

**Fifty-sixth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Tuesday, the fifth day of January,
one thousand nine hundred and ninety-nine**

HOUSE BILL NO. 1150
(Industry, Business and Labor Committee)
(At the request of the State Board of Accountancy)

AN ACT to create and enact a new section to chapter 43-02.2 of the North Dakota Century Code, relating to substantial equivalency for obtaining a certificate or license to practice public accountancy; to amend and reenact sections 43-02.2-01, 43-02.2-02, 43-02.2-03, 43-02.2-04, 43-02.2-06, 43-02.2-07, 43-02.2-08, 43-02.2-09, 43-02.2-11, 43-02.2-12, 43-02.2-15, 43-02.2-16, and 43-02.2-17 of the North Dakota Century Code, relating to certified public accountants and the practice of public accountancy; and to repeal section 43-02.2-05 of the North Dakota Century Code, relating to individual permits to practice public accountancy.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-02.2-01 of the North Dakota Century Code is amended and reenacted as follows:

43-02.2-01. Purpose. It is the policy of this state, and the purpose of this chapter, to promote the reliability of information that is used for guidance in financial transactions or for accounting for or assessing the financial status or performance of commercial, noncommercial, and governmental enterprises. Public interest requires that persons professing special competence in accountancy or offering assurance as to the reliability or fairness of presentation of such information have demonstrated or maintained their qualifications to do so, and that persons who have not demonstrated and maintained such qualifications, including certificate holders not in public practice, not be permitted to hold themselves out as having such special competence or to offer such assurance. Public interest requires that the ~~professional~~ conduct of persons licensed as having special competence in accountancy be regulated in all aspects of ~~the practice of public accountancy~~ their professional work. Public interest requires that a public authority competent to prescribe and assess the qualifications and to regulate the ~~professional~~ conduct of practitioners of public accountancy and certificate holders not in public practice be established and that the use of titles ~~relating to the practice of public accountancy~~ which are likely to mislead the public as to the status or competence of the persons using such titles be prohibited.

SECTION 2. AMENDMENT. Section 43-02.2-02 of the North Dakota Century Code is amended and reenacted as follows:

43-02.2-02. Definitions. As used in this chapter, unless the context requires otherwise:

1. "Board" means the state board of accountancy.
2. "Certificate" means a certificate as "certified public accountant" issued under section 43-02.2-04 or provisions of prior law, or a corresponding certificate as certified public accountant issued after examination under the law of any other state.
3. "Client" means a person or entity that agrees with a licensee to receive any professional service other than an employer-employee relationship.
4. "Firm" means a sole proprietorship, a corporation, a partnership, or any combination thereof, or any other entity permitted by law.
4. 5. "Licensee" means the holder of a certificate, license, or permit issued under section ~~43-02.2-04, a permit issued under section 43-02.2-05 or 43-02.2-06, or a certificate or permit issued under~~ this chapter or prior law.

- ~~5.~~ 6. "Permit" means a permit to practice public accountancy issued under section ~~43-02.2-05 or 43-02.2-06~~ or 43-02.2-07, prior law, or corresponding provisions of the laws of other states.
- ~~6.~~ 7. "Practice of" or "practicing" public accountancy means the performance or the offering to perform by a person or firm holding out to the public as a licensee, for a client or potential client, ~~of one or more kinds of~~ services involving the use of accounting or auditing skills including the issuance of reports on financial statements, ~~or of one or more kinds of but not including~~ management advisory, financial advisory, or consulting services, bookkeeping services, or the preparation of tax returns or the furnishing of advice on tax matters unless provided by a firm with a permit issued under section 43-02.2-06 or 43-02.2-07.
- ~~7.~~ 8. "Practice review" means a study, appraisal, or review of one or more aspects of the professional work of a ~~person or~~ firm in the practice of public accountancy, by a person or persons who hold certificates and are in the practice of public accounting and who are not affiliated with the person or firm being reviewed.
9. "Professional" means arising out of or related to the specialized knowledge or skills associated with certified public accountants or licensed public accountants.
- ~~8.~~ 10. "Report", when used with reference to financial statements, means an opinion, report, or other form of language that states or implies assurance as to the reliability of any financial statements and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. A statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the issuer is an accountant, auditor, or is in the business of accounting, or from the language of the report. "Report" includes any form of language that disclaims an opinion when the form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to or special competence on the part of the person or firm issuing such language. "Report" includes any other form of language that is conventionally understood to imply such assurance or such special knowledge or competence.
- ~~9.~~ 11. "Rule" means any rule, regulation, or other written directive of general application duly adopted by the board.
- ~~10.~~ 12. "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, and Guam.
13. "Substantial equivalency" is a determination by the board or its designee that another jurisdiction's education, examination, and experience requirements are comparable to or exceed that of the uniform accountancy act, or that an individual's education, examination and experience qualifications are comparable to or exceed that of the uniform accountancy act.

