

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

SENATE BILL NO. 2082
(Political Subdivisions Committee)
(At the request of the Abstracters' Board of Examiners)

AN ACT to create and enact a new section to chapter 43-01 of the North Dakota Century Code, relating to the temporary certification of an abstractor to work in a county that has no certified abstractor; and to amend and reenact sections 43-01-15.1 and 43-01-16 of the North Dakota Century Code, relating to the furnishing of limited abstracts upon request and the cancellation of an abstractor's certificate.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

43-01-15.1. Surface abstracts and mineral abstracts to be furnished upon request - Zoning and subdivision exclusion upon request. An abstractor shall furnish an abstract of title to the surface of any tract of land, when requested to do so, omitting therefrom all instruments of transfer or conveyance of mineral rights, royalties, and other mineral interests except instruments which sever mineral rights or royalties from surface rights. In addition to such surface abstract, an abstractor shall, when requested to do so, furnish a list showing the names of the grantor and grantee and the recording data of all instruments in the chains of title which transfer or convey mineral rights, royalties, or other mineral interests and which are not included in the surface abstract. For each instrument searched and listed, but not included in the surface abstract, an abstractor may charge a fee of one dollar and fifty cents, and no more. When requested to do so, an abstractor shall furnish a mineral abstract of any chain of title to the minerals of any tract of land which shall consist of the instrument severing the mineral rights or royalties from the surface rights and include all instruments of transfer or conveyance of mineral rights, royalties, and other mineral interests. If requested, such mineral abstract may be combined with a surface abstract of all instruments affecting title to the tract of land to and including the instrument severing the mineral rights, royalties, or other mineral interests being abstracted. Further, when requested to do so, an abstractor shall omit zoning and subdivision ordinances but shall note and exclude them from the abstract of title. An abstractor may charge a per entry fee under section 43-01-18 for each omitted zoning and subdivision ordinance.

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

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

1. Violation of the provisions of this chapter or the board's administrative rules by the holder.
2. If the holder thereof has been convicted of an offense determined by the board to have a direct bearing upon the holder's ability to serve the public as an abstractor, or if, following

conviction of an offense, the board finds the holder is not sufficiently rehabilitated under section 12.1-33-02.1.

3. A finding by the board that the holder is guilty of habitual carelessness, inattention to business or unreasonable timeliness of service, or intoxication; or the use of drugs to such an extent as to incapacitate the holder for business, including not preparing an abstract as requested under section 43-01-15.1.
4. A finding by the board that the holder is guilty of fraudulent practices.
5. A certificate of authority may be canceled, or other disciplinary measures taken, upon the failure of the holder thereof to provide additional security as provided by section 43-01-12, or upon failure to file an abstracter's liability policy in lieu of any canceled policy, before such cancellation becomes effective, or a surety bond in place thereof.

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

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

Temporary authority of an abstracter to act in an additional county.

1. If it appears to the board that there is no abstracter authorized to engage in and carry on the business of an abstracter of real estate titles in a county or that there is an authorized abstracter in a county who is unable to perform the duties of an abstracter due to death, disability, a disaster or emergency, or disciplinary action, the board may authorize an individual or organization having a certificate of authority and certificate of registration to operate in another county to operate in the county having no abstracter through the issuance of a temporary certificate of authority. The board may not charge an abstracter for the temporary certificate of authority. The board may require additional security than provided under section 43-01-11. The abstracter operating under the temporary certificate of authority is not required to have a complete set of abstract books or records of all instruments of record in the office of the recorder in and for the county in which the abstracter is temporarily engaged in business, nor need the abstracter have been engaged in the preparation of such books or records. The temporary certificate of authority may not exceed such time as the board has determined an abstracter having a regular certificate of authority and certificate of registration is able to engage in and carry on the business of an abstracter of real estate titles in the county, but the abstracter holding the temporary certificate of authority may complete any work already engaged. The abstracter having a temporary certificate of authority may seek to operate in the county on a regular basis through compliance with all statutory requirements.
2. The board may establish a fund to provide for additional expenses of an abstracter operating under a temporary certificate of authority. The fund may be paid for by an additional fee fixed by the board of no more than fifty dollars per year for each certificate of registration. The fund may not exceed five thousand dollars. The board may pay the

expenses, including mileage, meals, and lodging, of an abstracter operating under a temporary certificate of authority at the rates established for state employees on official business.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2082.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 86 Nays 4 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at _____ o'clock _____ M.

Secretary of State