

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2061

Introduced by

Workforce Development Committee

(At the request of the Board of Accountancy)

1 A BILL for an Act to create and enact a new subsection to section 43-02.2-09 of the North
2 Dakota Century Code, relating to administrative hearings; and to amend and reenact
3 subsection 11 of section 43-02.2-02, paragraph 2 of subdivision f of subsection 5 of section
4 43-02.2-03, and sections 43-02.2-04 and 43-02.2-10, of the North Dakota Century Code,
5 relating to the practice and licensure of public accountancy.

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

7 **SECTION 1. AMENDMENT.** Subsection 11 of section 43-02.2-02 of the North Dakota
8 Century Code is amended and reenacted as follows:

9 11. "Principal place of business" means the office location ~~designed~~designated by the
10 licensee for purposes of substantial equivalence and reciprocity.

11 **SECTION 2. AMENDMENT.** Paragraph 2 of subdivision f of subsection 5 of section
12 43-02.2-03 of the North Dakota Century Code is amended and reenacted as follows:

13 (2) Rules of procedure governing the conduct of investigations and hearings ~~by~~
14 ~~the board~~;

15 **SECTION 3. AMENDMENT.** Section 43-02.2-04 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **43-02.2-04. Certified public accountants.**

- 18 1. The board shall grant the certificate of "certified public accountant" to any person of
19 ~~good moral character~~ who meets the requirements of this section.
- 20 2. ~~For the purposes of this chapter, good moral character means the lack of a history of~~
21 ~~dishonest or felonious acts. The board may refuse to grant a certificate on the grounds~~
22 ~~of failure to satisfy this requirement only if there is a substantial connection between~~
23 ~~the lack of good moral character of the applicant and the professional responsibilities~~
24 ~~of a licensee and if the finding by the board of lack of good moral character is~~

1 supported by clear and convincing evidence. When an applicant is found to be
2 unqualified for a certificate because of a lack of good moral character, the board shall
3 furnish the applicant a statement containing the findings of the board, a complete
4 record of the evidence upon which the determination was based, and a notice of the
5 applicant's right of appeal. The board may not grant a certificate if the applicant has
6 been convicted of a felony, or of any crime an element of which is dishonesty or fraud,
7 under the laws of the United States, this state, or any other state if the acts involved
8 would have constituted a crime under the laws of this state.

9 3. The board shall grant or renew certificates to persons who make application and
10 demonstrate that their qualifications are in accordance with the following:

11 a. The board shall issue a certificate to a holder of a certificate, license, or permit
12 issued by another state, upon a showing that the applicant is eligible under the
13 substantial equivalency standard set out in subsection 1 of section 43-02.2-04.1.
14 An application under this section may be made through the NASBA qualification
15 appraisal service.

16 b. With regard to applicants that do not qualify for reciprocity under the substantial
17 equivalency standard set out in subdivision a, the board shall issue a certificate
18 to a holder of a certificate, license, or permit issued by another state upon a
19 showing that:

20 (1) The applicant passed the uniform CPA examinations;

21 (2) The applicant had four years of experience of the type described in
22 subsection 14 or meets comparable requirements prescribed by the board
23 by rule, after passing the examination upon which the applicant's certificate
24 was based and within ten years immediately preceding the application; and

25 (3) If the applicant's certificate, license, or permit was issued more than four
26 years prior to the application for issuance of an initial certificate under this
27 section, that the applicant has fulfilled the requirements of continuing
28 professional education that would have been applicable under
29 subsection 15.

30 c. The applicant shall pay the applicable fee.

