

LEGISLATIVE BILL 114

Approved by the Governor April 2, 1997

Introduced by Landis, 46

AN ACT relating to accountants; to amend sections 1-105.01 to 1-108.01, 1-110, 1-113, 1-114, 1-116 to 1-125, 1-134, 1-136.01, 1-136.04, 1-140, 1-142 to 1-145, 1-150, 1-151, 1-153, 1-156, 1-159, 1-163 to 1-164.01, 1-164.03 to 1-167, 1-170, and 1-171, Reissue Revised Statutes of Nebraska, and sections 1-109, 1-111, 1-112, 1-126, 1-133, 1-135, 1-136, 1-136.02, 1-137 to 1-139, 1-148, 1-152, 1-154, 1-155, 1-157, 1-158, 1-160 to 1-162.01, 1-164.02, and 1-169, Revised Statutes Supplement, 1996; to change provisions relating to the Public Accountancy Act of 1957; to eliminate obsolete veterans' provisions; to repeal the original sections; and to outright repeal sections 1-130, 1-131, and 1-132, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 1-169, Revised Statutes Supplement, 1996, is amended to read:

~~1-169.~~ Sections 1-105.01 to 1-171 and this section shall be known and may be cited as the Public Accountancy Act, of 1957.

Sec. 2. Section 1-105.01, Reissue Revised Statutes of Nebraska, is amended to read:

1-105.01. It is the purpose of the Nebraska State Board of Public Accountancy to protect the welfare of the citizens of the state by assuring the competency of persons licensed regulated under Chapter 1, article 1; the Public Accountancy Act through (1) administration of certified public accountant examinations, (2) certification issuance of certificates and licensing of permits to qualified individuals persons and firms, (3) monitoring the requirements for continued certification and licensure issuance of certificates and permits. and (4) disciplining certificate and permit holders who fail to comply with the technical or ethical standards of the public accountancy profession.

Sec. 3. Section 1-106, Reissue Revised Statutes of Nebraska, is amended to read:

1-106. For purposes of the Public Accountancy Act, of 1957, unless the context shall otherwise require:

(1) Board means require, board shall mean the Nebraska State Board of Public Accountancy;

(2) Certificate means a certificate issued under sections 1-114 to 1-124;

(3) Firm means a partnership, corporation, or limited liability company engaged in the practice of public accountancy in this state entitled to register with the board;

(4) Partnership includes, but is not limited to, a limited liability partnership;

(5) Permit means a permit to engage in the practice of public accountancy in this state issued under section 1-136; and

(6) State means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

Sec. 4. Section 1-107, Reissue Revised Statutes of Nebraska, is amended to read:

1-107. There is hereby created the Nebraska State Board of Public Accountancy. The board shall consist of eight members appointed by the Governor. 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 layperson. 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. At least one certified public accountant member shall reside in each congressional district.

Commencing on September 20, 1985, Six members of the board shall be holders of permits issued under subdivision (1)(a) of section 1-136, and two members of the board shall be laypersons, and two of the certified public accountant members shall reside in each congressional district. The members

of the board, other than lay members, shall be persons who hold certified public accountant certificates issued under Chapter 17, article 17, and who are in active practice as certified public accountants.

All members of the board shall be citizens of the United States and residents of Nebraska. To provide that two of the members of the board, who are holders of permits, shall reside in each congressional district. Two members are shall be 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 has been appointed and 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 two complete terms of four years shall be eligible for reappointment. Appointment to fill an unexpired term shall not be considered as a complete term.

Sec. 5. Section 1-108, Reissue Revised Statutes of Nebraska, is amended to read:

1-108. The board shall elect annually a chairman chairperson from its members. The secretary board shall receive and account for all fees and other money received by the board it under the provisions of the Public Accountancy Act, of 1957. The board may adopt and amend from time to time, promulgate rules and regulations for the orderly conduct of its affairs and the administration of the provisions of the act. A majority of the members of the board shall constitute a quorum for the transaction of business. The board shall adopt a seal. The board shall keep records of its proceedings, and in any proceedings in court, civil or criminal, arising out of or founded upon any provision of the act, copies of such records certified as correct under the seal of the board shall be admissible in evidence as tending to prove the content of said the records.

