

**SENATE BILL NO. 2082**

Introduced by

Political Subdivisions Committee

(At the request of the Abstracters' Board of Examiners)

1 A BILL for an Act to create and enact a new section to chapter 43-01 of the North Dakota  
2 Century Code, relating to the temporary certification of an abstracter to work in a county that  
3 has no certified abstracter; and to amend and reenact sections 43-01-15.1 and 43-01-16 of the  
4 North Dakota Century Code, relating to the furnishing of limited abstracts upon request and the  
5 cancellation of an abstracter's certificate.

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

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

9 **43-01-15.1. Surface abstracts and mineral abstracts to be furnished upon**  
10 **request - Zoning and subdivision exclusion upon request.** An abstracter shall furnish an  
11 abstract of title to the surface of any tract of land, when requested to do so, omitting therefrom  
12 all instruments of transfer or conveyance of mineral rights, royalties, and other mineral interests  
13 except instruments which sever mineral rights or royalties from surface rights. In addition to  
14 such surface abstract, an abstracter shall, when requested to do so, furnish a list showing the  
15 names of the grantor and grantee and the recording data of all instruments in the chains of title  
16 which transfer or convey mineral rights, royalties, or other mineral interests and which are not  
17 included in the surface abstract. For each instrument searched and listed, but not included in  
18 the surface abstract, an abstracter may charge a fee of one dollar and fifty cents, and no more.  
19 When requested to do so, an abstracter shall furnish a mineral abstract of any chain of title to  
20 the minerals of any tract of land which shall consist of the instrument severing the mineral rights  
21 or royalties from the surface rights and include all instruments of transfer or conveyance of  
22 mineral rights, royalties, and other mineral interests. If requested, such mineral abstract may  
23 be combined with a surface abstract of all instruments affecting title to the tract of land to and  
24 including the instrument severing the mineral rights, royalties, or other mineral interests being

1 abstracted. Further, when requested to do so, an abstracter shall omit zoning and subdivision  
2 ordinances but shall note and exclude them from the abstract of title. An abstracter may charge  
3 a per entry fee under section 43-01-18 for each omitted zoning and subdivision ordinance.

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

6 **43-01-16. Cancellation or denial of certificate - Discipline.** The board, after  
7 receiving a written and signed complaint alleging a violation of any ground for discipline under  
8 this section and upon thirty days' notice, may require any person, firm, corporation, or limited  
9 liability company holding a certificate of authority, or any person holding a certificate as a  
10 registered abstracter, to show cause why the same should not be ~~annulled~~ canceled or other  
11 disciplinary measures taken. The board may deny an application for a certificate of authority or  
12 a certificate of registration for any reason that a certificate of authority or a certificate of  
13 registration may be canceled or disciplinary measures taken. A certificate of authority or  
14 certificate of registration may be ~~recalled and annulled~~ canceled or disciplinary measures taken,  
15 however, only for one or more of the following reasons:

- 16 1. Violation of the provisions of this chapter or the board's administrative rules by the  
17 holder.
- 18 2. If the holder thereof has been convicted of an offense determined by the board to  
19 have a direct bearing upon the holder's ability to serve the public as an abstracter,  
20 or if, following conviction of an offense, the board finds the holder is not sufficiently  
21 rehabilitated under section 12.1-33-02.1.
- 22 3. A finding by the board that the holder is guilty of habitual carelessness, inattention  
23 to business, or intoxication, or the use of drugs to such an extent as to incapacitate  
24 the holder for business, including not preparing an abstract as requested under  
25 section 43-01-15.1.
- 26 4. A finding by the board that the holder is guilty of fraudulent practices.
- 27 5. A certificate of authority may be canceled, or other disciplinary measures taken,  
28 upon the failure of the holder thereof to provide additional security as provided by  
29 section 43-01-12, or upon failure to file an abstracter's liability policy in lieu of any  
30 canceled policy, before such cancellation becomes effective, or a surety bond in  
31 place thereof.

1 If the certificate of authority is held by a firm, corporation, or limited liability company, the  
2 provisions of this section shall be applicable to the members, officers, or managers thereof.  
3 Disciplinary measures that the board may take include canceling or suspending a certificate of  
4 authority or certificate of registration, requiring additional education, establishing a mentor or  
5 monitor, restricting practice parameters, or imposing a monetary penalty of no greater than five  
6 hundred dollars for each violation. In addition, an individual or organization found in violation of  
7 the requirements of this section may be assessed costs, including attorney's fees, by the board.  
8 An entity whose certificate of authority has been canceled or suspended must surrender all  
9 customer abstracts and pending orders to the board immediately upon being notified of the  
10 cancellation or suspension. The board shall take reasonable measures to contact the  
11 customers.

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

14 **Temporary authority of an abstractor to act in an additional county.** If it appears to  
15 the board that there is no abstractor authorized to engage in and carry on the business of an  
16 abstractor of real estate titles in a county or that there is an authorized abstractor in a county  
17 who is unable to perform the duties of an abstractor due to death, disability, a disaster or  
18 emergency, or disciplinary action, the board may authorize an individual or organization having  
19 a certificate of authority and certificate of registration to operate in another county to operate in  
20 the county having no abstractor through the issuance of a temporary certificate of authority.  
21 The board may not charge an abstractor for the temporary certificate of authority. An abstractor  
22 operating under this section may be authorized by the board to charge fees in excess of those  
23 allowed under section 43-01-18 at rates determined by the board and the board may require  
24 additional security than provided under section 43-01-11. The abstractor operating under the  
25 temporary certificate of authority is not required to have a complete set of abstract books or  
26 records of all instruments of record in the office of the recorder in and for the county in which  
27 the abstractor is temporarily engaged in business, nor need the abstractor have been engaged  
28 in the preparation of such books or records. The temporary certificate of authority may not  
29 exceed such time as the board has determined an abstractor having a regular certificate of  
30 authority and certificate of registration is able to engage in and carry on the business of an  
31 abstractor of real estate titles in the county, but the abstractor holding the temporary certificate

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- 1 of authority may complete any work already engaged. The abstracter having a temporary
- 2 certificate of authority may seek to operate in the county on a regular basis through compliance
- 3 with all statutory requirements.