SECTION 3. AMENDMENT. Section 43-02.2-03 of the North Dakota Century Code is amended and reenacted as follows:

43-02.2-03. State board of accountancy.

1. The state board of accountancy consists of five members appointed by the governor. Four members of the board must be residents of this state who hold certified public accountant certificates issued under the laws of this state and one member of the board must be a resident of this state who is a licensed public accountant under the laws of this state. When the number of licensed public accountants in this state drops below twenty-five, the licensed public accountant member requirement ceases to apply, except that the licensed public accountant then serving on the board may complete that term of office and thereafter the board shall consist of five certified public accountants. The terms of office must be arranged so that only one term expires each year on June thirtieth. Successor board member appointments are for terms of five years. Each member of the board shall

qualify by taking the oath of office required of civil officers and shall hold office until a successor is appointed and qualified. A vacancy on the board must be filled by appointment by the governor from a list of at least three nominees submitted by the appropriate nominating committee. Any member of the board whose certificate ~~or permit~~ is revoked or suspended automatically ceases to be a member of the board. The governor may remove any member of the board for neglect of duty or other just cause, after a hearing. No person who has served two ~~consecutive~~ complete terms is eligible for reappointment, but appointment to fill an unexpired term may not be considered a complete term for this purpose.

2. At its first meeting after June thirtieth in each year, the board shall organize by electing one of its members as president, one as secretary, and one as treasurer. The offices of secretary and treasurer may be held by one person. A majority of the board constitutes a quorum.
3. A member of the board is entitled to compensation in an amount to be fixed by the board for each day or portion of a day spent in the discharge of duties, mileage as provided under section 54-06-09, and reimbursement for actual and necessary expenses incurred in the discharge of official duties.
4. All expenses incident to examinations under this chapter, expenses of preparing and issuing certificates and ~~licenses~~ permits, travel expenses and other allowable expenses of the members of the board, and stationery, printing, clerk hiring, and other office expenses must be paid by the board from the fees collected by it, and no expense incurred under this chapter may be a charge against the funds of this state. Funds administered by the board may not revert to the state general fund.
5. The board has the following powers:
 - a. To administer oaths to all applicants or persons appearing before it in respect to investigations, examinations, or the issuance of certified public accountant certificates.
 - b. To conduct investigations and examinations and issue certificates to properly qualified applicants and ~~licenses~~ permits to properly qualified ~~accountants~~ firms.
 - c. To determine the qualifications of all applicants.
 - d. To employ and establish the salary of an executive director and such other personnel as it deems necessary in administration and enforcement of this chapter. The board may appoint committees or persons, including counsel, to advise or assist the board.
 - e. To take all action that is necessary and proper to effectuate the purposes of this chapter, including the power to sue and be sued in its official name as an agency of this state, to issue subpoenas to compel the attendance of witnesses and the production of documents, to administer oaths, to take testimony, to cooperate with appropriate authorities in other states in investigations and enforcement concerning violations of this chapter and comparable laws of other states, and to receive evidence concerning all matters within its jurisdiction. In case of disobedience of a subpoena, the board may invoke the aid of any court ~~of this state~~ in requiring the attendance and testimony of witnesses and the production of documentary evidence. The board, its members, and its agents are immune from personal liability for actions taken in good faith in the discharge of the board's responsibilities.
 - f. The board may adopt rules governing its administration and enforcement of this chapter and the conduct of licensees, including:
 - (1) Rules governing the board's meetings and the conduct of its business;
 - (2) Rules of procedure governing the conduct of investigations and hearings by the board;

