

1 SB37
2 146596-1
3 By Senators Whatley, Fielding and Ward
4 RFD: Judiciary
5 First Read: 05-FEB-13
6 PFD: 01/09/2013

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8 SYNOPSIS: This bill would prohibit a licensed
9 accountant or certified public accountant from
10 charging a contingent fee for the preparation of
11 financial documents for a claim filed in a court.

12 The bill would prescribe Class B misdemeanor
13 punishment for a violation.

14 Amendment 621 of the Constitution of Alabama
15 of 1901, now appearing as Section 111.05 of the
16 Official ReCompilation of the Constitution of
17 Alabama of 1901, as amended, prohibits a general
18 law whose purpose or effect would be to require a
19 new or increased expenditure of local funds from
20 becoming effective with regard to a local
21 governmental entity without enactment by a 2/3 vote
22 unless: it comes within one of a number of
23 specified exceptions; it is approved by the
24 affected entity; or the Legislature appropriates
25 funds, or provides a local source of revenue, to
26 the entity for the purpose.

1 The purpose or effect of this bill would be
2 to require a new or increased expenditure of local
3 funds within the meaning of the amendment. However,
4 the bill does not require approval of a local
5 governmental entity or enactment by a 2/3 vote to
6 become effective because it comes within one of the
7 specified exceptions contained in the amendment.
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9 A BILL
10 TO BE ENTITLED
11 AN ACT

12
13 Relating to licensed accountants and certified
14 public accountants (CPA's); to prohibit licensed accountants
15 and CPA's from charging a contingent fee for the preparation
16 of a financial document for a claim that is filed in a court;
17 and in connection therewith would have as its purpose or
18 effect the requirement of a new or increased expenditure of
19 local funds within the meaning of Amendment 621 of the
20 Constitution of Alabama of 1901, now appearing as Section
21 111.05 of the Official Recompilation of the Constitution of
22 Alabama of 1901, as amended.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. An accountant or certified public
25 accountant (CPA) licensed in Alabama may not charge a
26 contingent fee for the preparation or compilation of a
27 financial document that the accountant or CPA expects, or

1 might reasonably expect, that a third party will use in a
2 filing in a court in Alabama, unless the financial document
3 clearly indicates that the accountant or CPA does not have a
4 contractual relationship with the client and works
5 independently of the client for whom the document is prepared.

6 Section 2. A violation of Section 1 shall constitute
7 a Class B misdemeanor and shall upon conviction be punishable
8 as provided by law.

9 Section 3. Although this bill would have as its
10 purpose or effect the requirement of a new or increased
11 expenditure of local funds, the bill is excluded from further
12 requirements and application under Amendment 621, now
13 appearing as Section 111.05 of the Official Recompilation of
14 the Constitution of Alabama of 1901, as amended, because the
15 bill defines a new crime or amends the definition of an
16 existing crime.

17 Section 4. This act shall become effective
18 immediately following its passage and approval by the
19 Governor, or its otherwise becoming law.