

FIRST ENGROSSMENT

ENGROSSED SENATE BILL NO. 2144

Introduced by

Senators Klein, Barta, Roers

Representatives Schauer, Warrey

1 A BILL for an Act to amend and reenact subsection 2 of section 43-55-03, section 43-55-09,
2 subsection 8 of section 44-06.1-20, and sections 44-06.1-28, 47-25-04, 47-25-07, and 54-09-04
3 of the North Dakota Century Code, relating to information required in applications for
4 professional employer services licensure, confidential records maintained by the secretary of
5 state, notification provided to and fees charged by a notary public, notification provided to the
6 registrant of a trade name, and fees charged by the secretary of state; and to provide a penalty.

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

8 **SECTION 1. AMENDMENT.** Subsection 2 of section 43-55-03 of the North Dakota Century
9 Code is amended and reenacted as follows:

10 2. Each applicant for licensure shall provide the secretary of state with the following
11 information:

12 a. The name of the professional employer organization and any name under which
13 the professional employer organization intends to conduct business in this state.

14 b. The designation of organization of the applicant whether domestic or foreign; a
15 corporation, limited liability company, general partnership, limited partnership,
16 limited liability partnership, limited liability limited partnership, sole proprietor, or
17 any other person subject to a governing statute; and the jurisdiction of origin of
18 the organization.

19 c. The address of the principal place of business of the professional employer
20 organization and the address of each office it maintains in this state.

21 d. ~~The professional employer organization's taxpayer or employer identification~~
22 ~~number.~~

- 1 e. The date of the end of the applicant's fiscal year.
- 2 f.e. A list of jurisdictions in which the professional employer organization has
- 3 operated in the preceding five years, including any alternative names, names of
- 4 predecessors, and, if known, successor business entities.
- 5 g.f. A statement of ownership, which must include the name and address of any
- 6 person that owns or controls twenty-five percent or more of the equity interests of
- 7 the professional employer organization.
- 8 h.g. A statement of management, which must include the name and address of any
- 9 individual who serves as president, chief executive officer, or otherwise has the
- 10 authority to act as a senior executive officer of the professional employer
- 11 organization.
- 12 i.h. A bond as provided under section 43-55-05.
- 13 j.i. A copy of the employer's quarterly contribution and wage report to job service
- 14 North Dakota for the quarter ending immediately before the date submitted to the
- 15 secretary of state. A professional employer organization that has not filed an
- 16 employer's quarterly contribution and wage report with job service North Dakota
- 17 shall submit a bond in the amount as provided under section 43-55-05.

18 **SECTION 2. AMENDMENT.** Section 43-55-09 of the North Dakota Century Code is

19 amended and reenacted as follows:

20 **43-55-09. Confidential records.**

- 21 ~~1. The social security number or federal tax identification number disclosed or contained~~
- 22 ~~in an application filed with the secretary of state under this chapter is confidential. The~~
- 23 ~~secretary of state shall delete or obscure any social security number or federal tax~~
- 24 ~~identification number before a copy of an application is released to the public.~~
- 25 2. All audited financial reports and the employers' quarterly contribution and wage report to
- 26 job service North Dakota are confidential except to the extent necessary for the proper
- 27 administration of this chapter by the secretary of state or the attorney general.

28 **SECTION 3. AMENDMENT.** Subsection 8 of section 44-06.1-20 of the North Dakota

29 Century Code is amended and reenacted as follows:

- 30 8. The secretary of state shall notify each notary public, in a manner as prescribed by the
- 31 secretary of state, at least thirty days before the expiration of the notary public's term

1 of the date ~~upon~~on which the notary public's commission will expire. ~~The notice must~~
2 ~~be addressed to the notary public at the last known place of residence.~~

3 **SECTION 4. AMENDMENT.** Section 44-06.1-28 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **44-06.1-28. Fees to be charged for notarial acts - Penalty.**

6 1. A notary public is entitled to charge and receive not more than five dollars per notarial
7 act. A notary who charges a fee exceeding that amount is guilty of an infraction. It is an
8 infraction for any person other than the notary public to impose or collect any
9 monetary fee, charge, or commission in connection with the notarization of any
10 document.

11 2. A notary may charge a travel fee when traveling to perform a notarial act if:

12 1. a. The notary and the person requesting the notarial act agree upon the travel fee in
13 advance of the travel; and

14 2. b. The notary explains to the person requesting the notarial act that the travel fee is
15 both separate from the notarial fee and neither specified nor mandated by law.

16 3. A notary may charge a technology fee when performing a notarial act under section
17 44-06.1-13.1 or 44-06.1-18 if:

18 a. The notary incurred fees for using technology to perform the notarial act;

19 b. The notary and the person requesting the notarial act agree upon the technology
20 fee in advance; and

21 c. The notary explains to the person requesting the notarial act the technology fee
22 is separate from the notarial act fee.