- (3) Rules specifying the educational and experience qualifications required for the issuance of certificates under this chapter and the continuing ~~professional~~ education required for renewal of certificates and ~~permits licenses~~;
- (4) Rules of ~~professional~~ conduct including rules relating to independence, integrity, and objectivity; competence and technical standards; responsibilities to the public; and responsibilities to clients;
- (5) Rules specifying actions and circumstances that must be deemed to constitute holding oneself out as a licensee in connection with the practice of public accountancy;
- (6) Rules governing the manner and circumstances of use, ~~by holders of certificates who do not also hold permits under this chapter~~, of the titles "certified public accountant", "CPA", "licensed public accountant", and "LPA";
- (7) Rules concerning substantial equivalency;
- (8) Rules regarding practice reviews that may be required to be performed under this chapter; and
- ~~(8)~~ (9) Other rules the board deems necessary or appropriate for implementing this chapter.

SECTION 4. AMENDMENT. Section 43-02.2-04 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-02.2-04. Certified public accountants.

1. The board shall grant the certificate of "certified public accountant" to any ~~resident person~~ of good moral character who meets the requirements of this section.
2. ~~The board may refuse to grant a certificate on the grounds~~ For the purposes of this chapter, good moral character means the lack of a history of dishonest or felonious acts. The board may refuse to grant a certificate on the grounds of failure to satisfy this requirement only if there is a substantial connection between the lack of good moral character of the applicant and the professional responsibilities of a licensee and if the finding by the board of lack of good moral character is supported by clear and convincing evidence. When an applicant is found to be unqualified for a certificate because of a lack of good moral character, the board shall furnish the applicant a statement containing the findings of the board, a complete record of the evidence upon which the determination was based, and a notice of the applicant's right of appeal.
3. The board shall issue a certificate to a holder of a certificate issued by another state, provided that that state extends similar reciprocity to the certificate holders of this state, and upon a showing that:
 - a. The applicant passed the examination required for issuance of the certificate with grades that would have been passing grades at the time in this state;
 - b. The applicant:
 - (1) Meets all current requirements ~~except residence~~ in this state for issuance of a certificate, at the time application is made; or
 - (2) At the time of the issuance of the applicant's certificate in the other state, met all such requirements ~~except residence~~ then applicable in this state; and
 - c. ~~The applicant meets the requirements of section 43-02.2-05, if applying for a permit.~~
 - d. The applicant has paid the applicable fees.

4. The board shall issue a certificate to a holder of a recognized ~~professional~~ accounting designation from a jurisdiction or organization outside of the United States, provided such jurisdiction or organization extends similar reciprocity to the certificate holders of this state, and upon a showing to the board's satisfaction that the applicant:
 - a. Meets the good moral character requirement of subsection 2;
 - b. Meets the substantial equivalent of the education requirements of subsection 5 and the experience requirements of subsection 14 at the time of application, or at the time of the issuance of the designation by the other jurisdiction or organization met the education ~~or~~ and experience requirements then applicable in this state;
 - c. Has completed examinations generally equivalent to those prescribed under subsection 6;
 - d. Has satisfactorily completed any additional examinations that the board prescribes; and
 - e. Has paid the applicable fees; ~~and~~
 - f. ~~Meets the requirements of section 43-02.2-05, if applying for a permit.~~
5. The education requirement for a certificate is as follows:
 - a. Through December 31, 1999, a baccalaureate degree or its equivalent conferred by a college or university acceptable to the board, ~~with~~ and an accounting concentration or equivalent as determined by board rule to be appropriate, or four years of public accounting experience on one's own account or in the office of a public accountant in active practice, or in an accounting or auditing position with the government of the United States or a state.
 - b. After December 31, 1999, at least one hundred fifty semester hours of college education including a baccalaureate or higher degree or their equivalent conferred by a college or university acceptable to the board, the total educational program to include an accounting concentration or equivalent as determined by board rule to be appropriate. An individual who on December 31, 1999, meets the requirements of subdivision a may obtain a certificate under subdivision a if the individual passes the examination in accordance with board rules before December 31, 2004.
6. The ~~examinations~~ examination required to be passed as a condition for the granting of a certificate ~~must be in writing and must~~ test the applicant's knowledge of the subjects of accounting and auditing. A grade of seventy-five percent is required in each subject to constitute a passing grade. The time for holding the examination must be fixed by the board and may be changed from time to time. The board may prescribe by rule the methods of applying for and conducting the ~~examinations~~ examination, including methods for grading papers and determining a passing grade required of an applicant for a certificate provided that the board to the extent possible sees to it that the grading of the examination and the passing grade requirements are uniform with those applicable in all other states. The board may use all or any part of the uniform certified public accountant examination and advisory grading service of the American institute of certified public accountants and may contract with third parties to perform administrative services with respect to the examination it deems appropriate to assist it in performing its duties. The board may permit a candidate to take the examination if the board is satisfied that the candidate will complete the educational requirements of this section within six months after the candidate's application to take the examination.
7. An applicant must pass ~~all sections of~~ the examination provided for in subsection 6, as specified by rule, in order to qualify for a certificate. ~~If at a given sitting of the examination an applicant passes two or more but not all sections, then the applicant must be given~~

