

ABA Proposed Amendment to H.R. 3763,
the “Public Company Accounting Reform and Client Protection Act of 2002,”
as Approved by the Senate on July 15, 2002

Amendment to clarify definition of “Person Associated with a Public Accounting Firm”:

Amend H.R. 3763, Section 2 (DEFINITIONS) in the following manner:

On page 7, line 8, replace the period at the end of Sec. 2(a)(9)(A)(ii) with a comma and a line break.

On page 7, line 9, insert at same indent as (A) the following:

“but the terms shall not include any lawyer subject to regulation by the highest court of the state in which the lawyer is admitted to practice law when the lawyer is providing legal services to a public accounting firm or a person associated with a public accounting firm.”

Amendment to clarify that legislation does not override any existing attorney-client privilege or right to retain counsel:

Amend H.R. 3763, Title I, Section 105 (INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS) in the following manner:

On page 49, after line 16, insert the following new subsection:

“(f) ATTORNEY-CLIENT PRIVILEGE AND RIGHT TO COUNSEL.— Nothing in this Act or in the rules of the Board shall be construed to affect any privilege that may exist arising from an attorney-client relationship or impair any person’s right to representation by counsel.”

Amendment regarding new SEC authority to establish new “minimum standards of professional conduct for attorneys” appearing and practicing before the SEC:

Amend H.R. 3763, Title VI, Section 602 (APPEARANCE AND PRACTICE BEFORE THE COMMISSION) in the following manner:

On page 109, lines 1-20, strike subsection (d).

ABA Proposed Amendment to H.R. 3763,
the “Corporate and Auditing Accountability, Responsibility, and Transparency Act of
2002,” as Approved by the House of Representatives on April 24, 2002

Amendment to clarify definition of “Person Associated with an Accountant”:

Amend H.R. 3763, Section 22 (DEFINITIONS) in the following manner:

On page 59, line 25, replace the period at the end of Sec. 22(6) with a comma, and insert the following:

“but the terms shall not include any lawyer subject to regulation by the highest court of the state in which the lawyer is admitted to practice law when the lawyer is providing legal services to an accountant or a person associated with an accountant.”

Amendment to clarify that legislation does not override any existing attorney-client privilege or right to retain counsel:

Amend H.R. 3763, Section 2 (AUDITOR OVERSIGHT) in the following manner:

On page 8, after line 12, insert the following new subsection:

“(11) Nothing in this Act shall be construed to affect any privilege that may exist arising from an attorney-client relationship or impair any person’s right to representation by counsel.”

Amendment regarding new Comptroller General study of existing ABA Model Rules of Professional Conduct and SEC rules and possible recommendations for new federal legislation or regulations:

Amend H.R. 3763, Section 19 (STUDY OF MODEL RULES FOR ATTORNEYS OF ISSUERS) in the following manner:

On page 55, line 10 through page 57, line 5, strike Section 19.