

# Legislative Analysis

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## INVESTIGATOR LICENSURE: EXEMPT CPAs

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### Senate Bill 1091

**Sponsor: Sen. Alan Sanborn**

**House Committee: Regulatory Reform**

**Senate Committee: Economic Development and Regulatory Reform**

### First Analysis (11-2-10)

**BRIEF SUMMARY:** The bill would exempt CPAs licensed, registered, or certified by a state regulatory agency, and employees of CPA firms, from licensure under the Professional Investigator Licensure Act.

**FISCAL IMPACT:** The bill would have no state or local governmental fiscal impact.

### **THE APPARENT PROBLEM:**

Some of the tasks of certified public accountants, such as forensic accounting and certain types of fraud investigations also fall within the scope of practice of professional investigators (PI). To avoid requiring a CPA to also register as a PI, the Professional Investigator Licensure Act exempts from licensure as a PI a CPA acting within his or her licensed professional practice, as long as the CPA does not perform investigative services outside of the scope of the CPA licensed professional practice. The problem is that the CPA scope of practice as currently defined in statute does not specifically reference engagements such as forensic accounting and fraud examinations. Thus, it could be interpreted that CPAs performing these functions must obtain dual licensure as a PI. It has been suggested that the exemption within the PI licensure act be broadened to include these activities by CPAs.

### **THE CONTENT OF THE BILL:**

The bill would amend the Professional Investigator Licensure Act (MCL 338.824) to specify that the act would not apply to a certified public accountant currently licensed, registered, or certified by a regulatory agency of this or any other state or public accounting firm currently licensed, registered, or certified by a regulatory agency of this or any other state, including the employees of the certified public accountant or public accounting firm.

### **HOUSE COMMITTEE ACTION:**

The committee reported the Senate-passed version of the bill without amendment.

## **ARGUMENTS:**

### ***For:***

The bill would provide a fix to a problem created when regulated job duties fall within more than one profession. Though the licensure act for professional investigators excludes from licensure CPAs working within their licensed professional practice, the CPA scope of practice act does not specifically include forensic accounting or fraud examination - job duties shared by CPAs and professional investigators. By revising the exemption language for CPAs within the Professional Investigators Act to make it broader, CPAs performing forensic accounting or fraud examinations would not have to be licensed under both acts.

### ***Against:***

As written, the bill would provide a carte blanche exemption for CPAs and employees of CPA firms, regardless of whether or not the CPA or employee was working within the CPA scope of practice. Thus, the broad exemption provided by SB 1091 could enable CPAs to perform any duties of a PI without the training or licensure required under that act.

By comparison, House Bill 6196, which was previously passed by the House and is pending Senate committee action, would, among other things, expand the scope of practice of CPAs to include forensic accounting and fraud examination services and so would address the problem.

### ***Response:***

A House floor amendment has been offered to Senate Bill 1091 that, if adopted, would address this concern by only excluding CPAs and employees of public accounting firms working within their "professional practice."

## **POSITIONS:**

A representative of Michigan Association of Certified Public Accountants testified in support of the bill. (6-23-10)

Department of Energy, Labor, and Economic Growth indicated support for the bill. (6-23-10)

The Michigan Council of Professional Investigators would support the bill with adoption of the House floor amendment. (10-29-10)

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