~~credit for those sections passed and need not sit for reexamination in those sections, provided that:~~

- ~~a. The applicant wrote all sections of the examination at that sitting;~~
 - ~~b. The applicant attained a minimum grade of forty percent on each section not passed at that sitting but this requirement does not apply to an applicant who has passed three sections at a given sitting;~~
 - ~~c. The applicant passes the remaining sections of the examination within the six consecutive examinations given after the one at which the first sections were passed;~~
 - ~~d. At each subsequent sitting at which the applicant seeks to pass any additional sections, the applicant writes all sections not yet passed; and~~
 - ~~e. In order to receive credit for passing additional sections in any such subsequent sitting, the applicant attains a minimum grade of forty percent on sections written but not passed on such sitting.~~
8. An applicant must be given credit for any and all sections of an examination passed in another state if such credit would have been given under then applicable requirements, if the applicant had taken the examination in this state.
 9. The board may in particular cases waive or defer any of the requirements of subsections 7 and 8 regarding the circumstances in under which the various sections of the examination must be passed, upon a showing that, by reason of circumstances beyond the applicant's control, the applicant was unable to meet the requirement.
 10. The board may charge, or provide for a third party administering the examination to charge, each applicant a fee, in an amount prescribed by the board by rule, for ~~each section of the examination or reexamination taken by the applicant.~~
 11. A certificate of certified public accountant must be ~~issued and~~ renewed each year, with renewal subject to payment of fees and any other requirements prescribed by the board.
 12. The board may require examination of other related subjects as specified by rule.
 13. Applicants for initial issuance or renewal of certificates under this section shall list in the applications all states and jurisdictions in which they have applied for or hold certificates or permits or other recognized ~~professional~~ accounting ~~designations~~ designation, and each holder of or applicant for a certificate under this section shall notify the board in writing, within thirty days after its occurrence, of any issuance, denial, revocation, or suspension of a certificate or permit or other recognized ~~professional~~ accounting designation by another state or jurisdiction.
 14. After December 31, 2000, an applicant for initial issuance of a certificate under this section shall show that the applicant has had one year of experience. This experience must include providing any type of service or advice involving the use of accounting, attest, management advisory, financial advisory, tax, or consulting skills. This experience must be verified and must meet any other requirements prescribed by the board by rule. This experience is acceptable if it was gained through employment in government, industry, academia, or public accounting. This experience requirement does not apply to those who received a certificate from this state prior to January 1, 2000.
 15. The board may require by rule, as a condition for granting and renewal of certificates under this section, that applicants show completion of continuing education meeting requirements of board rule. The continuing education rules may include provisions for exceptions and must include reasonable provision for an applicant who cannot meet the continuing education requirements due to circumstances beyond the applicant's reasonable control.

16. As an alternative to the requirements of subsection 3, the board shall issue a certificate to an individual who holds a certificate from another state, who establishes the individual's principal place of business within this state and has submitted the applicable application and fees, provided that the individual or the other state has attained substantial equivalency.

SECTION 5. AMENDMENT. Section 43-02.2-06 of the North Dakota Century Code is amended and reenacted as follows:

43-02.2-06. Permits to practice - Firms.

