



Sen. Michael E. Hastings

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10400HB5487sam001

LRB104 20746 JRC 36931 a

1 AMENDMENT TO HOUSE BILL 5487

2 AMENDMENT NO. _____. Amend House Bill 5487 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 "Allied legal staff" means a person or persons who are not
10 licensed as attorneys who may have access to attorney-client
11 and work-product privileged information in their work,
12 including, but not limited to, paralegals and legal
13 assistants.

14 "Alternative business structure" means any entity that
15 provides legal services and allows a person or persons who are
16 not licensed as attorneys to have ownership or decision-making

1 authority.

2 "Alternative business structure" does not include
3 nonprofit organizations.

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

7 (b) Any attorney or law firm that is party to an agreement
8 with a management services organization must disclose in its
9 attorney-client contracts that the attorney or law firm is
10 party to such an agreement and the terms of the agreement.

11 The provisions of paragraphs (c) through (g) of this
12 Section apply to all licensed Illinois attorneys and law firms
13 that represent clients in whole or in part on a contingent fee
14 basis.

15 (c) An entity owned, operated, or controlled in whole or
16 in part by persons not licensed as attorneys, including
17 management services organizations, that is involved with a law
18 firm or attorney's practice may not do any of the following:

19 (1) Interfere with the professional judgment of
20 attorneys in representing clients.

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

23 (A) accessing, owning, or determining the content
24 of client records, or accessing any attorney-client
25 communications;

26 (B) selecting, hiring, or terminating attorneys or

1 allied legal staff; or

2 (C) setting competency, productivity, or
3 proficiency parameters for attorneys or allied legal
4 staff.

5 (3) Charge any fee to the attorney or law firm that is
6 directly or indirectly based on the attorneys' fees,
7 revenues, or profits of the attorney or law firm. This
8 prohibition does not apply to the repayment of a loan or
9 extension of credit the attorney or law firm is obligated
10 to repay if that the amount of the borrower's obligation
11 is not contingent upon or calculated on the basis of the
12 borrower's attorney's fees, revenues, profits, or other
13 financial performance.

14 (d) Any contract involving management of a law firm or
15 attorney's practice with any entity owned, operated, or
16 controlled by persons not licensed as attorneys, including
17 management services organizations, may not limit an attorney
18 or allied legal staff member from:

19 (1) competing with that law firm or its practice in
20 the event of termination or resignation; or

21 (2) disparaging or commenting on that law firm or
22 practice as to any issues involving quality of services,
23 ethical or professional challenges in the practice of law,
24 or revenue-increasing strategies employed by an entity
25 owned, operated, or controlled in whole or in part by
26 persons not licensed as attorneys.

1 (e) An attorney licensed or otherwise authorized to
2 practice in this State may not share legal fees directly or
3 indirectly with an out-of-state alternative business structure
4 unless all the following apply:

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

7 (2) The fees are compensation for providing legal
8 services in that state.

9 (3) The law of that state is controlling under Rule
10 8.5 of the Illinois Rules of Professional Conduct or any
11 successor rule.

12 (f) A violation of this Section may constitute cause for
13 the imposition of discipline by the Attorney Registration and
14 Disciplinary Commission and subject the attorney to the
15 following penalties:

16 (1) statutory damages of \$10,000 per violation or 3
17 times the actual damages incurred by the client, whichever
18 is greater;

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

20 (3) injunctive or declaratory relief.

21 (g) This Section does not apply to any arrangement for the
22 sharing of legal fees if both of the following conditions are
23 satisfied:

24 (1) The arrangement for the sharing of legal fees was
25 ordered or approved by a court or tribunal of competent
26 jurisdiction, including, but not limited to, the

1 establishment or distribution of a common benefit fund in
2 coordinated, consolidated, or multidistrict litigation.

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

7 (h) This Section applies only to contracts entered into on
8 or after the effective date of this amendatory Act of the 104th
9 General Assembly.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.".