

BILL ANALYSIS

Senate Research Center

C.S.S.B. 275
By: Sibley
Economic Development
2-28-97
Committee Report (Substituted)

DIGEST

Currently, under Texas law, a client of a Certified Public Accountant (CPA) is entitled to seek recovery from the accountant for economic loss due to reliance on the CPA's services and reports. Additionally, third parties who are not clients of the CPA can seek recovery if the accountant knew or should have known the third party might rely on the CPA's services. The consequence of this additional liability is that a third party can seek damages against a CPA for services rendered even though no contractual relationship exists between the third party and the CPA. This bill would limit the liability of CPAs for negligence to clients of the CPA and to a claimant or similarly situated claimant that the CPA knew would use the CPA's accounting services in connection with a specific transaction.

PURPOSE

As proposed, C.S.S.B. 275 limits the liability of accountants for negligence to clients of the CPA and to a claimant or similarly situated claimant that the CPA knew would use the CPA's accounting services in connection with a specific transaction.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 4, Civil Practice and Remedies Code, by adding Chapter 91, as follows:

CHAPTER 91. LIABILITY OF PUBLIC ACCOUNTANTS

Sec. 91.001. DEFINITIONS. Defines "accountant," "accounting services," "claimant," "client," and "specified transaction."

Sec. 91.002. LIABILITY LIMITED. Provides that an accountant is not liable for negligence to a claimant for an act or omission in connection with the provision of accounting services.

Sec. 91.003. EXCEPTIONS. Provides that Section 91.002 does not apply if the claimant is the client; the accountant was aware at the time the services of the accountant were engaged, or agreed after the time of the engagement, that the financial statement or other information would be made available to the claimant or a similarly situated claimant, and the accountant had actual knowledge that the claimant, or a similarly situated claimant, would use the financial statement or information in connection with a specified transaction; or the act or omission of the accountant involves fraud or gross negligence.

Sec. 91.004. WAIVER. Authorizes an accountant to waive the provisions of this chapter in writing.

SECTION 2. Effective date: September 1, 1997.
Makes application of this Act prospective.

SECTION 3. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

Amends SECTION 1, Section 91.001, Civil Practice and Remedies Code, to include within the definition of "accountant" a firm holding a certificate or registration issued by the Texas State Board of Public Accountancy. Provides that a "claimant" and a "client" both additionally mean a certain individual or entity. Defines "accounting services" and "specified transaction."

Amends SECTION 1, Section 91.002, Civil Practice and Remedies Code, to revise proposed limited liability for an accountant in regard to accounting services.

Amends SECTION 1, Section 91.003, Civil Practice and Remedies Code, to revise proposed exception to limited liability for accountant in regard to a certain claimant or a certain similarly situated claimant who is not a client of the accountant.