

House Study Bill 524

Conference Committee Text

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1 1 Section 1. Section [542C.2](#), Code 1995, is amended to read
1 2 as follows:

1 3 542C.2 DEFINITIONS.

1 4 As used in this chapter, unless the context otherwise
1 5 requires:

1 6 1. "Accounting practitioner" means a person licensed by
1 7 the board as provided in this chapter, who does not hold a
1 8 certificate as a certified public accountant under this
1 9 chapter, and who offers to perform or performs for the public,
1 10 and for compensation, any of the following services:
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- a. The recording of financial transactions in books of
1 12 record.

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~~2.~~

- b. The making of adjustments of such transactions in
1 14 books of record.

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- c. The making of trial balances from books of record.

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- d. Internal verification and analysis of books or
1 17 accounts of original entry.

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- e. The preparation of financial statements, schedules,
1 19 or reports.

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- f. The devising and installing of systems or methods of
1 21 bookkeeping, internal controls of financial data, or the
1 22 recording of financial data.

1 23 Nothing contained in this definition or elsewhere in this
1 24 chapter shall be construed to permit an accounting
1 25 practitioner to give an opinion attesting to the reliability
1 26 of any representation embracing financial information as
1 27 defined in section 542C.25, subsections 8 and 9. Any
1 28 transmittal letters and titles to financial statements
1 29 included in reports prepared by accounting practitioners shall
1 30 be labeled as unaudited.

1 31 2. "Commission" includes brokerage or other participation
1 32 fees. "Commission" does not include a contingent fee.

1 33 3. "Contingent fee" means a fee established for the
1 34 performance of any service pursuant to an arrangement under
1 35 which a fee will not be charged unless a specified finding or
2 1 result is attained, or under which the amount of the fee is
2 2 otherwise dependent upon the finding or result of such
2 3 service. "Contingent fee" does not mean a fee fixed by a

2 4 court or other public authority, or a fee related to any tax
2 5 matter which is based upon the results of a judicial
2 6 proceeding or the findings of a governmental agency.

2 7 4. "Practice of public accounting" means the performance
2 8 or the offering to perform, by a person holding oneself out to
2 9 the public as a certified public accountant or accounting
2 10 practitioner, one or more kinds of services involving the use
2 11 of accounting or auditing skills, including the issuance of
2 12 reports on financial statements, or of one or more kinds of
2 13 management advisory, financial advisory, or consulting
2 14 services, or the preparation of tax returns or the furnishing
2 15 of advice on tax matters.

2 16 Sec. 2. Section 542C.3, subsection 4, paragraph d, Code
2 17 1995, is amended by striking the paragraph.

2 18 Sec. 3. Section 542C.3, subsection 5, paragraph b, Code
2 19 1995, is amended by striking the paragraph.

2 20 Sec. 4. Section 542C.3, Code 1995, is amended by adding
2 21 the following new subsection:

2 22 NEW SUBSECTION. 5A. A certified public accountant or
2 23 accounting practitioner may accept commissions or contingent
2 24 fees subject to the following:

2 25 a. (1) A certified public accountant or accounting
2 26 practitioner shall not for a commission recommend or refer to
2 27 a client any product or service, shall not for a commission
2 28 recommend or refer any product or service to be supplied by a
2 29 client, and shall not receive a commission from a client, if
2 30 the certified public accountant or accounting practitioner, or
2 31 a person associated with the certified public accountant or
2 32 accounting practitioner in the practice of public accounting,
2 33 also performs for that client any of the following:

2 34 (a) An audit or review of a financial statement.

2 35 (b) A compilation of a financial statement if the
3 1 certified public accountant or accounting practitioner
3 2 expects, or reasonably might expect, that a third party will
3 3 use the financial statement, and the compilation report, of
3 4 which the financial statement is a part, does not disclose a
3 5 lack of independence.

3 6 (c) An examination of prospective financial information.

3 7 (2) The prohibition in subparagraph (1) applies during the
3 8 period in which the certified public accountant or accounting
3 9 practitioner, or a person associated with the certified public
3 10 accountant or accounting practitioner in the practice of
3 11 public accounting, is engaged to perform any of the services
3 12 listed in subparagraph (1), subparagraph subdivision (a), (b),
3 13 or (c), and the period covered by any historical financial
3 14 statements related to such services.

