

SENATE BILL No. 783

October 27, 2011, Introduced by Senators SCHUITMAKER and JONES and referred to the Committee on Judiciary.

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 **SUBJECT TO SUBSECTION (2), A** certified public accountant is liable
4 for civil damages in connection with public accounting services
5 performed by the certified public accountant only in 1 of the
6 following situations:

7 (a) A negligent act, omission, decision, or other conduct of
8 the certified public accountant if the claimant is the certified
9 public accountant's client.

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

1 misrepresentation.

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

23 (B) THE CLAIMANT IS NOT THE CERTIFIED PUBLIC ACCOUNTANT'S
24 CLIENT, BUT ASSERTS STANDING TO SUE BASED ON A VOLUNTARY SURRENDER
25 OF ASSETS OR ACQUISITION OF THE CLAIM BY MEANS OF FORECLOSURE OR
26 SURRENDER UNDER ANY TYPE OF SECURITY AGREEMENT BETWEEN THE CLAIMANT
27 AND THE CLIENT.

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