

LEGISLATIVE BILL 92

Approved by the Governor February 18, 1981

Introduced by Fenger, 45

AN ACT to amend sections 1-109, 1-110, and 1-137, Reissue Revised Statutes of Nebraska, 1943, and sections 1-107 and 1-136, Revised Statutes Supplement, 1980, relating to accountants; to provide for appointments to the Nebraska State Board of Public Accountancy; to change the publication date of an annual register; to change the inactive fee; to change unlawful practices as prescribed; to delete obsolete language; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 1-107, Revised Statutes Supplement, 1980, be amended to read as follows:

1-107. There is hereby created the Nebraska State Board of Public Accountancy. The board shall consist of eight members appointed by the Governor, and one such member shall be appointed by the board to serve as secretary of the board and have charge of all the records of the board. Until September 20, 1985, two of the members shall be persons who have registered and qualified as public accountants under the provisions of sections 1-128 to 1-130. One member of the board shall be a lay person. The other members shall be persons who hold certified public accountant certificates issued under the laws of this state, and who are in active practice as certified public accountants. All members shall be citizens of the United States and residents of Nebraska. At least one certified public accountant member shall reside in each Congressional district. ~~Members serving on August 27, 1974 shall continue in office until the expiration of the term for which they were appointed. On August 27, 1974, the Governor shall appoint three additional members for terms of one, three, and four years.~~ To provide that two members are appointed to the board each year, one of the members appointed in 1983 and one of the members appointed in 1984 shall be appointed for a term of two years. Their successors shall be appointed for terms of four years. Vacancies occurring during a term shall be filled by appointment for the unexpired term. Upon the expiration of his or her term of office a member shall continue to serve until his or her successor shall have been appointed and shall have qualified. The Governor shall

remove from the board any member whose permit to practice has become void, or has been revoked or suspended, and may, after hearing, remove any member of the board for neglect of duty or other just cause. No person who has served a complete term of four years shall be eligible for reappointment. Appointment to fill an unexpired term shall not be considered as a complete term.

Sec. 2. That section 1-103, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-109. The board shall have printed and published for public distribution, in July ~~December~~ of each year, an annual register which shall contain the names, arranged alphabetically by classifications, of all practitioners holding permits to practice under the provisions of sections 1-106 to 1-169; the names of the members of the board; and such other matters as may be deemed proper by the board. Copies of registers shall be mailed to each permitholder. The board may employ such personnel and arrange for such assistance as it may require for the performance of its duties.

Sec. 3. That section 1-110, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-110. Each member of the board, ~~other than the Auditor of Public Accounts,~~ shall be paid fifty dollars for each day or portion thereof spent in the discharge of his or her official duties and shall be reimbursed for his or her actual and necessary expenses incurred in the discharge of his or her official duties. ~~The Auditor of Public Accounts, for the discharge of his official duties as a member of and as secretary of the board, shall be reimbursed for his actual and necessary expenses incurred in the discharge of his official duties.~~ Such compensation and expenses shall be paid from the Public Accountants Fund.

Sec. 4. That section 1-136, Revised Statutes Supplement, 1980, be amended to read as follows:

1-136. Permits to engage in the practice of public accounting in this state shall be issued by the board to persons who are holders of the certificate of certified public accountant issued under the provisions of sections 1-114 to 1-124 and who have met the experience requirements of section 1-136.02 and to persons and partnerships registered under the provisions of sections 1-125 to 1-133 and the corporations registered under the provisions of section 1-134;

