

# HOUSE BILL No. 4808

May 13, 1991, Introduced by Reps. Joe Young, Jr., Saunders, Pitoniak, Rocca, Shugars, Dobb and Munsell and referred to the Committee on State Affairs.

A bill to amend the title of Act No. 299 of the Public Acts of 1980, entitled as amended

"Occupational code,"

as amended, being sections 339.101 to 339.2721 of the Michigan Compiled Laws; and to add section 717.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title of Act No. 299 of the Public Acts of  
2 1980, as amended, being sections 339.101 to 339.2721 of the  
3 Michigan Compiled Laws, is amended and section 717 is added to  
4 read as follows:

### 5 TITLE

6 An act to revise, consolidate, and classify the laws of this  
7 state regarding the regulation of certain occupations; to create  
8 a board for each of those occupations; to establish the powers  
9 and duties of the department of licensing and regulation and the

1 boards of each occupation; to provide for the promulgation of  
2 rules; to provide for certain fees; to provide for penalties and  
3 civil fines; TO ESTABLISH RIGHTS AND REMEDIES OF CERTAIN PERSONS  
4 UNDER CERTAIN CIRCUMSTANCES; to repeal certain parts of this act  
5 on a specific date; and to repeal certain acts and parts of  
6 acts.

7        SEC. 717. (1) IN AN ACTION FOR CIVIL DAMAGES REGARDING PRO-  
8 FESSONAL ACCOUNTING SERVICES BROUGHT AGAINST A LICENSEE UNDER  
9 THIS ARTICLE, A PERSON OR OTHER ENTITY NOT IN PRIVITY OF CONTRACT  
10 WITH A LICENSEE, AND NOT IN PRIVITY OF CONTRACT WITH AN EMPLOYEE,  
11 PARTNER, MEMBER, OFFICER, OR SHAREHOLDER OF THE LICENSEE, MAY  
12 RECOVER CIVIL DAMAGES RESULTING FROM AN ACT, OMISSION, DECISION,  
13 OR OTHER CONDUCT IN CONNECTION WITH THE PERFORMANCE OF PROFES-  
14 SIONAL PUBLIC ACCOUNTING SERVICES BY THE LICENSEE, OR THE EMPLOY-  
15 EE, PARTNER, MEMBER, OFFICER, OR SHAREHOLDER OF THE LICENSEE,  
16 WHERE THE ACT, OMISSION, DECISION, OR OTHER CONDUCT CONSTITUTES  
17 FRAUD OR INTENTIONAL MISREPRESENTATION.

18        (2) IN A CASE NOT INVOLVING FRAUD OR INTENTIONAL MISREPRE-  
19 SENTATION AS DESCRIBED IN SUBSECTION (1), A PERSON OR OTHER  
20 ENTITY NOT IN PRIVITY OF CONTRACT WITH A LICENSEE, AND NOT IN  
21 PRIVITY OF CONTRACT WITH AN EMPLOYEE, PARTNER, MEMBER, OFFICER,  
22 OR SHAREHOLDER OF THE LICENSEE, MAY RECOVER CIVIL DAMAGES RESULT-  
23 ING FROM AN ACT, OMISSION, DECISION, OR OTHER CONDUCT IN CONNEC-  
24 TION WITH THE PERFORMANCE OF PROFESSIONAL PUBLIC ACCOUNTING SERV-  
25 ICES BY THE LICENSEE, OR THE EMPLOYEE, PARTNER, MEMBER, OFFICER,  
26 OR SHAREHOLDER OF THE LICENSEE, ONLY WHERE ALL OF THE FOLLOWING  
27 CIRCUMSTANCES EXIST:

1 (A) THE LICENSEE KNEW THAT THE INFORMATION DEVELOPED THROUGH  
2 THE PERFORMANCE OF THE PROFESSIONAL PUBLIC ACCOUNTING SERVICES  
3 WAS INTENDED FOR USE BY A PERSON OR OTHER ENTITY NOT IN PRIVITY  
4 OF CONTRACT WITH THE LICENSEE.

5 (B) THE LICENSEE INTENDED THAT THE INFORMATION DEVELOPED  
6 THROUGH THE PERFORMANCE OF THE PROFESSIONAL PUBLIC ACCOUNTING  
7 SERVICES WOULD INFLUENCE A TRANSACTION WHICH IS THE SUBJECT OF  
8 THE ACTION FOR CIVIL DAMAGES OR A SUBSTANTIALLY SIMILAR  
9 TRANSACTION.

10 (C) THE PERSON OR OTHER ENTITY NOT IN PRIVITY OF CONTRACT  
11 WITH THE LICENSEE ACTUALLY RELIED UPON THE INFORMATION DEVELOPED  
12 THROUGH THE PERFORMANCE OF THE PROFESSIONAL PUBLIC ACCOUNTING  
13 SERVICES.