

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 783

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 2962 (MCL 600.2962), as added by 1995 PA 249.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2962. (1) This section applies to an action for
2 professional malpractice against a certified public accountant. A
3 certified public accountant is liable for civil damages in
4 connection with public accounting services performed by the
5 certified public accountant only in 1 of the following situations:

6 (a) ~~A~~**SUBJECT TO SUBSECTION (2), A** negligent act, omission,
7 decision, or other conduct of the certified public accountant if
8 the claimant is the certified public accountant's client.

9 (b) An act, omission, decision, or conduct of the certified
10 public accountant that constitutes fraud or an intentional

1 misrepresentation.

2 (c) ~~A~~**SUBJECT TO SUBSECTION (2)**, A negligent act, omission,
3 decision, or other conduct of the certified public accountant if
4 the certified public accountant was informed in writing **DIRECTLY** by
5 the client ~~at the time~~**BEFORE COMMENCEMENT** of **THE** engagement that a
6 primary intent of the client was for the professional public
7 accounting services to benefit or influence the person bringing the
8 action for civil damages. For the purposes of this subdivision, the
9 certified public accountant shall **ALSO SEPARATELY** identify in
10 writing **DIRECTLY** to the client, **BEFORE COMMENCEMENT OF THE**
11 **ENGAGEMENT**, each person, generic group, or class description that
12 the certified public accountant intends to have rely on the
13 services. The certified public accountant may be held liable only
14 to each identified person, generic group, or class description. The
15 certified public accountant's written identification shall include
16 each person, generic group, or class description identified by the
17 client as being benefited or influenced.

18 (2) **A CERTIFIED PUBLIC ACCOUNTANT IS NOT LIABLE FOR CIVIL**
19 **DAMAGES IN ANY OF THE FOLLOWING SITUATIONS:**

20 (A) **THE CLAIMANT IS NOT THE CERTIFIED PUBLIC ACCOUNTANT'S**
21 **CLIENT, BUT ASSERTS STANDING TO SUE BASED ON AN ASSIGNMENT OF THE**
22 **CLAIM FROM THE CLIENT TO THE CLAIMANT. THIS SUBDIVISION DOES NOT**
23 **APPLY TO AN ACTION ARISING OUT OF AN ANNUAL REPORT REQUIRED BY THE**
24 **CEMETERY REGULATION ACT, 1968 PA 251, MCL 456.521 TO 456.543, OR**
25 **THE PREPAID FUNERAL AND CEMETERY SALES ACT, 1986 PA 255, MCL**
26 **328.211 TO 328.235.**

27 (B) **THE CLAIMANT IS NOT THE CERTIFIED PUBLIC ACCOUNTANT'S**

1 CLIENT, BUT ASSERTS STANDING TO SUE BASED ON A VOLUNTARY SURRENDER
2 OF ASSETS OR ACQUISITION OF THE CLAIM BY MEANS OF FORECLOSURE OR
3 SURRENDER UNDER ANY TYPE OF SECURITY AGREEMENT BETWEEN THE CLAIMANT
4 AND THE CLIENT.

5 (C) THE CLAIMANT IS NOT THE CERTIFIED PUBLIC ACCOUNTANT'S
6 CLIENT, BUT ASSERTS STANDING TO SUE BASED ON A WRITING REFERRED TO
7 IN SUBSECTION (1) (C) THAT WAS NOT SIGNED BY THE CLIENT HIMSELF OR
8 HERSELF, IF AN INDIVIDUAL, OR THAT WAS NOT SIGNED BY AN OFFICER,
9 MANAGER, OR MEMBER OF THE CLIENT, IF AN ENTITY.