's alleged loss or harm resulted from an actual or potential year 2000 failure.

(7) YEAR 2000 FAILURE.—The term ''year 2000 failure'' means any failure by any device or system (including any computer system and any microchip or integrated circuit embedded in another device or product), or any software, firmware, or other set or collection of processing instructions, however constructed, in processing, calculating, comparing, sequencing, displaying, storing, transmitting, or receiving year 2000 date related data, including failures—

(A) to administer accurately or account for transitions or comparisons from, into, and between the 20th and 21st centuries, and between 1999 and 2000;

(B) to recognize or process accurately any specific date, or to account accurately for the status of the year 2000 as a leap year, including recognition and processing of the correct date on February 29, 2000.

(8) MATERIAL DEFECT.—

(A) IN GENERAL.—The term ''material defect'' means a defect in any item, whether tangible or intangible, or in the provision of a service, that substantially prevents the item or service from operating or functioning as designed or intended.

(B) EXCLUSIONS.—The term does not include any defect that—

(i) has an insignificant or de minimis effect on the operation or functioning of an item;

(ii) affects only a component of an item that, as a whole, substantially operates or functions as designed; or

(iii) has an insignificant or de minimis effect on the efficacy of the service provided.

(9) ECONOMIC LOSS.—The term ''economic loss''—

(A) means any damages other than damages arising out of personal injury or damage to tangible property; and

(B) includes damages for—

(i) lost profits or sales;

(ii) business interruption;

(iii) losses indirectly suffered as a result of the defendant's wrongful act or omission;

(iv) losses that arise because of the claims of third parties;

(v) losses that are required to be pleaded as special damages; or

(vi) items defined as consequential damages in the Uniform Commercial Code or an analogous State commercial law.

(10) PERSONAL INJURY.—The term ''personal injury'' means physical injury to a natural person, including —

(i) death as a result of a physical injury; and

(ii) mental suffering, emotional distress, or similar injuries suffered by that person in connection with a physical injury.

(11) STATE.—The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, and any political subdivision thereof.

(12) ALTERNATIVE DISPUTE RESOLUTION.—The term ''alternative dispute resolution'' means any process or proceeding, other than adjudication by a court or in an administrative proceeding, to assist in the resolution of issues in controversy, through processes such as early neutral evaluation, mediation, minitrial, and arbitration.

(13) COMMERCIAL LOSS.—The term ''commercial loss'' means any loss or harm incurred by a plaintiff in the course of operating a business enterprise that provides goods or services for remuneration, if the loss or harm is to the business enterprise.

SEC. 4. PREEMPTION OF STATE LAW.

Except as otherwise provided in this Act, this Act supersedes State law to the extent that it establishes a rule of law applicable to a year 2000 claim that is inconsistent with State law.

TITLE I—COOLING OFF PERIOD

SEC. 101. NOTICE AND OPPORTUNITY TO CURE.

(a) NOTICE OF COOLING OFF PERIOD.—

(1) IN GENERAL.—Before filing a year 2000 claim, except an action for a claim that seeks only injunctive relief, a prospective plaintiff shall be required to provide to each prospective defendant a verifiable written notice that identifies and describes with particularity, to the extent possible before discovery—

(A) any manifestation of a material defect alleged to have caused injury;

(B) the injury allegedly suffered or reasonably risked by the prospective plaintiff; and

(C) the relief or action sought by the prospective plaintiff.

(2) COMMENCEMENT OF ACTION.—Except as provided in subsections (c) and (e), a prospective plaintiff shall not file a year 2000 claim in Federal or State court until the expiration of the 90-day period beginning on the date on which the prospective plaintiff provides notice under paragraph (1).

(b) RESPONSE TO NOTICE.—Not later than 30 days after receipt of the notice specified in subsection (a), each prospective defendant shall provide each prospective plaintiff a written statement that—

(1) acknowledges receipt of the notice; and

(2) describes any actions that the defendant will take, or has taken, to address the defect or injury identified by the prospective plaintiff in the notice.

(c) FAILURE TO RESPOND.—If a prospective defendant fails to respond to a notice provided under subsection (a)(1) during the 30-day period prescribed in subsection (b) or does not include in the response a description of actions referred to in subsection (b)(2)—

(1) the 90-day waiting period identified in subsection (a) shall terminate at the expiration of the 30-day period specified in subsection (b) with respect to that prospective defendant; and

(2) the prospective plaintiff may commence a year 2000 civil action against such prospective defendant immediately upon the termination of that waiting period.

(d) FAILURE TO PROVIDE NOTICE.—

(1) IN GENERAL.—Subject to subsections (c) and (e), a defendant may treat a complaint filed by the plaintiff as a notice required under subsection (a) by so informing the court and the plaintiff if the defendant determines that a plaintiff has commenced a year 2000 civil action—

(A) without providing the notice specified in subsection (a); or

(B) before the expiration of the waiting period specified in subsection (a).

