



Sen. Michael E. Hastings

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10400SB3812sam001

LRB104 16659 JRC 35315 a

1 AMENDMENT TO SENATE BILL 3812

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3812 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Attorney Act is amended by adding Section  
5 13 as follows:

6 (705 ILCS 205/13 new)

7 Sec. 13. Protection of clients.

8 (a) As used in this Section:

9 "Alternative business structure" means any entity that  
10 provides legal services while allowing non-attorney ownership  
11 or decision-making authority of the entity.

12 "Alternative business structure" does not include  
13 nonprofit organizations.

14 "Management services organization" means an entity that  
15 provides management and administrative support services in  
16 exchange for ownership of a law firm's assets or payments.

1       (b) An entity owned, operated, or controlled in whole or  
2 in part by persons not licensed as attorneys, including  
3 management services organizations, that is involved with a law  
4 firm or lawyer's practice may not do any of the following:

5           (1) Interfere with the professional judgment of  
6 attorneys in representing clients.

7           (2) Exercise control over or be delegated the power to  
8 do any of the following:

9               (A) accessing, owning, or determining the content  
10 of client records, or accessing any attorney-client  
11 communications;

12               (B) selecting, hiring, or terminating attorneys or  
13 allied legal staff; or

14               (C) setting competency, productivity, or  
15 proficiency parameters for attorneys or allied legal  
16 staff.

17           (3) Charge any fee to the attorney or law firm that is  
18 directly or indirectly based on the fees, revenues, or  
19 profits of the attorney or law firm.

20       (c) Any contract involving management of a law firm or  
21 attorney's practice with any entity owned, operated, or  
22 controlled by persons not licensed as attorneys, including  
23 management services organizations, may not limit an attorney  
24 or allied legal staff member from:

25           (1) competing with that law firm or practice in the  
26 event of termination or resignation; or

1           (2) disparaging or commenting on that law firm or  
2           practice as to any issues involving quality of services,  
3           ethical or professional challenges in the practice of law,  
4           or revenue-increasing strategies employed by an entity  
5           owned, operated, or controlled in whole or in part by  
6           persons not licensed as attorneys.

7           (d) An attorney licensed or otherwise authorized to  
8           practice in this State may not share legal fees directly or  
9           indirectly with an out-of-state alternative business structure  
10          unless all the following apply:

11           (1) The attorney is also licensed in the state in  
12           which the alternative business structure is approved.

13           (2) The fees are compensation for providing legal  
14           services in that state.

15           (3) The law of that state is controlling under Rule  
16           8.5 of the Illinois Rules of Professional Conduct or any  
17           successor rule.

18          (e) A violation of this Section may constitute cause for  
19          the imposition of discipline by the Attorney Registration and  
20          Disciplinary Commission and subject the attorney to the  
21          following penalties:

22           (1) statutory damages of \$10,000 per violation or 25  
23           times the actual damages incurred by the client, whichever  
24           is greater;

25           (2) attorney's fees and costs; and

26           (3) injunctive or declaratory relief.

1       (f) This Section does not apply to any arrangement for the  
2 sharing of legal fees if both of the following conditions are  
3 satisfied:

4           (1) The arrangement for the sharing of legal fees was  
5 ordered or approved by a court or tribunal of competent  
6 jurisdiction, including, but not limited to, the  
7 establishment or distribution of a common benefit fund in  
8 coordinated, consolidated, or multidistrict litigation.

9           (2) The manner by which legal fees are to be allocated  
10 is subject to judicial or tribunal oversight and  
11 determined by the court to be fair, reasonable, and  
12 necessary for the administration of justice.

13       (g) This Section applies only to contracts entered into on  
14 or after the effective date of this amendatory Act of the 104th  
15 General Assembly.

16       Section 99. Effective date. This Act takes effect upon  
17 becoming law."