23 **SECTION 5. AMENDMENT.** Section 47-25-04 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **47-25-04. Trade names - Registration - Fees - Renewal - Notice.**

26 1. For the registration of a trade name under this chapter, the registrant shall pay to the
27 secretary of state a fee of twenty-five dollars for an original registration, a fee of
28 twenty-five dollars for an assignment, and a fee of ten dollars for a consent to use of a
29 similar name or any other change in the original registration under this chapter. A
30 registration remains in force for a period of five years from the date of the original
31 registration and may be renewed within ninety days before its expiration date by

1 reregistering in the same manner as an original registration. The secretary of state
2 shall notify the registrant ~~by mail~~in a manner as prescribed by the secretary of state at
3 least ninety days before the expiration of the registration.

4 2. The secretary of state may destroy all registrations or renewals one year after
5 expiration.

6 **SECTION 6. AMENDMENT.** Section 47-25-07 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **47-25-07. Cancellation.**

9 The secretary of state shall cancel from the register:

- 10 1. ~~Any~~A registration ~~concerning~~for which the secretary of state receives a voluntary
11 request for cancellation from the registrant or the assignee of record on forms
12 prescribed by the secretary of state. In the case of a registrant who is a deceased
13 individual, the request for cancellation may be made by the personal representative of
14 the registrant's estate.
- 15 2. ~~Any~~A registration ~~concerning~~for which a state district court finds any of the following:
16 a. That the registered trade name has been abandoned.
17 b. That the registrant is not the owner of the trade name.
18 c. That the registration was granted improperly.
19 d. That the registration was obtained fraudulently.
20 e. That the trade name registered is so similar to a trade name registered by
21 another person as to be likely to cause confusion or mistake or to deceive.
- 22 3. ~~Any~~A registration a district court orders canceled on any grounds.
- 23 4. ~~Any~~A trade name when the registrant is a corporation, limited liability company, limited
24 partnership, limited liability partnership, or limited liability limited partnership that has
25 ceased to exist for six months.
- 26 5. A trade name in which a misrepresentation has been made of any material matter. The
27 secretary of state may not cancel a trade name under this subsection unless the
28 secretary of state has given notice of not less than thirty days to the registrant and any
29 parties that may be misrepresented at the address or electronic address on file with
30 the secretary of state.

SECTION 7. AMENDMENT. Section 54-09-04 of the North Dakota Century Code is amended and reenacted as follows:

54-09-04. Fees.

1. The secretary of state shall charge and collect the following fees:

~~1. For a copy of any law, resolution, record, or other document or paper on file in the secretary of state's office, fifty cents per page.~~

2. a. Unless otherwise provided by law, for affixing the signature of the secretary of state, certificate, or seal, or combination thereof to any document, ten dollars.

~~3. For filing a certificate of appointment of attorney, five dollars.~~

4. b. For searching records and archives of the state, five dollars. For the purposes of this section, a search of records conducted by the secretary of state for which a fee must be collected includes the following:

a. (1) A search of a filed document that is active or archived, an archived index, or an index of business name changes to identify specific information to satisfy a request;

b. (2) A search of any record for which written verification of the facts of the search is required; and

e. (3) For every search of records when the request for the search is contained in a list compiled by the requester.

The secretary of state may provide, at no charge, information from publications or reference materials published or maintained by the secretary of state and verbal confirmation of any element of information maintained in a computer database.

~~5. c.~~ c. For filing any paper transaction not otherwise provided for, ten dollars.

~~6. d.~~ d. For filing any process, notice, or demand for service, the fee provided in section 10-01.1-03.

~~7. e.~~ e. For preparing any listing or compilation of any information recorded or filed in the office of the secretary of state, forty dollars for each record type requested. Unless otherwise agreed to by the secretary of state, the information must be provided in an electronic format. If provided in a paper format, an additional fee of fifty cents per page may be charged.

- 1 2. An individual required to file an oath of office with the secretary of state may not be
2 charged for filing the oath of office, nor may a state or county officer be charged for
3 filing any document with the secretary of state when acting in the officer's official
4 capacity. All fees when collected must be paid by the secretary of state into the state
5 treasury at the end of each month and placed to the credit of the state. Unless
6 otherwise provided by law, the secretary of state shall retain a handling charge from
7 filing fees tendered when a document submitted to the secretary of state under any
8 law is rejected and not perfected. The handling charge is five dollars or fifty percent of
9 the filing fee, whichever is greater, but may not exceed one hundred dollars.
- 10 3. If, upon due presentment, any check, draft, money order, or other form of lawful
11 payment provisionally accepted in payment of any filing fee authorized to be charged
12 and collected by the secretary of state, is not honored or paid, or if no lawful form of
13 payment accompanies the filing, any record of credit or payment must be canceled or
14 reversed as though no credit had been given or payment attempted and the filing or
15 action is void. The secretary of state may return to the last-known address of the filer
16 any record or document that was attempted to be filed or may retain as unfiled the
17 record or document for a reasonable time to permit proper payment and filing.
- 18 4. This section does not apply to fees submitted for filing in, or information obtained from,
19 the computerized central notice system, to the computerized Uniform Commercial
20 Code central filing database, or to the computerized statutory liens database.