Sec. 6. Section 1-108.01, Reissue Revised Statutes of Nebraska, is amended to read:

1-108.01. The Nebraska State Board of Public Accountancy board shall adopt and promulgate rules and regulations which establish definitions of conflicts of interest for its members and which establish procedures to be followed in case such conflicts arise.

Sec. 7. Section 1-109, Revised Statutes Supplement, 1996, is amended to read:

1-109. (1) In December of each year, the board shall have printed and published for public distribution an annual register containing the names, arranged alphabetically by classifications, of all practitioners holding permits to practice under the provisions of the Public Accountancy Act of 1957 persons holding permits, the names of the members of the board, and such other matters as may be deemed proper by the board. Copies of the register shall be mailed to each permit holder.

(2) The board shall employ an executive director, additional personnel, and any other assistance as it may require for the performance of its duties. Unless otherwise directed by the board, the executive director shall keep a record of all proceedings, transactions, and official acts of the board, be custodian of all the records of the board, and perform such other duties as the board may require.

Sec. 8. Section 1-110, Reissue Revised Statutes of Nebraska, is amended to read:

1-110. Each member of the board shall be paid fifty one hundred 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 as provided in sections 81-1174 to 81-1177, for state employees. Such compensation and expenses shall be paid from the Public Accountants Fund.

Sec. 9. Section 1-111, Revised Statutes Supplement, 1996, is amended to read:

1-111. (1) All fees collected under the provisions of the Public Accountancy Act of 1957 and all costs collected under subdivision (8) of section 1-148 shall be remitted by the secretary of the board to the State Treasurer for credit to the Public Accountants Fund which is hereby created. Such fund shall, if and when specifically appropriated by the Legislature during any biennium for that purpose, be paid out from time to time by the State Treasurer upon warrants drawn by the Director of Administrative Services on vouchers signed approved by the secretary of the board, and such office board and expense thereof shall not be supported or paid from any other fund

of the state. Any money in the Public Accountants Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) All civil penalties collected under subdivision (5) of section 1-148 shall be remitted by the secretary of the board to the State Treasurer for credit to the permanent school fund.

Sec. 10. Section 1-112, Revised Statutes Supplement, 1996, is amended to read:

1-112. The board may adopt, and promulgate, and amend rules and regulations of professional conduct appropriate to establish and maintain a high standard of integrity and dignity in the profession of public accountancy and to govern the administration and enforcement of the Public Accountancy Act, of 1957. The rules and regulations shall be adopted and promulgated pursuant to the Administrative Procedure Act.

Sec. 11. Section 1-113, Reissue Revised Statutes of Nebraska, is amended to read:

1-113. (1) The board shall appoint an advisory committee consisting of at least seven members. A majority of the members shall be appointed as representatives of the postsecondary educational institutions of Nebraska engaged in the instruction in the area of accounting and auditing, including the University of Nebraska, the Nebraska state colleges, and private universities and colleges. One member of the advisory committee shall be a certified public accountant who is a member of the board.

(2) Beginning in 1995, the advisory committee shall meet at least annually and shall advise the board upon the rules and regulations for section 1-116 relating to educational requirements. The board may also consult the advisory committee on any other issues which it deems appropriate.

Sec. 12. Section 1-114, Reissue Revised Statutes of Nebraska, is amended to read:

1-114. (1) Prior to January 1, 1998, the board shall grant issue a certificate of certified public accountant to any person (a) who is a resident of this state or has a place of business therein or, as an employee, is regularly employed therein, (b) who has graduated from a college or university of recognized standing, and (c) who has passed a written examination in accounting, auditing, and such other related subjects as the board determines to be appropriate.

(2) On and after January 1, 1998, the board shall grant issue a certificate of certified public accountant to any person (a) who is a resident of this state or has a place of business in this state or, as an employee, is regularly employed in this state and (b) who has passed a written examination in accounting, auditing, and such other related subjects as the board determines to be appropriate.

Sec. 13. Section 1-116, Reissue Revised Statutes of Nebraska, is amended to read:

1-116. (1) Prior to January 1, 1998, a person shall be eligible to take the examination described in section 1-114 if without waiting until he or she meets the experience requirements as long as he or she also meets the requirements of subdivision (1)(a) of section 1-114. A person who takes the examination prior to January 1, 1998, remains eligible to take any examination held by the board on or before December 31, 2000, for a maximum of six sittings.

