

CHAPTER 1009
PUBLIC ACCOUNTING FEES
H.F. 2247

AN ACT relating to permissible fees and commission to be paid to certified public accountants and accounting practitioners.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 542C.2, Code 1995, is amended to read as follows:
542C.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Accounting practitioner" means a person licensed by the board as provided in this chapter, who does not hold a certificate as a certified public accountant under this chapter, and who offers to perform or performs for the public, and for compensation, any of the following services:

1. a. The recording of financial transactions in books of record.
2. b. The making of adjustments of such transactions in books of record.
3. c. The making of trial balances from books of record.
4. d. Internal verification and analysis of books or accounts of original entry.
5. e. The preparation of financial statements, schedules, or reports.
6. f. The devising and installing of systems or methods of bookkeeping, internal controls of financial data, or the recording of financial data.

Nothing contained in this definition or elsewhere in this chapter shall be construed to permit an accounting practitioner to give an opinion attesting to the reliability of any representation embracing financial information as defined in section 542C.25, subsections 8 and 9. Any transmittal letters and titles to financial statements included in reports prepared by accounting practitioners shall be labeled as unaudited.

2. "Commission" includes brokerage or other participation fees. "Commission" does not include a contingent fee.

3. "Contingent fee" means a fee established for the performance of any service pursuant to an arrangement under which a fee will not be charged unless a specified finding or result is attained, or under which the amount of the fee is otherwise dependent upon the finding or result of such service. "Contingent fee" does not mean a fee fixed by a court or other public authority, or a fee related to any tax matter which is based upon the results of a judicial proceeding or the findings of a governmental agency.

4. "Practice of public accounting" means the performance or the offering to perform, by a person holding oneself out to the public as a certified public accountant or accounting practitioner, one or more kinds of services involving the use of accounting or auditing skills, including the issuance of reports on financial statements, or of one or more kinds of management advisory, financial advisory, or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters.

Sec. 2. Section 542C.3, subsection 4, paragraph d, Code 1995, is amended by striking the paragraph.

Sec. 3. Section 542C.3, subsection 5, paragraph b, Code 1995, is amended by striking the paragraph.

Sec. 4. Section 542C.3, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. A certified public accountant or accounting practitioner may accept commissions or contingent fees subject to the following:

a. (1) A certified public accountant or accounting practitioner shall not for a commission recommend or refer to a client any product or service, shall not for a commission

recommend or refer any product or service to be supplied by a client, and shall not receive a commission from a client, if the certified public accountant or accounting practitioner, or a person associated with the certified public accountant or accounting practitioner in the practice of public accounting, also performs for that client any of the following:

(a) An audit or review of a financial statement.

(b) A compilation of a financial statement if the certified public accountant or accounting practitioner expects, or reasonably might expect, that a third party will use the financial statement, and the compilation report, of which the financial statement is a part, does not disclose a lack of independence.

(c) An examination of prospective financial information.

(2) The prohibition in subparagraph (1) applies during the period in which the certified public accountant or accounting practitioner, or a person associated with the certified public accountant or accounting practitioner in the practice of public accounting, is engaged to perform any of the services listed in subparagraph (1), subparagraph subdivision (a), (b), or (c), and the period covered by any historical financial statements related to such services.

(3) A certified public accountant or accounting practitioner engaged in the practice of public accounting who is not prohibited from performing services for a commission or receiving a commission, and who is paid or expects to be paid a commission, shall disclose that fact to any person or entity to whom the certified public accountant or accounting practitioner recommends or refers a product or service to which the commission relates.

b. A certified public accountant or accounting practitioner engaged in the practice of public accounting shall not receive or agree to receive a contingent fee from a client for either of the following:

(1) Performance of any professional services for a client for whom the certified public accountant or accounting practitioner, or person associated with the public accountant or accounting practitioner in the practice of public accounting, performs any of the following:

(a) An audit or review of a financial statement.

(b) A compilation of a financial statement if the certified public accountant or accounting practitioner expects, or reasonably might expect, that a third party will use the financial statement, and the compilation report, of which the financial statement is a part, does not disclose a lack of independence.

(c) An examination of prospective financial information.

(2) Preparation of an original or amended tax return or claim for a tax refund.

The prohibition in subparagraph (1) applies during the period in which the certified public accountant or accounting practitioner is engaged to perform any of the services listed in subparagraph (1), subparagraph subdivision (a), (b), or (c), and the period covered by any historical financial statements involved related to such services.

c. A certified public accountant or accounting practitioner who accepts a referral fee for recommending or referring any service of a certified public accountant or accounting practitioner to any person or entity, or who pays a referral fee to obtain a client, shall disclose the acceptance or payment of such fee to the client.

d. A fee charged by a certified public accountant or accounting practitioner may vary depending on the complexity of the services rendered.

Sec. 5. Section 542C.3, subsection 6, Code 1995, is amended to read as follows:

6. The board shall establish rules relative to the conduct of practice as a certified public accountant and accounting practitioner in respect to the enumerated items in subsections 4, ~~and 5~~, and 5A, but this direction is not a limitation upon the rights of the board to make and adopt any rules relating to the conduct of certified public accountants or accounting practitioners which are not specifically enumerated in this chapter.