Share the liability, spare the accountant, says institute chair

By Frank Dobrovnik
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It takes a lot to get an accountant worked up. But Ontario's "antiquated" legal liability system is enough to get Rod Barr's blood boiling.

"We have this huge liability issue which in essence says the public accountant is accountable for 100 per cent of the losses (of its client firms)," Barr, chair of the Institute of Chartered Accountants of Ontario, said Wednesday in Sault Ste. Marie.

The CAO is on a crusade to get Ontario's Securities Act to introduce a proportionate liability system, which more fairly distributes accountability and exposes accounting firms to penalties "only to the extent they're found wrong," he said.

"When you think about it, a set of financial statements is prepared by management, reviewed by a board of directors and then audited by an auditor. So at first blush, each participant would be one-third responsible."

Such a change in law would bring Ontario in line with other jurisdictions. The United States introduced proportionate liability about 10 years ago, after the catastrophic savings and loans scandal that saw all the S&L companies go bankrupt, "so there were no assets left and the directors had no responsibility, so the only people left standing to pay for the losses were the accounting firms."

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He says Ontario is one of the few jurisdictions in North America that still uses "joint and several liability." That means every party for financial loss arising from errors or misstatements can be held totally liable for that loss, regardless of each party's degree of responsibility.

This exposes the accounting profession to catastrophic liability, Barr says.

"Because we don't have a cap now, because we have this wide-open liability, most of the big firms are finding it impossible to get insurance coverage. They're in essence self-insured."