(2) Any person making initial application on or after January 1, 1998, shall be eligible to take the examination described in section 1-114 if he or she has completed at least one hundred fifty semester hours or two hundred twenty-five quarter hours of postsecondary academic credit and shall have earned a baccalaureate or higher degree from a college or university accredited by the North Central Association of Colleges and Universities or a similar agency as determined to be acceptable by the board. The person shall demonstrate that accounting, auditing, business, and other subjects at the appropriate academic level as required by the board are included within the required hours of postsecondary academic credit. The board shall not prescribe the specific curricula of colleges or universities.

Sec. 14. Section 1-117, Reissue Revised Statutes of Nebraska, is amended to read:

1-117. Any person who has successfully completed the examination described in section 1-114 shall have no status as a certified public accountant unless and until he or she has the requisite experience and also has received been issued a certificate as a certified public accountant.

Sec. 15. Section 1-118, Reissue Revised Statutes of Nebraska, is amended to read:

1-118. (1) The board may by rule and regulation prescribe the terms and conditions under which a person who passes the examination in one or more

of the subjects indicated in section 1-114 may be reexamined in only the remaining subjects with credit for the subjects previously passed. The board may also provide by rule and regulation for a reasonable waiting period for reexamination.

(2) Any person who is eligible to take the examination under subsection (1) of section 1-116 and passes the examination in one or more of the subjects may be reexamined in the remaining subjects after January 1, 1998, without meeting the requirements of subsection (2) of section 1-116 subject to the rules and regulations of the board.

(3) A person shall be entitled to any number of reexaminations under section 1-114 subject to the rules and regulations of the board.

Sec. 16. Section 1-119, Reissue Revised Statutes of Nebraska, is amended to read:

1-119. The board shall charge a fee, to be determined as established by the board, not in excess of to exceed two hundred dollars for the initial examination provided for in section 1-114.

Sec. 17. Section 1-120, Reissue Revised Statutes of Nebraska, is amended to read:

1-120. Fees for reexaminations under section 1-114 shall also be charged by the board in amounts determined by it but not in excess of. The board shall charge fees as established by the board for reexaminations under section 1-114. Such fees shall not exceed fifty dollars for each subject in which a person is reexamined.

Sec. 18. Section 1-121, Reissue Revised Statutes of Nebraska, is amended to read:

1-121. The applicable fee shall be paid by the applicant at the time he or she applies for initial examination or reexamination.

Sec. 19. Section 1-122, Reissue Revised Statutes of Nebraska, is amended to read:

1-122. (1) Any person who has received from the board been issued a certificate as a certified public accountant and who holds a permit issued under the provisions subdivision (1)(a) of section 1-136, which is in full force and effect, and any person who is classified as inactive pursuant to under section 1-136, shall be styled and known as a certified public accountant and may also use the abbreviation C.P.A. The board shall maintain a list of active certified public accountants.

(2) Any person who may be known as a certified public accountant may also be known as a public accountant.

Sec. 20. Section 1-123, Reissue Revised Statutes of Nebraska, is amended to read:

1-123. Persons who, on September 20, 1957, held certified public accountant certificates theretofore issued under the laws of this state shall not be required to obtain additional certificates under the Public Accountancy Act of 1957, but shall otherwise be subject to all provisions of the act, and such certificates theretofore issued shall, for all purposes, be considered certificates issued under the provisions of the act and subject to the provisions hereof its provisions.

Sec. 21. Section 1-124, Reissue Revised Statutes of Nebraska, is amended to read:

1-124. The board may, in its discretion, waive the examination under described in section 1-114 and may issue a reciprocal certificate as a certified public accountant to any person who possesses the qualifications specified in subdivision (1)(a) or (2)(a) of section 1-114 and sections section 1-116 and 1-136.02 and who is the holder of a certificate as a certified public accountant, then in full force and effect, issued under the laws of any state or is the holder of a certificate, license, or degree in a foreign country constituting a recognized qualification for the practice of public accounting accountancy in such country, comparable to that of a certified public accountant of this state, which is then in full force and effect. The board shall charge each person obtaining a reciprocal certificate issued under this section a fee to be determined by the board, but such fee shall not be in excess of as established by the board not to exceed two hundred dollars.