1. ~~Each firm that engages in the practice of public accounting~~ A firm must hold a firm permit issued by the board, in order to practice public accounting or to use the titles "CPAs", "LPAs", "CPA firm", "LPA firm", or similar titles. The board shall grant or renew permits to practice public accountancy to firms that make application and demonstrate their qualifications in accordance with this section.
2. Permits must be issued and renewed on an annual basis. Applications for permits must be made in the form the board specifies. The board shall grant or deny any application no later than ninety days after the application is filed in proper form. If the applicant seeks the opportunity to show that issuance or renewal of a permit was mistakenly denied or if the board is not able to determine whether it should be granted or denied, the board may issue to the applicant a provisional permit, which expires ninety days after its issuance or when the board determines whether or not to issue or renew the permit for which application was made, whichever occurs first.
3. ~~An applicant for initial issuance or renewal of a permit to practice under this section must show that each partner, officer, or shareholder who regularly works in this state, and each employee who holds out as a licensee and who regularly works in this state, holds a valid individual permit to practice issued under section 43-02.2-05 or the corresponding provision of prior law and that each other partner, officer, or shareholder holds a certificate or similar professional accounting designation and is licensed to practice public accountancy in some other state or jurisdiction notwithstanding any other provision of law, a simple majority of the ownership of the firm, in terms of financial interests and voting rights, belongs to licensees of a state or other recognized jurisdiction and that all certified public accountants or licensed public accountants associated with the firm whose principal place of business is in this state and who perform professional services in this state hold a valid certificate or license issued by this state. The firm and its owners must comply with all board rules regarding ownership.~~
4. An applicant for initial issuance or renewal of a permit to practice under this section is required to register each office of the firm within this state with the board ~~and to show that each office is under the charge of a person holding a valid permit to practice issued under section 43-02.2-05 or the corresponding provision of prior law.~~
5. The board shall charge a fee for each application for initial issuance or renewal of a permit under this section in an amount prescribed by the board by rule.
6. Applicants for initial issuance or renewal of permits under this section shall in their applications list all states and jurisdictions in which they have applied for or hold permits to practice public accountancy or similar authorizations, and each holder of or applicant for a permit under this section shall notify the board in writing, within thirty days after its occurrence, of any change in the identities of partners, officers, or shareholders who work regularly within this state, any change in the number or location of offices within this state, any change in the identity of the persons in charge of such offices, and any issuance, denial, revocation, or suspension of a permit by any other state or ~~jurisdictions~~ jurisdiction.
7. The board may require by rule, on either a uniform or a random basis, as a condition to renewal of permits under this section, that applicants undergo practice reviews conducted no more frequently than once every three years in such manner and producing such

satisfactory result as the board specifies; provided that any such requirement must be adopted reasonably in advance of the time when it is first required to be met and must include reasonable provision for compliance by an applicant's showing that it has undergone a satisfactory review performed for other purposes which was substantially equivalent to practice reviews generally required under this subsection and completion of such review was within the three years immediately preceding the renewal period.

SECTION 6. AMENDMENT. Section 43-02.2-07 of the North Dakota Century Code is amended and reenacted as follows:

43-02.2-07. Licensed public accountants and firms of public accountants. Persons ~~and firms~~ who on the effective date of this Act ~~chapter~~ hold ~~registrations as licensed public accountants~~ accountant licenses issued under prior law of this state are entitled to have ~~permits to practice granted and those licenses renewed under sections 43-02.2-05 and 43-02.2-06~~ provided that they fulfill all requirements for renewal under ~~those provisions~~ this section and subsections 13 and 15 of section 43-02.2-04. ~~If such Firm~~ licensees that hold valid permits to practice ~~under sections 43-02.2-05 and 43-02.2-06,~~ they are entitled to engage in the practice of public accountancy to the same extent and with the same requirements as other holders of such permits and are entitled to use the designations "licensed public accountant" and "LPA", but no other designation, in connection with the practice of public accountancy. Licensed public accountant licenses and firm permits must be renewed annually, with renewal subject to payment of fees and any other requirements prescribed by the board.

SECTION 7. AMENDMENT. Section 43-02.2-08 of the North Dakota Century Code is amended and reenacted as follows:

43-02.2-08. Appointment of secretary of state as agent. Application by a person or a firm not a resident of this state for a certificate under section 43-02.2-04 or a permit to practice under section ~~43-02.2-05 or 43-02.2-06~~ constitutes appointment of the secretary of state as the applicant's agent upon whom process may be served in any action or proceeding against the applicant arising out of any transaction or operation connected with or incidental to ~~the practice of public accountancy by the applicant~~ services performed within this state by the applicant.

