

HOUSE BILL No. 6322

November 4, 2004, Introduced by Rep. Condino 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 **negligence or** professional malpractice against a certified public
3 accountant. A certified public accountant is liable for civil
4 damages in connection with public accounting services performed
5 by the certified public accountant ~~only~~ in 1 **or more** of the
6 following situations:

7 (a) ~~A~~ **The liability arises from a** negligent act, omission,
8 decision, or other conduct of the certified public accountant
9 ~~if~~ **and** the claimant is ~~the~~ **1 or more of the following:**

10 (i) **The** certified public accountant's client.

1 (ii) A person for whose benefit and guidance the certified
2 public accountant's client intends to supply information prepared
3 or certified by the certified public accountant.

4 (iii) A person who relies on information supplied by the
5 certified public accountant in a specific transaction if the
6 certified public accountant intends the information to influence
7 the person or the certified public accountant knows the person
8 intends to rely on the information.

9 (iv) A person who the certified public accountant could
10 reasonably have foreseen would obtain and rely on information
11 prepared or certified by the certified public accountant.

12 (b) ~~An~~ The liability arises from an act, omission,
13 decision, or conduct of the certified public accountant that
14 constitutes fraud or an intentional misrepresentation.

15 ~~(c) A negligent act, omission, decision, or other conduct of~~
16 ~~the certified public accountant if the certified public~~
17 ~~accountant was informed in writing by the client at the time of~~
18 ~~engagement that a primary intent of the client was for the~~
19 ~~professional public accounting services to benefit or influence~~
20 ~~the person bringing the action for civil damages. For the~~
21 ~~purposes of this subdivision, the certified public accountant~~
22 ~~shall identify in writing to the client each person, generic~~
23 ~~group, or class description that the certified public accountant~~
24 ~~intends to have rely on the services. The certified public~~
25 ~~accountant may be held liable only to each identified person,~~
26 ~~generic group, or class description. The certified public~~
27 ~~accountant's written identification shall include each person,~~

1 ~~generic group, or class description identified by the client as~~
2 ~~being benefited or influenced.~~

3 (2) As used in this section:

4 (a) "Certified public accountant" means an individual who is
5 registered or licensed or a firm that is licensed under article 7
6 of the occupational code, 1980 PA 299, MCL 339.720 to 339.736.

7 (b) "Client" means the person directly engaging a certified
8 public accountant to perform a professional accounting service.

9 (c) "Person" means an individual, corporation, business
10 trust, estate, trust, partnership, limited liability company,
11 limited liability partnership, association, joint venture, or
12 government; a governmental subdivision, agency, or
13 instrumentality; a public corporation; or any other legal or
14 commercial entity.

15 (d) "Professional accounting service" includes, but is not
16 limited to, the compilation, review, certification, or auditing
17 of, or the expression of a professional opinion or other
18 reporting on, a financial statement or other information covering
19 a specified period of time.

20 (e) "Specific transaction" means a particular transaction
21 between a client and a claimant.