(2) STAY.—If a defendant elects under paragraph (1) to treat a complaint as a notice—

(A) the court shall stay all discovery and other proceedings in the action for the period specified in subsection (a) beginning on the date of filing of the complaint; and

(B) the time for filing answers and all other pleadings shall be tolled during the applicable period.

(e) EFFECT OF WAITING PERIODS.—In any case in which a contract, or a statute enacted before March 1, 1999, requires notice of nonperformance and provides for a period of delay before the initiation of suit for breach or repudiation of contract, the contractual period of delay controls and shall apply in lieu of the waiting period specified in subsections (a) and (d).

(f) SANCTION FOR FRIVOLOUS INVOCATION OF THE STAY PROVISION.—If a defendant acts under subsection (d) to stay an action, and the court subsequently finds that the assertion by the defendant that the action is a year 2000 civil action was frivolous and made for the purpose of causing unnecessary delay, the court may impose a sanction, including an order to make payments to opposing parties in accordance with Rule 11 of the Federal Rules of Civil Procedure or applicable State rules of civil procedure.

(g) COMPUTATION OF TIME.—For purposes of this section, the rules regarding computation of time shall be governed by the applicable Federal or State rules of civil procedure.

(h) SINGLE PERIOD.—With respect to any year 2000 claim—

(1) to which subsection (c)(2) regarding commencement of actions applies, or

(2) to which subsection (d)(2) requiring stays applies,

only one waiting period, not exceeding 90 days, shall be accorded to the parties.

(i) APPLICABILITY OF STATUTES OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period during which a claimant has filed notice under subsection (a).

SEC. 102. OUT OF COURT SETTLEMENT.

(a) REQUESTS MADE DURING NOTIFICATION (COOLING OFF) PERIOD.—At any time during the 90-day notification period under section 101(a), either party may request the other party to use alternative dispute resolution. If, based upon that request, the parties enter into an agreement to use alternative dispute resolution, the parties may also agree to an extension of that 90-day period.

(b) REQUEST MADE AFTER NOTIFICATION PERIOD.—At any time after expiration of the 90-day notification period under section 101(a), whether before or after the filing of a complaint, either party may request the other party to use alternative dispute resolution.

(c) PAYMENT DATE.—If a dispute that is the subject of the complaint or responsive pleading is resolved through alternative dispute resolution as provided in subsection (a) or (b), the defendant shall pay any amount of funds that the defendant is required to pay the plaintiff under the settlement not later than 30 days after the date on which the parties settle the dispute, and all other terms shall be implemented as promptly as possible based upon the agreement of the parties, unless another period of time is agreed to by the parties or established by contract between the parties.

TITLE II—SPECIFIC PLEADINGS AND DUTY TO MITIGATE

SEC. 201. PLEADING REQUIREMENTS.

(a) NATURE AND AMOUNT OF DAMAGES.—In any year 2000 civil action in which a plaintiff seeks an award of money damages, the complaint shall state with particularity to the extent possible before discovery with regard to each year 2000 claim—

(1) the nature and amount of each element of damages; and

(2) the factual basis for the calculation of the damages.

(b) MATERIAL DEFECTS.—In any year 2000 civil action in which the plaintiff alleges that a product or service was defective, the complaint shall, with respect to each year 2000 claim—

(1) identify with particularity the manifestations of the material defects; and

(2) state with particularity the facts supporting the conclusion that the defects were material.

(c) MATERIAL DEFECTS IN CLASS ACTION MINIMUM INJURY REQUIREMENT.—In any year 2000 civil action involving a year 2000 claim that a product or service is defective, the action may be maintained as a class action in Federal or State court with respect to that claim only if—

(1) the claim satisfies all other prerequisites established by applicable Federal or State law; and

(2) the court finds that the alleged defect in the product or service was a material defect with respect to a majority of the members of the class.

This subsection applies to year 2000 claims for commercial loss and to year 2000 claims for loss or harm other than commercial loss.

(d) MOTION TO DISMISS; STAY OF DISCOVERY.—

(1) DISMISSAL FOR FAILURE TO MEET PLEADING REQUIREMENTS.—In any year 2000 civil action, the court shall, on the motion of any defendant, dismiss without prejudice any year 2000 claim asserted in the complaint if any of the requirements under subsection (a), (b), or (e) is not met with respect to the claim.

(2) STAY OF DISCOVERY.—Subject to the 90-day single period provisions of section 101(h), in any year 2000 civil action, all discovery and other proceedings shall be stayed during the pendency of any motion pursuant to this subsection to dismiss, unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or prevent undue prejudice to that party.