Provided, all offices of such certificate holder or registrant are maintained and registered as required under the provisions of section 1-135. There shall be an annual permit fee in an amount to be determined, from time to time, by the board, not to exceed one hundred dollars. All permits shall expire on June 30 of each year and may be renewed annually for a period of one year by certificate holders and registrants in good standing upon payment of an annual renewal fee of not to exceed one hundred dollars. Failure of a certificate holder or registrant to apply for such annual permit to practice within (1) three years from the expiration date of the permit to practice last obtained or renewed or (2) three years from the date upon which the certificate holder or registrant was granted a certificate or registration if no permit was ever issued to such person, shall deprive him or her of the right to renewal, unless the board, in its discretion, determines such failure to have been due to excusable neglect. In such case the renewal fee or the fee for the issuance of the original permit as the case may be shall be such amount as the board shall from time to time determine, but not in excess of one hundred dollars. Any certificate holder or registrant, who has not lost his or her right to issuance or renewal and who is not actively engaged in the practice of public accounting in this state, may file a written application with the board to be classified as inactive. A person so classified shall not be issued a permit to engage in public accounting, nor be deemed the holder of a live permit as defined in section 1-151, but shall be carried upon an inactive roll to be maintained by the board, upon the payment of an annual inactive fee of ~~one-half~~ established by the board of not more than forty per cent of the fee charged persons actively engaged in the practice of public accounting as provided in this section. A person so classified shall not be deprived of the right to issuance or renewal of permit and may, upon application to the board, and upon payment of the current annual permit fee, be granted a current annual permit. Every permitholder shall furnish a corporate bond in the amount of one hundred thousand dollars, conditioned for the payment of any judgment or judgments which may be assessed against such person because of any act of negligence or any incompetency of such person occurring while he or she is the holder of such permit; Provided, that the aggregate liability of the surety for all such judgments shall in no event exceed the amount of such bond. In lieu of such one hundred thousand dollar bond, such permitholder may file a certification from an insurance carrier that such permitholder is insured, as an individual or a member of a partnership, under an accountancy liability policy of at least one hundred thousand dollars, except that any such insurance policy

may provide for a deductible clause based on the size of the office. For an office with ten or less employees a deductible of one thousand dollars may be allowed, for an office with eleven to twenty employees a deductible of two thousand five hundred dollars may be allowed, for an office with twenty-one to fifty employees a deductible of five thousand dollars may be allowed, for an office with fifty-one to one hundred fifty employees a deductible of ten thousand dollars may be allowed, and for an office with one hundred fifty-one or more employees a deductible of twenty-five thousand dollars may be allowed. If any such bond or insurance shall by its terms expire, or if it is canceled by the surety or insurer, the surety or insurer shall within ten days thereafter give notice of such cancellation to the official issuing such permits, who shall thereupon notify, by mail, the holder of such permit whose bond or insurance has so expired or been canceled, that such person may no longer act under the authority of such permit.

Sec. 5. That section 1-137, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-137. After notice and hearing as provided in sections 1-140 to 1-145, the board may revoke, or may suspend for a period not to exceed five years, any certificate issued under the provisions of sections 1-114 to 1-124, or any registration granted under sections 1-128 to 1-130, or may revoke, suspend, or refuse to renew any permit issued under section 1-136, or may censure the holder of any such permit, for any one or any combination of the following causes:

(1) Fraud or deceit in obtaining a certificate as certified public accountant, or in obtaining registration under sections 1-106 to 1-169, or in obtaining a permit to practice public accounting under sections 1-106 to 1-169;

(2) Dishonesty, fraud, or gross negligence in the practice of public accounting;

(3) Violation of any of the provisions of sections 1-151 to 1-161;

(4) Violation of a rule of professional conduct promulgated by the board under the authority granted by sections 1-106 to 1-169;

(5) Conviction of a felony under the laws of any state or of the United States;

(6) Conviction of any crime, an element of which is dishonesty or fraud, under the laws of any state or of the United States:

(7) Cancellation, revocation, suspension, or refusal to renew authority to practice as a certified public accountant or a public accountant in any other state, for any cause other than failure to pay an annual registration fee in such other state;

(8) Suspension or revocation of the right to practice before any state or federal agency; or

(9) Failure of a certificate holder or registrant to obtain an annual permit under the provisions of section 1-136, within either (a) three years from the expiration date of the permit to practice last obtained or renewed by said certificate holder or registrant, or (b) three years from the date upon which the certificate holder or registrant was granted his or her certificate or registration, if no permit was ever issued to him or her, unless under the provisions of section 1-136 such failure shall have been excused by the board pursuant to the provisions of section 1-136. ~~;-or~~

~~(10)---Conduct---discreditable---to---the---public
accounting-profession;~~

Sec. 6. That original sections 1-109, 1-110, and 1-137, Reissue Revised Statutes of Nebraska, 1943, and sections 1-107 and 1-136, Revised Statutes Supplement, 1980, are repealed.

Sec. 7. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.