SECTION 8. AMENDMENT. Section 43-02.2-09 of the North Dakota Century Code is amended and reenacted as follows:

43-02.2-09. Enforcement against ~~holders of certificates and permits~~ licensees.

1. The board may revoke any certificate, license, or permit issued under ~~section 43-02.2-04, 43-02.2-05, or 43-02.2-06~~ this chapter or corresponding provisions of prior law; suspend any such certificate, license, or permit or refuse to renew any such certificate, license, or permit for a period of not more than five years; reprimand, censure, or limit the scope of practice of any licensee; impose an administrative fine not exceeding one thousand dollars; or place any licensee on probation, all with or without terms, conditions, and limitations, for any one or more of the following reasons:
 - a. Fraud or deceit in obtaining a certificate, license, or permit;
 - b. Cancellation, revocation, suspension, or refusal to renew ~~authority to engage in the practice of public accountancy~~ a certificate, license, or permit in any other state or jurisdiction for any cause;
 - c. Failure, on the part of a holder of a certificate, license, or permit, to maintain compliance with the requirements for issuance or renewal of such certificate, license, or permit or to report changes to the board under section 43-02.2-04, ~~43-02.2-05, or 43-02.2-06,~~ or 43-02.2-07;
 - d. Revocation or suspension of the right to practice before any state or federal agency;
 - e. Dishonesty, fraud, or gross negligence in the ~~practice of public accountancy~~ performance of services as a licensee or in the filing or failure to file the ~~certificate or permit~~holder's licensee's own income tax returns;

- f. Violation of any provision of this chapter or rule adopted by the board under this chapter;
 - g. Violation of any rule of ~~professional~~ conduct adopted by the board under section 43-02.2-03;
 - h. Conviction of a felony, or of any crime an element of which is dishonesty or fraud, under the laws of the United States, of this state, or of any other state if the acts involved would have constituted a crime under the laws of this state;
 - i. Performance of any fraudulent act while holding a certificate, license, or permit issued under this chapter or prior law; ~~and~~
 - j. Any conduct reflecting adversely upon the licensee's fitness to ~~engage in the practice of public accountancy~~: perform services while a licensee; and
 - k. Making any false or misleading statement or verification, in support of an application for a certificate, license, or permit filed by another.
2. In lieu of or in addition to any remedy specifically provided in subsection 1, the board may require of a licensee either or both of the following:
 - a. A practice review conducted as the board specifies.
 - b. Satisfactory completion of continuing ~~professional~~ education programs the board specifies.
 3. In any proceeding in which a remedy provided by subsection 1 or 2 is imposed, the board may require the respondent licensee to pay the costs of the proceeding.

SECTION 9. AMENDMENT. Section 43-02.2-11 of the North Dakota Century Code is amended and reenacted as follows:

43-02.2-11. Reinstatement.

1. If the board has suspended, ~~refused to renew~~, or revoked a certificate, license, or a permit ~~or refused to renew a certificate or permit~~, the board may modify the suspension or reissue the certificate, license, or permit upon application in writing by the person or firm affected and for good cause shown and payment of a fee established by the board.
2. The board shall specify by rule the manner in which applications for reinstatement must be made, the times within which they must be made, and the circumstances in which hearings on applications will be held.
3. Before reissuing or terminating the suspension of a certificate, license, or permit under this section, the board may require the applicant to show successful completion of specified continuing ~~professional~~ education and may make the reinstatement ~~of a certificate or permit~~ conditional and subject to specified conditions, including satisfactory completion of a practice review conducted as specified by the board.

SECTION 10. AMENDMENT. Section 43-02.2-12 of the North Dakota Century Code is amended and reenacted as follows:

43-02.2-12. Unlawful acts.

1. A person or firm ~~not holding a valid permit issued under section 43-02.2-05 or 43-02.2-06~~ that is not a licensee may not practice or offer to practice public accountancy or issue a report on financial statements of any other person, firm, organization, or governmental unit. This prohibition does Individual licensees may not practice public accountancy unless they do so within a firm that holds a permit issued under this chapter. These prohibitions do not apply to an officer, partner, or employee of any firm or organization affixing a the person's name or signature to any statement or report in reference to the financial affairs of such

firm or organization with any wording designating the position, title, or office that the signer holds therein, does not prohibit any act of a public official or employee in the performance of duties as such, and does not prohibit the performance by any persons of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports thereon. This prohibition does not apply to transactions between manufacturing and sales organizations and their customers when accounting services accompany the sale of products provided that such accounting services are incidental and that any financial report made is clearly titled "unaudited financial report".

