

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2082

Introduced by

Political Subdivisions Committee

(At the request of the Abstracters' Board of Examiners)

1 A BILL for an Act to create and enact a new section to chapter 43-01 of the North Dakota
2 Century Code, relating to the temporary certification of an abstracter to work in a county that
3 has no certified abstracter; and to amend and reenact sections 43-01-15.1 and 43-01-16 of the
4 North Dakota Century Code, relating to the furnishing of limited abstracts upon request and the
5 cancellation of an abstracter's certificate.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 43-01-15.1 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **43-01-15.1. Surface abstracts and mineral abstracts to be furnished upon**
10 **request - Zoning and subdivision exclusion upon request.** An abstracter shall furnish an
11 abstract of title to the surface of any tract of land, when requested to do so, omitting therefrom
12 all instruments of transfer or conveyance of mineral rights, royalties, and other mineral interests
13 except instruments which sever mineral rights or royalties from surface rights. In addition to
14 such surface abstract, an abstracter shall, when requested to do so, furnish a list showing the
15 names of the grantor and grantee and the recording data of all instruments in the chains of title
16 which transfer or convey mineral rights, royalties, or other mineral interests and which are not
17 included in the surface abstract. For each instrument searched and listed, but not included in
18 the surface abstract, an abstracter may charge a fee of one dollar and fifty cents, and no more.
19 When requested to do so, an abstracter shall furnish a mineral abstract of any chain of title to
20 the minerals of any tract of land which shall consist of the instrument severing the mineral rights
21 or royalties from the surface rights and include all instruments of transfer or conveyance of
22 mineral rights, royalties, and other mineral interests. If requested, such mineral abstract may
23 be combined with a surface abstract of all instruments affecting title to the tract of land to and
24 including the instrument severing the mineral rights, royalties, or other mineral interests being

1 abstracted. Further, when requested to do so, an abstracter shall omit zoning and subdivision
2 ordinances but shall note and exclude them from the abstract of title. An abstracter may
3 charge a per entry fee under section 43-01-18 for each omitted zoning and subdivision
4 ordinance.

5 **SECTION 2. AMENDMENT.** Section 43-01-16 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **43-01-16. Cancellation or denial of certificate - Discipline.** The board, after
8 receiving a written and signed complaint alleging a violation of any ground for discipline under
9 this section and upon thirty days' notice, may require any person, firm, corporation, or limited
10 liability company holding a certificate of authority, or any person holding a certificate as a
11 registered abstracter, to show cause why the same should not be ~~annulled~~ canceled or other
12 disciplinary measures taken. The board may deny an application for a certificate of authority or
13 a certificate of registration for any reason that a certificate of authority or a certificate of
14 registration may be canceled or disciplinary measures taken. A certificate of authority or
15 certificate of registration may be ~~recalled and annulled~~ canceled or disciplinary measures
16 taken, however, only for one or more of the following reasons:

- 17 1. Violation of the provisions of this chapter or the board's administrative rules by the
18 holder.
- 19 2. If the holder thereof has been convicted of an offense determined by the board to
20 have a direct bearing upon the holder's ability to serve the public as an abstracter,
21 or if, following conviction of an offense, the board finds the holder is not sufficiently
22 rehabilitated under section 12.1-33-02.1.
- 23 3. A finding by the board that the holder is guilty of habitual carelessness, inattention
24 to business or unreasonable timeliness of service, or intoxication; or the use of
25 drugs to such an extent as to incapacitate the holder for business, including not
26 preparing an abstract as requested under section 43-01-15.1.
- 27 4. A finding by the board that the holder is guilty of fraudulent practices.
- 28 5. A certificate of authority may be canceled, or other disciplinary measures taken,
29 upon the failure of the holder thereof to provide additional security as provided by
30 section 43-01-12, or upon failure to file an abstracter's liability policy in lieu of any

1 canceled policy, before such cancellation becomes effective, or a surety bond in
2 place thereof.

3 The board may inspect an abstractor's records to determine compliance with this chapter or
4 rules adopted under this chapter. The board may adopt rules under chapter 28-32 addressing
5 discipline of abstractors, including establishing standards for timeliness of service based on a
6 presumed standard turnaround time of three weeks or less. If the certificate of authority is held
7 by a firm, corporation, or limited liability company, the provisions of this section shall be
8 applicable to the members, officers, or managers thereof. Disciplinary measures that the board
9 may take include canceling or suspending a certificate of authority or certificate of registration,
10 requiring additional education, establishing a mentor or monitor, restricting practice parameters,
11 or imposing a monetary penalty of no greater than five hundred dollars for each violation. In
12 addition, an individual or organization found in violation of the requirements of this section may
13 be assessed costs, including attorney's fees, by the board. An entity whose certificate of
14 authority has been canceled or suspended must surrender all customer abstracts and pending
15 orders to the board immediately upon being notified of the cancellation or suspension. The
16 board shall take reasonable measures to contact the customers.

17 **SECTION 3.** A new section to chapter 43-01 of the North Dakota Century Code is
18 created and enacted as follows:

19 **Temporary authority of an abstractor to act in an additional county.**

20 1. If it appears to the board that there is no abstractor authorized to engage in and
21 carry on the business of an abstractor of real estate titles in a county or that there
22 is an authorized abstractor in a county who is unable to perform the duties of an
23 abstractor due to death, disability, a disaster or emergency, or disciplinary action,
24 the board may authorize an individual or organization having a certificate of
25 authority and certificate of registration to operate in another county to operate in
26 the county having no abstractor through the issuance of a temporary certificate of
27 authority. The board may not charge an abstractor for the temporary certificate of
28 authority. The board may require additional security than provided under section
29 43-01-11. The abstractor operating under the temporary certificate of authority is
30 not required to have a complete set of abstract books or records of all instruments
31 of record in the office of the recorder in and for the county in which the abstractor

1 is temporarily engaged in business, nor need the abstractor have been engaged in
2 the preparation of such books or records. The temporary certificate of authority
3 may not exceed such time as the board has determined an abstractor having a
4 regular certificate of authority and certificate of registration is able to engage in and
5 carry on the business of an abstractor of real estate titles in the county, but the
6 abstractor holding the temporary certificate of authority may complete any work
7 already engaged. The abstractor having a temporary certificate of authority may
8 seek to operate in the county on a regular basis through compliance with all
9 statutory requirements.

10 2. The board may establish a fund to provide for additional expenses of an abstractor
11 operating under a temporary certificate of authority. The fund may be paid for by
12 an additional fee fixed by the board of no more than fifty dollars per year for each
13 certificate of registration. The fund may not exceed five thousand dollars. The
14 board may pay the expenses, including mileage, meals, and lodging, of an
15 abstractor operating under a temporary certificate of authority at the rates
16 established for state employees on official business.