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BILL ANALYSIS

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Senate Bill 783 (as introduced 10-27-11)
Sponsor: Senator Tonya Schuitmaker
Committee: Judiciary

(as passed by the Senate)

Date Completed: 2-22-12

CONTENT

The bill would amend the Revised Judicature Act to do the following with respect to a certified public accountant's (CPA's) professional liability:

- **Exempt a CPA from liability for civil damages in certain situations in which the claimant was not the CPA's client.**
- **Revise a requirement regarding notice that a CPA's services were intended to benefit or influence certain people, groups, or classes.**

Liability Limitation

Under the Act, a CPA is liable for civil damages in connection with public accounting services her or she performed only in certain situations.

The bill specifies that a CPA would not be liable for civil damages in any of the following situations in which the claimant was not the CPA's client:

- The claimant asserted standing to sue based on an assignment of the claim from the client to the claimant.
- The claimant asserted standing to sue based on a voluntary surrender of assets or acquisition of the claim by means of foreclosure or surrender under any type of security agreement between the claimant and the client.
- The claimant asserted standing to sue based on a written notice referred to in the situation described below that was not signed by the client himself or herself (if the client were an individual) or that was not signed by an officer, manager, or member of the client (if the client were an entity).

Written Notice

Currently, a CPA is liable for a negligent act, omission, decision, or other conduct if the client informed the CPA in writing at the time of engagement that the client's primary intent was for the professional public accounting services to benefit or influence the person bringing the action for civil damages. For this purpose, the CPA must identify in writing to the client each person, generic group, or class description that he or she intends to have rely on the services. The CPA may be held liable only to each identified person, generic group, or class description. The CPA's written identification must include each person, generic group, or class description identified by the client as being benefited or influenced.

Under the bill, the written notice and identifications would have to be made directly by the client to the CPA, and by the CPA directly to the client, and before the commencement of the engagement of the CPA, rather than at the time of engagement.

MCL 600.2962

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Dan O'Connor

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.