- 1 d. An individual who establishes that individual's principal place of business in this
2 state must obtain a certificate under this section.
- 3 4. The board shall issue a certificate to a holder of a recognized accounting designation
4 from a jurisdiction or organization outside of the United States, provided such
5 jurisdiction or organization extends similar reciprocity to the certificate holders of this
6 state, and upon a showing to the board's satisfaction that the applicant:
- 7 a. ~~Meets the good moral character requirement of subsection 2;~~
8 b. Meets the substantial equivalent of the education requirements of subsection 5
9 and the experience requirements of subsection 14 at the time of application, or at
10 the time of the issuance of the designation by the other jurisdiction or
11 organization met the education and experience requirements then applicable in
12 this state;
- 13 e.b. Has completed examinations generally equivalent to those prescribed under
14 subsection 6;
- 15 d.c. Has satisfactorily completed any additional examinations that the board
16 prescribes; and
- 17 e.d. Has paid the applicable fees.
- 18 5. The education requirement for a certificate is ~~as follows:~~
- 19 a. ~~Through December 31, 1999, a baccalaureate degree or its equivalent conferred~~
20 ~~by a college or university acceptable to the board, and an accounting~~
21 ~~concentration or equivalent as determined by board rule to be appropriate, or four~~
22 ~~years of public accounting experience on one's own account or in the office of a~~
23 ~~public accountant in active practice, or in an accounting or auditing position with~~
24 ~~the government of the United States or a state.~~
- 25 b. ~~After December 31, 1999, at least one hundred fifty semester hours of college~~
26 ~~education including a baccalaureate or higher degree or its equivalent conferred~~
27 ~~by a college or university acceptable to the board, the total educational program~~
28 ~~to include an accounting concentration or equivalent as determined by board rule~~
29 ~~to be appropriate. An individual who on December 31, 1999, meets the~~
30 ~~requirements of subdivision a may obtain a certificate under subdivision a if the~~

1 individual passes the examination in accordance with board rules before-
2 December 31, 2004.

3 6. The examination required to be passed as a condition for the granting of a certificate
4 must test the applicant's knowledge of the subjects of accounting and auditing. The
5 time for holding the examination must be fixed by the board and may be changed from
6 time to time. The board may prescribe by rule the methods of applying for and
7 conducting the examination, including methods for grading papers and determining a
8 passing grade required of an applicant for a certificate provided that the board to the
9 extent possible sees to it that the grading of the examination and the passing grade
10 requirements are uniform with those applicable in all other states. The board may use
11 all or any part of the uniform certified public accountant examination and advisory
12 grading service of the American institute of certified public accountants and may
13 contract with third parties to perform administrative services with respect to the
14 examination it deems appropriate to assist it in performing its duties. The board may
15 permit a candidate to take the examination if the board is satisfied that the candidate
16 will complete the educational requirements of this section within six months after the
17 candidate's application to take the examination candidate has at least one hundred
18 twenty semester hours of college education.

19 7. An applicant must pass the examination provided for in subsection 6, as specified by
20 rule, in order to qualify for a certificate.

21 8. An applicant must be given credit for any and all sections of an examination passed in
22 another state if such credit would have been given under then applicable
23 requirements, if the applicant had taken the examination in this state.

24 9. The board may in particular cases waive or defer any of the requirements of
25 subsections 7 and 8 regarding the circumstances under which the examination must
26 be passed, upon a showing that, by reason of circumstances beyond the applicant's
27 control, the applicant was unable to meet the requirement.

28 10. The board may charge, or provide for a third party administering the examination to
29 charge, each applicant a fee, in an amount prescribed by the board by rule, for
30 examination or re-examination.

