

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 49

FINAL READING

Introduced by Stinner, 48.

Read first time January 10, 2019

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to the Public Accountancy Act; to amend
- 2 section 1-162.01, Reissue Revised Statutes of Nebraska; to change
- 3 provisions relating to firm ownership; and to repeal the original
- 4 section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 1-162.01, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 1-162.01 (1) Notwithstanding the Nebraska Professional Corporation
4 Act or the Public Accountancy Act or any other provision of law
5 inconsistent with this section, firms may have persons as owners who are
6 not certified public accountants if the following conditions are met:

7 (a) Such owners shall be:

8 (i) Natural persons;

9 (ii) An employee stock ownership plan as described and defined in 26
10 U.S.C. 401(a) and 26 U.S.C. 4975(e)(7), as such subsections existed on
11 January 1, 2019;

12 (iii) A partnership or limited liability company; or

13 (iv) A corporation;

14 (b) ~~(1)~~ Such owners, whether direct or beneficial, who are natural
15 persons shall not exceed, in the aggregate, forty-nine percent of the
16 total number of owners of such firm;

17 (c) ~~(2)~~ Such owners who are natural persons shall not hold, in the
18 aggregate, directly or beneficially, more than forty-nine percent of such
19 firm's equity capital or voting rights or receive, in the aggregate,
20 directly or beneficially, more than forty-nine percent of such firm's
21 profits or losses;

22 (d) Such owners shall not, in the aggregate, directly or
23 beneficially, comprise a majority of the owners of a firm;

24 (e) Such owners shall not, in the aggregate, directly or
25 beneficially, hold one half or more of the equity capital of the firm and
26 possess majority voting rights of the firm;

27 (f) ~~(3)~~ Such owners, whether direct or beneficial, who are natural
28 persons shall not hold themselves out as certified public accountants;

29 (g) ~~(4)~~ Such owners, whether direct or beneficial, who are natural
30 persons shall not hold themselves out to the general public or to any
31 client as an owner, partner, shareholder, limited liability company

1 member, director, officer, or other official of the firm except in a
2 manner specifically permitted by the rules and regulations of the board;

3 (h) (5) Such owners, whether direct or beneficial, who are natural
4 persons shall not have ultimate responsibility for the performance of any
5 audit, review, or compilation of financial statements or other forms of
6 attestation related to financial information;

7 (i) (6) Such owners who are natural persons shall not be direct or
8 beneficial owners of a firm engaged in the practice of public accountancy
9 without board approval if such natural persons (i) (a) have been
10 convicted of any felony under the laws of any state, of the United
11 States, or of any other jurisdiction, (ii) (b) have been convicted of any
12 crime, an element of which is dishonesty or fraud, under the laws of any
13 state, of the United States, or of any other jurisdiction, (iii) (c) have
14 had their professional or vocational licenses, if any, suspended or
15 revoked by a licensing agency of any state of the United States or of any
16 other jurisdiction or such persons have otherwise been the subject of
17 other final disciplinary action by any such agency, or (iv) (d) are in
18 violation of any rule or regulation regarding character or conduct
19 adopted and promulgated by the board relating to owners who are not
20 certified public accountants; ~~and~~

21 (j) Such owners, if a partnership, limited liability company, or
22 corporation: (i) Hold a permit under section 1-136; (ii) do not have the
23 ultimate responsibility for the firm's performance of audits, reviews, or
24 compilations of financial statements or other forms of attestation
25 relating to financial information; and (iii) have their owners comply
26 with this section, so long as any natural persons who have an ownership
27 or beneficial interest in such partnership, limited liability company, or
28 corporation, directly or beneficially, meet, as if such natural persons
29 or entities were direct owners in the firm, the requirements of
30 subdivisions (1)(b) through (i) of this section;

31 (k) Such beneficial owners under an employee stock ownership plan

1 shall be natural persons actively participating in the business of the
2 firm or an entity controlled by the firm. All of the trustees of such
3 employee stock ownership plans shall be natural persons who are certified
4 public accountants, except in the event that a conflict of interest
5 exists for one or more trustees with respect to a specific issue or
6 transaction, such trustees may appoint a special independent trustee or
7 special fiduciary, who is not a certified public accountant or otherwise
8 legally authorized to render professional services in public accountancy,
9 which special independent trustee or special fiduciary shall be
10 authorized to make decisions only with respect to the specific issue or
11 transaction that is the subject of the conflict; and

12 (1) Such owners who are natural persons shall actively participate
13 in the firm if such owners are direct owners, or shall actively
14 participate in the partnership, limited liability company, or corporation
15 through which the natural person has beneficial ownership of the firm.

16 (2) The issuance or transfer of any shares of stock or equity
17 interests in a firm in violation of this section is void. No shareholder
18 or equity owner of a firm shall enter into a voting trust agreement or
19 any other type of agreement vesting in another person the authority to
20 exercise the voting power of any of the stock or equity of a firm.

21 ~~(7) Such persons, regardless of where located, shall actively~~
22 ~~participate in the business of the firm.~~

23 (3) The board shall adopt and promulgate rules and regulations for
24 purposes of interpretation and enforcement of compliance with this
25 section.

26 Sec. 2. Original section 1-162.01, Reissue Revised Statutes of
27 Nebraska, is repealed.