

Regular Session, 2014

SENATE BILL NO. 450

BY SENATOR HEITMEIER

ACCOUNTANTS. Repeals an exemption to the accountant client privilege. (8/1/14)

1 AN ACT
2 To repeal Code of Evidence Art. 515(C)(10), relative to the practice of accounting; to repeal
3 an exemption to the accountant client privilege; and to provide for related matters.
4 Be it enacted by the Legislature of Louisiana:
5 Section 1. Code of Evidence Art. 515(C)(10) is hereby repealed.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Michelle Ducharme.

DIGEST

Heitmeier (SB 450)

Present law provides that a client has a privilege to refuse to disclose, and to prevent another person from disclosing, a confidential communication, whether oral, written, or otherwise, made for the purpose of facilitating the rendition of professional accounting services to the client, as well as the perceptions, observations, and the like, of the mental, emotional, or physical condition of the client in connection with such a communication. This privilege includes the protection of other confidential information or material obtained by the accountant from the client for the purpose of rendering professional services. This privilege exists when the communication is:

- (1) Between the client or a representative of the client and the client's accountant or a representative of the accountant.
- (2) Between the accountant and a representative of the accountant.
- (3) By the client or his accountant or a representative of either, to an accountant or lawyer, or representative of an accountant or lawyer, who represents another party

concerning a matter of common interest.

- (4) Between representatives of the client or between the client and a representative of the client.
- (5) Among accountants and their representatives representing the same client.
- (6) Between representatives of the client's accountant.

Present law provides for exemptions to the accountant client privilege as follows:

- (1)
 - (a) If the services of the accountant were sought or obtained to enable or aid anyone to commit or plan to commit what the client or his representative knew or reasonably should have known to be a crime or fraud.
 - (b) Made in furtherance of a crime or fraud.
- (2) Which was with a client now deceased relevant to an issue between parties who claim through that decedent, regardless of whether the claims are by testate or intestate succession or by transaction inter vivos.
- (3) Which is relevant to an issue of breach of duty by an accountant to the client or by a client to the client's accountant.
- (4)
 - (a) Which is relevant to an issue of authenticity or capacity concerning a document which the accountant signed as a witness or notary.
 - (b) Concerning the testimony of a representative of an accountant regarding a communication relevant to an issue of authenticity or capacity concerning a document to which the representative is a witness or notary.
- (5) Which is relevant to a matter of common interest between or among two or more clients if the communication was made by any of them or their representative to an accountant or his representative retained or consulted in common, when subsequently offered by one client against the other in a civil action.
- (6) Concerning the identity of the accountant's client or his representative, unless disclosure of the identity by the accountant or his representative would reveal either the reason for which accounting services were sought or a communication which is otherwise privileged under present law.
- (7) Concerning information required to be disclosed by the standards of the public accounting profession in reporting on the examination of financial statements whose proceedings are protected from discovery pursuant to law.
- (8) Concerning disclosures in investigations or proceedings of the State Board of Certified Public Accountants of La. pursuant to the provisions of Part I of the La Accountancy Act whose proceedings are protected from discovery pursuant to law.
- (9) Concerning disclosures in ethical investigations of an accountant conducted by private professional organizations whose proceedings are protected from discovery pursuant to law or in the course of quality or peer reviews.
- (10) In any domestic proceeding including the partition of community property and the settlement of claims arising from matrimonial regimes, spousal support, and child support.

Proposed law repeals the exemption relative to any domestic proceeding, including the

partition of community property and the settlement of claims arising from matrimonial regimes, spousal support, and child support.

Effective August 1, 2014.

(Repeals C.E. Art. 515(C)(10))