- 1 11. A certificate of certified public accountant must be renewed each year, with renewal
2 subject to payment of fees and any other requirements prescribed by the board.
- 3 12. The board may require examination of other related subjects as specified by rule.
- 4 13. Applicants for initial issuance or renewal of certificates under this section shall list in
5 the applications all states and jurisdictions in which they have applied for or hold
6 certificates or permits or other recognized accounting designation, and each holder of
7 or applicant for a certificate under this section shall notify the board in writing, within
8 thirty days after its occurrence, of any issuance, denial, revocation, or suspension of a
9 certificate or permit or other recognized accounting designation by another state or
10 jurisdiction.
- 11 14. After December 31, 2000, an applicant for initial issuance of a certificate under this
12 section shall show that the applicant has had one year of experience. This experience
13 must include providing any type of service or advice involving the use of accounting,
14 attest, management advisory, financial advisory, tax, or consulting skills. This
15 experience must be verified and must meet any other requirements prescribed by the
16 board by rule. This experience is acceptable if it was gained through employment in
17 government, industry, academia, or public accounting. This experience requirement
18 does not apply to those who received a certificate from this state prior to January 1,
19 2000.
- 20 15. The board may require by rule, as a condition for granting and renewal of certificates
21 under this section, that applicants show completion of continuing education meeting
22 requirements of board rule. The continuing education rules may include provisions for
23 exceptions and must include reasonable provision for an applicant who cannot meet
24 the continuing education requirements due to circumstances beyond the applicant's
25 reasonable control.
- 26 16. The board may by rule create an exception to the continuing education requirements
27 for certificate holders who do not perform or offer to perform for the public one or more
28 kinds of services involving the use of accounting or auditing skills, including issuance
29 of reports on financial statements or of one or more kinds of management advisory,
30 financial advisory or consulting services, or the preparation of tax returns or the
31 furnishing of advice on tax matters. Licensees granted such an exception by the board

1 shall place the word "inactive" adjacent to the licensee's CPA title or LPA title on any
2 business card, letterhead or any other document or device, with the exception of the
3 licensee's CPA or LPA certificate, on which the licensee's CPA or LPA title appears. In
4 addition, inactive CPAs, ~~at least sixty years of age~~, in lieu of "inactive", may place the
5 word "retired" adjacent to the individual's CPA title or LPA title on any business card,
6 letterhead or any other document or device, with the exception of the individual's CPA
7 or LPA certificate, on which the individual's CPA or LPA title appears. Nothing in this
8 section precludes an inactive CPA, ~~at least sixty years of age~~, from providing the
9 following volunteer, uncompensated services: tax preparation services, participating in
10 a government-sponsored business mentoring program, serving on the board of
11 directors for a nonprofit or governmental organization, or serving on a government-
12 appointed advisory body. A licensee only may convert to inactive status if the licensee
13 holds a license in good standing.

14 **SECTION 4.** A new subsection to section 43-02.2-09 of the North Dakota Century Code is
15 created and enacted as follows:

16 A hearing regarding a disciplinary action or denial of a license must be held pursuant
17 to chapter 28-32.

18 **SECTION 5. AMENDMENT.** Section 43-02.2-10 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **43-02.2-10. Enforcement procedures - Investigations.**

- 21 1. If this chapter authorizes the board to revoke, deny, or suspend the certificate, license,
22 practice privilege, or permit of any licensee or holder of a practice privilege, the
23 individual or firm has a right to a hearing before the board on such contemplated
24 disciplinary action and has a right to appeal to the courts from the decision of the
25 board on the hearing. All of the provisions of chapter 28-32 relating to proceedings
26 before an administrative agency are applicable to and govern the notice of hearing,
27 the hearing, and the right of appeal from the board's decision. ~~During the investigation~~
28 of any complaint or other information suggesting violations of this chapter
29 2. The board, upon receipt of a complaint or other information suggesting violations of
30 this chapter or of the rules of the board, may conduct investigations to determine

- 1 whether there is reasonable basis to pursue disciplinary action against any individual
2 or firm for the violation.
- 3 3. The board may designate a member or employee to serve as investigating officer to
4 conduct an investigation. Upon completion of an investigation, the investigating officer
5 may file a report with the board. The board may find grounds to pursue disciplinary
6 action under section 43-02.2-09 upon the basis of the report or may return the report
7 to the investigating officer for further investigation.
- 8 4. Until there has been a determination to pursue disciplinary action under section
9 43-02.2-09, the report of the investigating officer, the complaint, if any, the testimony
10 and documents submitted in support of the complaint or gathered in the investigation,
11 and the fact of the ~~pending~~ pendency of the investigation must be treated as
12 confidential information and may not be disclosed to any person except law
13 enforcement authorities and, to the extent deemed necessary in order to conduct the
14 investigation, the subject of the investigation, persons whose complaints are being
15 investigated, and witnesses questioned in the course of the investigation.