

SENATE BILL NO. 360

INTRODUCED BY GAGE, LYNCH, HAGER, KENNEDY,  
FRANKLIN, WILLIAMS, NOBLE, BRUSKI  
BY REQUEST OF THE SENATE BUSINESS  
AND INDUSTRY COMMITTEE

IN THE SENATE

FEBRUARY 12, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
ON JUDICIARY.

                                      FIRST READING.

FEBRUARY 18, 1991                   ON MOTION, REREFERRED TO COMMITTEE  
ON BUSINESS & INDUSTRY.

FEBRUARY 21, 1991                   COMMITTEE RECOMMEND BILL  
DO PASS. REPORT ADOPTED.

FEBRUARY 22, 1991                   PRINTING REPORT.

FEBRUARY 23, 1991                   SECOND READING, DO PASS.

FEBRUARY 25, 1991                   ENGROSSING REPORT.

                                      THIRD READING, PASSED.  
AYES, 49; NOES, 0.

                                      TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 4, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
ON BUSINESS & ECONOMIC DEVELOPMENT.

                                      FIRST READING.

MARCH 14, 1991                   COMMITTEE RECOMMEND BILL BE  
CONCURRED IN. REPORT ADOPTED.

MARCH 16, 1991                   SECOND READING, CONCURRED IN.

MARCH 18, 1991                   THIRD READING, CONCURRED IN.  
AYES, 91; NOES, 7.

                                      RETURNED TO SENATE.

IN THE SENATE

MARCH 19, 1991                   RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *360*  
 2 INTRODUCED BY *Gregg Quinn Hoyer Kennedy*  
 3 BY REQUEST OF THE SENATE BUSINESS *7/16/04*  
 4 *Senators* AND INDUSTRY COMMITTEE *2/1/04*

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 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO LIMIT THE LIABILITY  
 7 OF PERSONS SERVING ON ACCOUNTING REVIEW BOARDS OR OF  
 8 NONPROFIT CORPORATIONS PERFORMING THE FUNCTION OF ACCOUNTING  
 9 REVIEW BOARDS; AND TO EXCLUDE FROM EVIDENCE THE PROCEEDINGS  
 10 AND RECORDS OF ACCOUNTING REVIEW BOARDS."  
 11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 NEW SECTION. **Section 1. Nonliability** -- evidential  
 14 privilege -- application to nonprofit corporations. (1) A  
 15 member of a peer review, professional standards review, or  
 16 ethics review committee of a society composed of persons  
 17 licensed to practice the accounting profession is not liable  
 18 in damages to any person for any action taken or  
 19 recommendation made within the scope of the functions of the  
 20 committee if the committee member acts without malice and in  
 21 the reasonable belief that the action or recommendation is  
 22 warranted by the facts known to him after reasonable effort  
 23 to obtain the facts.

24 (2) The proceedings and records of peer review,  
 25 professional standards review, and ethics review committees

1 are not subject to discovery or introduction into evidence  
 2 in any proceeding. However, information otherwise  
 3 discoverable or admissible from an original source is not to  
 4 be construed as immune from discovery or use in any  
 5 proceeding merely because it was presented during  
 6 proceedings before the committee, nor is a member of the  
 7 committee or other person appearing before it to be  
 8 prevented from testifying as to matters within his  
 9 knowledge; however, he may not be questioned about his  
 10 testimony or other proceedings before the committee or about  
 11 opinions or other actions of the committee or any member of  
 12 the committee.

13 (3) This section also applies to any member, agent, or  
 14 employee of a nonprofit corporation engaged in performing  
 15 the functions of a peer review, professional standards  
 16 review, or ethics review committee with respect to the  
 17 profession of accounting.

18 NEW SECTION. **Section 2. Codification** instruction.  
 19 [Section 1] is intended to be codified as an integral part  
 20 of Title 37, chapter 50, part 4, and the provisions of Title  
 21 37, chapter 50, part 4, apply to [section 1].

-End-



-2- INTRODUCED BILL  
 SB 360

APPROVED BY COMMITTEE  
ON JUDICIARY

1 *Senate* BILL NO. *360*  
2 INTRODUCED BY *Agar, Quach, Hager, Kennedy*  
3 *Senkler, Nelson* BY REQUEST OF THE SENATE BUSINESS *Wills*  
4 AND INDUSTRY COMMITTEE *...*

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO LIMIT THE LIABILITY  
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10 AND RECORDS OF ACCOUNTING REVIEW BOARDS."

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14 privilege -- application to nonprofit corporations. (1) A  
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17 profession of accounting.

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19 [Section 1] is intended to be codified as an integral part  
20 of Title 37, chapter 50, part 4, and the provisions of Title  
21 37, chapter 50, part 4, apply to [section 1].

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*Senate* BILL NO. *360*

INTRODUCED BY *Gregg Spivey Hager Kennedy*  
BY REQUEST OF THE SENATE BUSINESS *Wiley*  
*Spivey* AND INDUSTRY COMMITTEE *Wiley*

A BILL FOR AN ACT ENTITLED: "AN ACT TO LIMIT THE LIABILITY OF PERSONS SERVING ON ACCOUNTING REVIEW BOARDS OR OF NONPROFIT CORPORATIONS PERFORMING THE FUNCTION OF ACCOUNTING REVIEW BOARDS; AND TO EXCLUDE FROM EVIDENCE THE PROCEEDINGS AND RECORDS OF ACCOUNTING REVIEW BOARDS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Nonliability -- evidential privilege -- application to nonprofit corporations. (1) A member of a peer review, professional standards review, or ethics review committee of a society composed of persons licensed to practice the accounting profession is not liable in damages to any person for any action taken or recommendation made within the scope of the functions of the committee if the committee member acts without malice and in the reasonable belief that the action or recommendation is warranted by the facts known to him after reasonable effort to obtain the facts.

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(3) This section also applies to any member, agent, or employee of a nonprofit corporation engaged in performing the functions of a peer review, professional standards review, or ethics review committee with respect to the profession of accounting.

NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 37, chapter 50, part 4, and the provisions of Title 37, chapter 50, part 4, apply to [section 1].

-End-

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3 FRANKLIN, WILLIAMS, NOBLE, BRUSKI

4 BY REQUEST OF THE SENATE BUSINESS

5 AND INDUSTRY COMMITTEE

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22 37, chapter 50, part 4, apply to [section 1].

-End-

REFERENCE BILL