

SENATE BILL NO. 2158

Introduced by

Senators Hacker, Heitkamp, J. Lee

Representatives Carlson, Dietrich, Koppelman

1 A BILL for an Act to amend and reenact section 43-07-02, subsection 3 of section 43-07-04,
2 section 43-07-10, and subsection 3 of section 43-07-14 of the North Dakota Century Code,
3 relating to contractor licenses and unlicensed contractors.

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

5 **SECTION 1. AMENDMENT.** Section 43-07-02 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **43-07-02. License required.** A person may not engage in the business nor act in the
8 capacity of a contractor within this state when the cost, value, or price per job exceeds the sum
9 of two thousand dollars nor may the person maintain any claim, action, suit, or proceeding in
10 any court of this state related to the person's business or capacity as a contractor without first
11 having a license as provided in this chapter.

12 **SECTION 2. AMENDMENT.** Subsection 3 of section 43-07-04 of the North Dakota
13 Century Code is amended and reenacted as follows:

- 14 3. No sooner than twenty days after sending written notice to a contractor at the
15 contractor's last-known address, the registrar shall classify as not in good standing
16 the license of any contractor who fails to:
- 17 a. Maintain liability insurance coverage required by this section or by section
18 43-07-10;
 - 19 b. File, renew, or properly amend any fictitious name certificate required by
20 chapter 45-11;
 - 21 c. Maintain an active status of a corporation or registration as a foreign
22 corporation;
 - 23 d. Maintain an active status of a limited liability company or registration as a
24 foreign limited liability company;

- 1 e. File or renew a trade name registration as required by chapter 47-25;
- 2 f. ~~File or renew~~ Maintain a limited liability partnership registration or foreign
- 3 limited liability partnership registration as required by chapter 45-22; or
- 4 g. ~~File or renew~~ Maintain a limited partnership certificate of limited partnership or
- 5 foreign limited partnership certificate of authority.

6 **SECTION 3. AMENDMENT.** Section 43-07-10 of the North Dakota Century Code is

7 amended and reenacted as follows:

8 **43-07-10. Renewal of license - Grounds for nonrenewal - Time requirements -**

9 **Invalidity of license for failure to renew.**

- 10 1. Any license issued under this chapter may be renewed for each successive fiscal
- 11 year by obtaining from the registrar a certificate of renewal. To obtain a certificate
- 12 of renewal, the licensee shall file with the registrar an application, which includes a
- 13 listing of each project, contract, or subcontract completed by the licensee during
- 14 the preceding calendar year in this state over the amount of twenty-five thousand
- 15 dollars, the nature of the work of each project, contract, or subcontract, and, if a
- 16 performance bond was required, the name and address of the person who issued
- 17 the bond. The registrar shall within a reasonable time forward a copy of the list to
- 18 the state tax commissioner. The applicant shall include with the application a copy
- 19 of a certificate of liability insurance unless the registrar has a current valid
- 20 certificate of insurance on file, and a certification that the applicant has submitted
- 21 all payroll taxes, including North Dakota income tax, workforce safety and
- 22 insurance premiums, and unemployment insurance premiums due at the time of
- 23 renewal, which documents need not be notarized.
- 24 2. The registrar may refuse to renew a license if the registrar determines the
- 25 application contains false, misleading, or incomplete information or if the
- 26 contractor's license is not in good standing for any of the reasons listed in
- 27 subsection 3 of section 43-07-04. The registrar shall notify the applicant in writing
- 28 if the registrar does not grant the license and shall provide the applicant an
- 29 opportunity to respond to or cure the defect in the application for a period of ten
- 30 days from the date of the written notification. An applicant aggrieved by a decision

1 of the registrar not to grant the license may appeal the decision to the district court
2 of the applicant's county of residence or Burleigh County.

3 3. The application for a certificate of renewal must be made to the registrar on or
4 before the first day of March of each year. At the time of filing the application for a
5 certificate of renewal, the applicant shall pay to the registrar a renewal fee equal to
6 twenty percent of the license fee established in section 43-07-07. If any contractor
7 applies for a renewal under a class different from the license previously issued, the
8 new class license may be issued upon the payment of the fee required for the
9 issuance of the license of the class applied for. If any contractor fails to file an
10 application for a certificate of renewal by the March first deadline, the contractor's
11 license is not in good standing and the contractor must be deemed to be
12 unlicensed within the meaning of sections 43-07-02 and 43-07-18. Within sixty
13 days after March first, the contractor must be notified by mail that the contractor's
14 license is not in good standing. The contractor then has until June first to renew by
15 paying a penalty fee of seventy-five percent of the renewal fee, filing an application
16 for a certificate of renewal, and paying the renewal fee. A contractor who applies
17 for a certificate of renewal before or within ninety days of the filing deadline is not
18 subject to the investigation authorized in section 43-07-09. After the June first
19 deadline any licenses not renewed are revoked. Any application for a certificate of
20 renewal must be fully completed within sixty days of the date the application is
21 received by the registrar or the registrar shall return the application to the
22 contractor who then is subject to section 43-07-09. The registrar may destroy all
23 renewals provided for in this section after they have been on file for six years.

24 **SECTION 4. AMENDMENT.** Subsection 3 of section 43-07-14 of the North Dakota
25 Century Code is amended and reenacted as follows:

26 3. Any act or omission under this section may also constitute grounds for the attorney
27 general to bring an action under chapter 51-15 against the licensee or any
28 unlicensed person engaging in the business or acting in the capacity of a
29 contractor in violation of section 43-07-02 and subjects the licensee or any such
30 unlicensed person to all provisions, procedures, remedies, and penalties provided
31 for in chapter 51-15.