

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.