3 15 (3) A certified public accountant or accounting
3 16 practitioner engaged in the practice of public accounting who
3 17 is not prohibited from performing services for a commission or
3 18 receiving a commission, and who is paid or expects to be paid
3 19 a commission, shall disclose that fact to any person or entity
3 20 to whom the certified public accountant or accounting
3 21 practitioner recommends or refers a product or service to
3 22 which the commission relates.

3 23 b. A certified public accountant or accounting
3 24 practitioner engaged in the practice of public accounting
3 25 shall not receive or agree to receive a contingent fee from a
3 26 client for either of the following:

3 27 (1) Performance of any professional services for a client
3 28 for whom the certified public accountant or accounting
3 29 practitioner, or person associated with the public accountant
3 30 or accounting practitioner in the practice of public
3 31 accounting, performs any of the following:

3 32 (a) An audit or review of a financial statement.

3 33 (b) A compilation of a financial statement if the
3 34 certified public accountant or accounting practitioner
3 35 expects, or reasonably might expect, that a third party will

4 1 use the financial statement, and the compilation report, of
4 2 which the financial statement is a part, does not disclose a
4 3 lack of independence.

4 4 (c) An examination of prospective financial information.

4 5 (2) Preparation of an original or amended tax return or
4 6 claim for a tax refund.

4 7 The prohibition in subparagraph (1) applies during the
4 8 period in which the certified public accountant or accounting
4 9 practitioner is engaged to perform any of the services listed
4 10 in subparagraph (1), subparagraph subdivision (a), (b), or
4 11 (c), and the period covered by any historical financial
4 12 statements involved related to such services.

4 13 c. A certified public accountant or accounting
4 14 practitioner who accepts a referral fee for recommending or
4 15 referring any service of a certified public accountant or
4 16 accounting practitioner to any person or entity, or who pays a
4 17 referral fee to obtain a client, shall disclose the acceptance
4 18 or payment of such fee to the client.

4 19 d. A fee charged by a certified public accountant or
4 20 accounting practitioner may vary depending on the complexity
4 21 of the services rendered.

4 22 Sec. 5. Section [542C.3](#), subsection 6, Code 1995, is
4 23 amended to read as follows:

4 24 6. The board shall establish rules relative to the conduct
4 25 of practice as a certified public accountant and accounting
4 26 practitioner in respect to the enumerated items in subsections
4 27 4.

~~and~~

- 5, and 5A, but this direction is not a limitation upon
4 28 the rights of the board to make and adopt any rules relating
4 29 to the conduct of certified public accountants or accounting
4 30 practitioners which are not specifically enumerated in this
4 31 chapter.

4 32 EXPLANATION

4 33 This bill establishes limitations on when a commission or a
4 34 contingent fee may be paid to a certified public accountant or
4 35 an accounting practitioner.

5 1 Section 542C.2 is amended by adding definitions for the
5 2 terms "commission" and "contingent fee".

5 3 Section 542C.3 is amended by striking contingent fees from
5 4 the list of items concerning which the board is to adopt
5 5 rules. The section is also amended by striking language
5 6 prohibiting the acceptance of a commission, brokerage, or
5 7 other participation in the fees, charges, or profits of work
5 8 recommended or turned over to the laity as incident to
5 9 services for clients.

5 10 Section 542C.3 is amended by creating a new subsection 5A
5 11 which relates to the fees and commissions which a certified
5 12 public accountant or accounting practitioner may accept. The
5 13 subsection provides that a certified public accountant or
5 14 accounting practitioner shall not for a commission recommend
5 15 or refer to a client any product or service, shall not for a
5 16 commission recommend or refer any product or service to be
5 17 supplied by a client, and shall not receive a commission from
5 18 a client, when the certified public accountant or accounting
5 19 practitioner, or a person associated with the certified public
5 20 accountant or accounting practitioner in the practice of
5 21 public accounting, also performs certain other identified
5 22 services for that client. The subsection also prohibits a
5 23 certified public accountant or accounting practitioner from
5 24 accepting a contingent fee from a client if certain other
5 25 identified services are performed for the client, and
5 26 prohibits the acceptance of a contingent fee for the
5 27 preparation of an original or amended tax return or claim for
5 28 a tax refund.

