AN ACT concerning civil law.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

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

(705 ILCS 205/13 new)

Sec. 13. Protection of clients.

(a) As used in this Section:

"Allied legal staff" means persons who are not licensed as attorneys and may have access to attorney-client and work-product privileged information in their work, including, but not limited to, paralegals and legal assistants.

"Alternative business structure" means any entity that provides legal services and allows persons who are not licensed as attorneys to have ownership or decision-making authority. "Alternative business structure" does not include nonprofit organizations.

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

(b) The provisions of this Section apply only to:

(1) a licensed attorney or law firm operating in Illinois with annual global revenue from that licensed

attorney's or law firm's provision of legal services that is less than $300,000,000; in determining a licensed attorney's or law firm's revenue for purposes of this paragraph (1), the determination shall be:

(A) made by taking into account the global revenue of any partnership or law firm affiliated with the licensed attorney or law firm, whether or not the affiliated partnership or other law firm is domiciled in Illinois; and

(B) based on publicly-available information; and

(2) a licensed attorney or law firm that regularly represents clients on a contingent fee basis, where the fee is based on the resolution or outcome of actual or threatened private litigation, and that has derived more than 50% of the attorney's or law firm's revenues from the contingent fee arrangements in each of the preceding 3 calendar years; in determining a licensed attorney's or law firm's revenue for purposes of this paragraph (2), the determination shall be made by taking into account the gross global revenue of the attorney or law firm, together with any partnership or law firm affiliated with such attorney or law firm, whether or not such affiliated partnership or other law firm is domiciled in Illinois.

Upon request of the Attorney Registration and Disciplinary Commission or another governmental authority or agency charged with administering or enforcing the provisions of this

Section, or upon order of a court of competent jurisdiction, a licensed attorney or law firm shall be permitted to provide a self-certification attesting, under oath, to the fact that (i) the licensed attorney's or law firm's annual global revenue is more or less than $300,000,000, (ii) the licensed attorney or law firm regularly represents clients on a contingent fee basis, as that term is used in this subsection, and derived more or less than 50% of the licensed attorney's or law firm's revenues from contingent fee arrangements in each of the previous 3 calendar years, as determined in accordance with this subsection, or (iii) both (i) and (ii).

(c) Any attorney or law firm subject to this Section that is party to an agreement with a management services organization must disclose in all attorney-client contracts that the attorney or law firm is party to such an agreement and the material terms of the agreement. Failure to comply with this duty will subject the lawyer or law firm to the provisions of subsection (g).

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

(1) interfere with the professional judgment of attorneys in representing clients;

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

(A) to reveal, own, or determine the content of client records or to reveal any attorney-client communications;

(B) to select, hire, or terminate attorneys or allied legal staff; or

(C) to set competency, productivity, or proficiency parameters for attorneys or allied legal staff;

(3) charge any fee to the attorney or law firm that is directly or indirectly based on the attorney's fees, revenues, or profits of the attorney or law firm.

The prohibition in paragraph (3) of this subsection does not apply to the repayment of a loan or extension of credit the attorney or law firm is obligated to repay if that the amount of the borrower's obligation is not contingent upon or calculated on the basis of the borrower's attorney's fees, revenues, profits, or other financial performance.

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

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

(2) disparaging or commenting on that law firm or practice as to any issues involving quality of services,

ethical or professional challenges in the practice of law, or revenue-increasing strategies employed by an entity owned, operated, or controlled in whole or in part by persons not licensed as attorneys.

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

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

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

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

(g) A violation of this Section may constitute cause for the imposition of discipline by the Attorney Registration and Disciplinary Commission and subject the attorney, the management services organization, and the alternative business structure to the following penalties:

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

(2) attorney's fees and costs; and

(3) injunctive or declaratory relief.

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

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

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

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

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