(3) PRESERVATION OF EVIDENCE.—

(A) IN GENERAL.—

(i) TREATMENT OF EVIDENCE.— During the pendency of any stay of discovery entered under paragraph (2), unless otherwise ordered by the court, any party to the action shall treat the items described in clause (ii) as if they were a subject of a continuing request for production of documents from an opposing party under applicable Federal or State rules of civil procedure.

(ii) ITEMS.—The items described in this clause are all documents, data compilations (including electronically stored or recorded data), and tangible objects that—

(I) are in the custody or control of the party described in clause (i); and

(II) are relevant to the allegations.

(B) SANCTION FOR WILLFUL VIOLATION.—A party aggrieved by the willful failure of an opposing party to comply with subparagraph (A) may apply to the court for an order awarding appropriate sanctions.

SEC. 202. DUTY TO MITIGATE DAMAGES.

Damages awarded for any year 2000 claim shall exclude any amount that the plaintiff reasonably should have avoided in light of any disclosure or information provided to the plaintiff by defendant.

TITLE III—YEAR 2000 CIVIL ACTIONS INVOLVING CONTRACTS

SEC. 301. CONTRACT PRESERVATION.

(a) IN GENERAL.—Subject to subsection (b), in resolving any year 2000 claim each written contractual term, including any limitation or exclusion of liability or disclaimer of warranty, shall be strictly enforced, unless the enforcement of that term would contravene applicable State law as of January 1, 1999.

(b) INTERPRETATION OF CONTRACT.—In any case in which a contract under subsection (a) is silent with respect to a particular issue, the interpretation of the contract with respect to that issue shall be determined by applicable law in effect at the time that the contract was entered into.

SEC. 302. IMPOSSIBILITY OR COMMERCIAL IMPRACTICABILITY.

(a) IN GENERAL.—In any year 2000 civil action in which a year 2000 claim is advanced alleging a breach of contract or related claim, in resolving that claim applicability of the doctrines of impossibility and commercial impracticability shall be determined by applicable law in existence on January 1, 1999.

(b) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed as limiting or impairing a party's right to assert defenses based upon the doctrines referred to in subsection (a).

TITLE IV—YEAR 2000 CIVIL ACTIONS INVOLVING TORT AND OTHER NONCONTRACTUAL CLAIMS

SEC. 401. FAIR SHARE LIABILITY.

(a) GENERAL RULE.—Subject to subsection (d), in any year 2000 civil action, the liability of each tort feasor or noncontractual defendant shall be joint and several, subject to the court's equitable discretion to determine, following upon a finding of proportional responsibility, that the liability of a tort feasor or noncontractual defendant (as the case may be) of minimal responsibility shall be several only and not joint.

(b) AMOUNT OF LIABILITY.—Each defendant that is severally liable in a year 2000 civil action shall be liable only for the amount of loss allocated to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with subsection (c)) for such harm.

(c) DETERMINATION OF RESPONSIBILITY.—

(1) IN GENERAL.—In any year 2000 civil action, the court shall instruct the jury to answer special interrogatories, or if there is no jury, make findings, with respect to each defendant and plaintiff, and each of the other persons claimed by any of the parties to have caused or contributed to the loss incurred by the plaintiff, including persons who have entered into settlements with the plaintiff or plaintiffs, concerning the percentage of responsibility of that person, measured as a percentage of the total fault of all persons who caused or contributed to the total loss incurred by the plaintiff.

(2) CONTENTS OF SPECIAL INTERROGATORIES OR FINDINGS.—The responses to interrogatories, or findings, as appropriate, under paragraph (1) shall specify—

(A) the total amount of damages that the plaintiff is entitled to recover; and

(B) the percentage of responsibility of each person found to have caused or contributed to the loss incurred by the plaintiff or plaintiffs.

(3) FACTORS FOR CONSIDERATION.—In determining the percentage of responsibility under this paragraph, the trier of fact shall consider—

(A) the nature of the conduct of each person alleged to have caused or contributed to the loss incurred by the plaintiff; and

(B) the nature and extent of the causal relationship between the conduct of each such person and the damages incurred by the plaintiff or plaintiffs.

(d) SPECIAL RULES FOR JOINT LIABILITY.—

(1) IN GENERAL.—Notwithstanding subsection (a), in any case the liability of a defendant to which subsection (a) applies in a year 2000 civil action is joint and several if the trier of fact specifically determines that the defendant —

(A) acted with specific intent to injure the plaintiff; or

(B) knowingly committed fraud.

(2) KNOWING COMMISSION OF FRAUD DESCRIBED.—For purposes of paragraph 1(B), a defendant knowingly committed fraud if the defendant—

(A) made an untrue statement of a material fact, with actual knowledge that the statement was false;

(B) omitted a fact necessary to make the statement not be misleading, with actual knowledge that, as a result of the omission, the statement was false; and

(C) knew that the plaintiff was reasonably likely to rely on the false statement.