2. ~~The prohibition contained in subsection 1 is applicable to issuance, by a person or firm not holding a valid permit, of a report using any form of language conventionally used by licensees respecting a review of financial statements.~~
3. ~~The prohibition contained in subsection 1 is applicable to issuance by a person or firm not holding a valid permit of a report using any form of language conventionally used by licensees with respect to a compilation of financial statements.~~
4. A person not holding a valid certificate issued under this chapter may not use or assume the title or designation "certified public accountant", or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountant.
5. ~~3. A firm may not practice public accountancy or assume or use the title or designation "certified public accountant", or the abbreviation "CPA", or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of certified public accountants a certified public accountant firm, unless the firm holds a valid permit issued under section 43-02.2-06, and all partners, officers, and shareholders of the firm hold certificates this chapter.~~
6. ~~4. A person may not assume or use the title or designation "licensed public accountant" or the abbreviation "LPA", or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a licensed public accountant unless the person is registered as provided in section 43-02.2-07.~~
7. ~~5. A firm may not practice public accountancy, or assume or use the title or designation "licensed public accountant", the abbreviation "LPA", or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of licensed public accountants a licensed public accountant firm, unless the firm holds a valid permit issued under section 43-02.2-06, and all partners, officers, and shareholders of the firm are licensed public accountant registrants this chapter.~~
8. ~~6. A person or firm not holding a valid certificate, license, or permit issued under section 43-02.2-05 or 43-02.2-06 this chapter may not assume or use the title or designation "certified accountant", "chartered accountant", "enrolled accountant", "licensed accountant", "public accountant", "registered accountant", "accredited accountant", or any other title or designation likely to be confused with the titles "certified public accountant" or "licensed public accountant", or use any of the abbreviations "CA", "EA", "LA", "PA", "RA", "AA", or similar abbreviation likely to be confused with the abbreviations "CPA" or "LPA". A holder of a certificate who does not also hold a permit may use the titles pertaining to the certificate in any manner not prohibited by rules adopted by the board under section 43-02.2-03.~~
9. ~~7. A person or firm not holding a valid certificate, license, or permit issued under section 43-02.2-05 or 43-02.2-06 this chapter may not assume or use any title or designation that includes the words "accountant", "auditor", or "accounting", or other terms in any manner that implies such person or firm holds such a certificate, license, or permit or has special competence as an accountant or auditor. This subsection does not prohibit any officer, partner, or employee of any firm or organization from affixing the person's name or signature to any statement in reference to the financial affairs of such firm or organization~~

with any wording designating the position, title, or office that the person holds and does not prohibit any act of a public official or employee in the performance of duties.

10. ~~A person holding a certificate may not engage in the practice of public accountancy unless the person also holds a valid permit issued under section 43-02.2-05.~~
11. ~~8.~~ A person or firm holding a permit under this chapter licensee may not engage in the practice of public accountancy using use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons who are partners, officers, or shareholders of the firm, or about any other matter. Names of one or more former partners or shareholders may be included in the name of a firm or its successor.
12. ~~9.~~ This section does not apply to a person or firm holding a certification, designation, degree, or license granted in a foreign country entitling the holder to engage in the practice of public accountancy or its equivalent in that country, whose activities in this state are limited to the provision of professional services to persons or firms who are residents of, governments of, or business entities of the country in which the person or firm holds such entitlement. This subsection does not authorize issuing reports with respect to the financial statements of any other persons, firms, or governmental units in this state. A person or firm acting under the authority of this subsection may not use in this state any title or designation other than the one under which the person or firm practices in such country, followed by a translation of such title or designation into the English language, if it is in a different language, and by the name of such country.