Sec. 22. Section 1-125, Reissue Revised Statutes of Nebraska, is amended to read:

1-125. The board may, in its discretion, permit the registration of any person foreign accountant who is the holder of a certificate, license, or degree in a foreign country constituting a recognized qualification for the practice of public accounting accountancy in such country. A person foreign accountant so registered shall use only the title under which he or she is generally known in his or her own country, followed by the name of the country from which he or she received a certificate, license, or degree.

Sec. 23. Section 1-126, Revised Statutes Supplement, 1996, is amended to read:

1-126. A partnership or limited liability company engaged in this state in the practice of public ~~accounting~~ accountancy may register with the board as a partnership or limited liability company of certified public accountants if it meets the following requirements:

(1) At least one partner of the partnership or member of the limited liability company shall be a certified public accountant of this state in good standing;

(2) Each partner of the partnership who is a certified public accountant or member of the limited liability company who is a certified public accountant personally engaged within this state in the practice of public accounting accountancy as a partner or member thereof shall be a certified public accountant of this state in good standing;

(3) Each partner of the partnership who is a certified public accountant or member of the limited liability company who is a certified public accountant shall be a certified public accountant of some state in good standing; and

(4) Each resident manager in charge of an office of the firm partnership or limited liability company in this state shall be a certified public accountant of this state in good standing.

An application for such registration shall be made upon the affidavit of a general partner of such partnership or a member of such limited liability company who is a certified public accountant of this state in good standing. The board shall in each case determine whether the applicant is eligible for registration.

A partnership or limited liability company which is so registered and which holds a permit issued under subdivision (1)(c) of section 1-136 may use the words certified public accountants or the abbreviation C.P.A.'s in connection with its partnership or limited liability company name.

Notification shall be given to the board, pursuant to board rules and regulations, regarding the admission to or withdrawal of a partner from any partnership or a member from any limited liability company so registered.

Sec. 24. Section 1-133, Revised Statutes Supplement, 1996, is amended to read:

1-133. A partnership or limited liability company engaged in this state in the practice of public ~~accounting~~ accountancy may register with the board as a partnership or limited liability company of public accountants if it meets the following requirements:

(1) At least one partner of the partnership or member of the limited liability company shall be a certified public accountant or a public accountant of this state in good standing;

(2) Each partner of the partnership who is a certified public accountant or public accountant or member of the limited liability company who is a certified public accountant or public accountant personally engaged within this state in the practice of public accounting accountancy as a partner or member thereof shall be a certified public accountant or a public accountant of this state in good standing; and

(3) Each resident manager in charge of an office of a firm partnership or limited liability company in this state shall be a certified public accountant or a public accountant of this state in good standing.

An application for such registration shall be made upon the affidavit of a general partner of such partnership or a member of such limited liability company who holds a permit to practice in this state as a certified public accountant or as a public accountant. The board shall in each case determine whether the applicant is eligible for registration.

A partnership or limited liability company which is so registered and which holds a partnership or limited liability company permit issued under subdivision (1)(e) of section 1-136 may use the words public accountants in connection with its partnership or limited liability company name.

Notification shall be given to the board, pursuant to board rules and regulations, regarding the admission to or withdrawal of a partner from any partnership or member from any limited liability company so registered.

Sec. 25. Section 1-134, Reissue Revised Statutes of Nebraska, is amended to read:

1-134. A corporation which, on September 20, 1957, had a place of business in this state, was permitted to engage in the practice of public ~~accounting~~ accountancy in this state, was actually so engaged, and which at that time had fully complied with all laws of this state relating to it, may register with the board as a corporation engaged in the practice of public accounting accountancy on or before January 1, 1958. Registration also may be made by any corporation organized pursuant to Chapter 27, article 22 the

Nebraska Professional Corporation Act. Application for such registration must be made upon the affidavit of an officer of such corporation. The board shall in each case determine whether the applicant is eligible for registration. A corporation which is so registered and which holds a permit issued under the provisions subdivision (1)(f) of section 1-136 may practice public accounting accountancy and, in that connection, may use a corporate name which indicates, as a part of such name, that it is engaged in such practice if it had such corporate name on September 20, 1957.

Sec. 26. Section 1-135, