

State of Arkansas

76th General Assembly

Regular Session, 1987

HOUSE BILL 1676

By: Representatives Barclay, Clark and Ward

"AN ACT TO DEFINE THE LIMITS OF LIABILITY OF ACCOUNTANTS AND ATTORNEYS TO PERSONS NOT IN PRIVACY OF CONTRACT WITH THE ACCOUNTANTS AND ATTORNEYS; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. No person, partnership or corporation licensed or authorized to practice under the Public Accountancy Act of 1975, as amended (Act 160 of 1975, as amended) or any of its employees, partners, members, officers or shareholders shall be liable to persons not in privity of contract with such person, partnership or corporation, for civil damages resulting from acts, omissions, decisions or other conduct in connection with professional services performed by such person, partnership or corporation, except for:

(a) such acts, omissions, decisions or conduct that constitute fraud or intentional misrepresentations, or

(b) such other acts, omissions, decisions or conduct, if such person, partnership or corporation was aware that a primary intent of the client was for the professional services to benefit or influence the particular person bringing the action; provided, however, for the purposes of this subparagraph (b), if such person, partnership or corporation (i) identifies in writing to the client those persons who are intended to rely on the services, and (ii) sends a copy of such writing or similar statement to those persons identified in the writing or statement, then such person, partnership or corporation or any of its employees, partners, members, officers or shareholders may be held liable only to such persons intended to so rely, in addition to those persons in privity of contract with such person, partnership or corporation.

SECTION 2. No person licensed to practice law in Arkansas and no partnership or corporation of Arkansas licensed attorneys or any of its

employees, partners, members, officers or shareholders shall be liable to persons not in privity of contract with such person, partnership or corporation, for civil damages resulting from acts, omissions, decisions or other conduct in connection with professional services performed by such person, partnership or corporation, except for:

(a) such acts, omissions, decisions or conduct that constitute fraud or intentional misrepresentations, or

(b) such other acts, omissions, decisions or conduct, if such person, partnership or corporation was aware that a primary intent of the client was for the professional services to benefit or influence the particular person bringing the action; provided, however, for the purposes of this subparagraph (b), if such person, partnership or corporation (i) identifies in writing to the client those persons who are intended to rely on the services, and (ii) sends a copy of such writing or similar statement to those persons identified in the writing or statement, then such person, partnership or corporation or any of its employees, partners, members, officers or shareholders may be held liable only to such persons intended to so rely, in addition to those persons in privity of contract with such person, partnership or corporation.

SECTION 3. This Act shall apply only to acts, omissions, decisions or other conduct in connection with professional services occurring or rendered on or after the effective date of this Act.

SECTION 4. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 5. Emergency. It is hereby found and determined by the General Assembly that the liability of accountants and attorneys to persons not in privity of contract with them should be specifically outlined by legislative enactment; that this Act establishes the limits of such liability; and that this Act should go into effect as soon as possible. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