SECTION 11. AMENDMENT. Section 43-02.2-15 of the North Dakota Century Code is amended and reenacted as follows:

43-02.2-15. Single act evidence of practice. In any action brought under ~~section 43-02.2-09, 43-02.2-10, 43-02.2-12, 43-02.2-13, or 43-02.2-14~~ this chapter, evidence of the commission of a single act prohibited by this chapter is sufficient to justify a penalty ~~which must include revocation, suspension, refusal to renew, reprimand, censure, fine, probation,~~ injunction, restraining order, or conviction ~~or any combination of these penalties,~~ without evidence of a general course of conduct.

SECTION 12. AMENDMENT. Section 43-02.2-16 of the North Dakota Century Code is amended and reenacted as follows:

43-02.2-16. Confidential communications. Except by permission of the client engaging a licensee under this chapter, or the heirs, successors, or personal representatives of such client, a licensee or any partner, officer, shareholder, or employee of a licensee may not voluntarily disclose information communicated to the licensee by the client relating to and in connection with services rendered to the client by the licensee ~~in the practice of public accountancy.~~ Such information is deemed confidential but this section may not be construed as prohibiting the disclosure of information required to be disclosed by the standards of the ~~public accounting~~ profession in reporting on the examination of financial statements or as prohibiting disclosures in court proceedings, in investigations or proceedings under section 43-02.2-09 or 43-02.2-10, in ethical investigations conducted by private professional organizations, or in the course of practice reviews, or to other persons active in the organization performing services for that client on a need-to-know basis or to persons in the entity who need this information for the sole purpose of assuring quality control.

SECTION 13. AMENDMENT. Section 43-02.2-17 of the North Dakota Century Code is amended and reenacted as follows:

43-02.2-17. Licensees' working papers - Clients' records.

1. All statements, records, schedules, working papers, and memoranda made by a licensee or a partner, shareholder, officer, director, or employee of a licensee, incident to, or in the course of, rendering services to a client ~~in the practice of public accountancy~~ while a licensee, except the reports submitted by the licensee to the client and except for records that are part of the client's records, are the property of the licensee in the absence of an express agreement between the licensee and the client to the contrary. A statement,

record, schedule, working paper, or memorandum may not be sold, transferred, or bequeathed, without the consent of the client or the client's personal representative or assignee, to anyone other than one or more surviving partners or stockholders or new partners or stockholders of the licensee, or any combined or merged firm or successor in interest to the licensee. This section may not be construed as prohibiting any temporary transfer of workpapers or other material necessary in the course of carrying out practice reviews.

2. A licensee shall furnish to a client or former client, upon request and reasonable notice:
 - a. A copy of the licensee's working papers, to the extent that such working papers include records that would ordinarily constitute part of the client's records and are not otherwise available to the client; and
 - b. Any accounting or other records belonging to, or obtained from or on behalf of, the client that the licensee removed from the client's premises or received for the client's account. The licensee may make and retain copies of such documents of the client when they form the basis for work done by the licensee.
3. This section does not require a licensee to keep any workpaper beyond the period prescribed in any other applicable statute.

SECTION 14. A new section to chapter 43-02.2 of the North Dakota Century Code is created and enacted as follows:

Substantial equivalency.

1. An individual whose principal place of business is not in this state, shall have all the privileges of certificate holders and licensees of this state without the need to obtain a certificate or permit under sections 43-02.2-04 or 43-02.2-05, if the individual holds a valid certificate as a CPA from any state that has attained substantial equivalency, or if the individual's CPA qualifications are deemed to meet substantial equivalency. Individuals intending to enter the state under this provision shall submit the applicable application and fees prior to entry. Any licensee of another state exercising the privilege afforded under this section hereby consents, as a condition of the grant of this privilege:
 - a. To the personal and subject matter jurisdiction of the board;
 - b. To comply with this chapter and the board's rules; and
 - c. To the appointment of the state board which issued the person's certificate as the person's agent upon whom process may be served in any action or proceeding by this board against the licensee.
2. A licensee of this state offering or rendering services or using the licensee's CPA title in another state is subject to disciplinary action in this state for an act committed in another state for which the licensee would be subject to discipline in the other state. The board shall investigate any complaint made by the board of accountancy of another state.

SECTION 15. REPEAL. Section 43-02.2-05 of the North Dakota Century Code is repealed.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1150.

House Vote: Yeas 67 Nays 30 Absent 1

Senate Vote: Yeas 37 Nays 10 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,

at _____ o'clock _____ M.

Secretary of State