(3) RECKLESSNESS.—For purposes of paragraph (1), reckless conduct by the defendant

does not constitute either a specific intent to injure, or the knowing commission of fraud, by the defendant.

(e) CONTRIBUTION.—A defendant who is a jointly and severally liable for damages in a year 2000 civil action may recover contribution for such damages from any other person who, if joined in the original action, would have been liable for the same damages. A claim for contribution shall be determined based on the percentage of responsibility of the claimant and of each person against whom a claim for such contribution is made.

(f) STATUTE OF LIMITATIONS FOR CONTRIBUTION.—An action for contribution under subsection (e) in connection with a year 2000 civil action may not be brought later than six months after the entry of a final, non-appealable judgment in the year 2000 civil action.

SEC. 402. ECONOMIC LOSSES.

(a) IN GENERAL.—Subject to subsection (b), a party to a year 2000 civil action may not recover economic losses for a year 2000 claim advanced in the action that is based on tort unless the party is able to show that at least one of the following circumstances exists:

(1) The recovery of these losses is provided for in the contract to which the party seeking to recover such losses is a party.

(2) If the contract is silent on those losses, and the application of the applicable Federal or State law that governed interpretation of the contract at the time the contract was entered into would allow recovery of such losses.

(3) These losses are incidental to a claim in the year 2000 civil action based on personal injury caused by a year 2000 failure.

(4) These losses are incidental to a claim in the year 2000 civil action based on damage to tangible property caused by a year 2000 failure.

(b) TREATMENT OF ECONOMIC LOSSES.—Economic losses shall be recoverable in a year 2000 civil action only if applicable Federal law, or applicable State law embodied in statute or controlling judicial precedent as of January 1, 1999, permits the recovery of such losses in the action.

TITLE V—EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

It was decided in the negative ..... { Yeas ..... 190 / Nays 236

¶48.12 [Roll No. 126]

AYES—190

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barrett (WI)
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Crowley
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doyle
Duncan
Edwards
Engel
English
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Ganske
Gejdenson
Gephardt
Gilman
Gonzalez
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Phelps
Pomeroy
Price (NC)
Rahall
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Scott
Serrano
Sherman
Shows
Skelton
Smith (WA)
Snyder
Spratt
Stabenow
Stark
Strickland
Stupak
Terry
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Wise
Woolsey
Wu
Wynn

NOES—236

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Biggert
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boyd
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cramer
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Diaz-Balart
Dickey
Doggett
Dooley
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
Eshoo
Everett
Ewing
Fletcher
Foley
Forbes
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Schakowsky
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Toomey
Upton
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—8

Barton
Brown (CA)
Cox
Jefferson
Napolitano
Rangel
Slaughter
Weller

So the amendment in the nature of a substitute was not agreed to.

After some further time,

The SPEAKER pro tempore, Mr. BURR, assumed the Chair.

When Mr. LAHOOD, Chairman, pursuant to House Resolution 166, reported the bill back to the House with an amendment adopted by the Committee.

The previous question having been ordered by said resolution.

The following amendment, reported from the Committee of the Whole House on the state of the Union, was agreed to:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Year 2000 Readiness and Responsibility Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The Congress seeks to encourage businesses to concentrate their attention and resources in the short time remaining before January 1, 2000, on addressing, assessing, remediating, and testing their year 2000 problems, and to minimize any possible business disruptions associated with year 2000 issues.

(2) It is appropriate for the Congress to enact legislation to assure that year 2000 problems do not unnecessarily disrupt interstate commerce or create unnecessary case loads in Federal and State courts and to provide initiatives to help businesses prepare and be in a position to withstand the potentially devastating economic impact of the year 2000 problem.

(3) Year 2000 issues will affect practically all business enterprises to some degree, giving rise to a large number of disputes.

(4) Resorting to the legal system for resolution of year 2000 problems is not feasible for many businesses, particularly small businesses, because of its complexity and expense.

(5) The delays, expense, uncertainties, loss of control, adverse publicity and animosities that frequently accompany litigation of business disputes can only exacerbate the difficulties associated with the year 2000 date change, and work against the successful resolution of those difficulties.

(6) The Congress recognizes that every business in the United States should be concerned that widespread and protracted year 2000 litigation may threaten the network of valued and trusted business relationships that are so important to the effective functioning of the world economy, and which may put unbearable strains on an overburdened judicial system.

(7) A proliferation of frivolous year 2000 actions by opportunistic parties may further limit access to courts by straining the resources of the legal system and depriving deserving parties of their legitimate rights to relief.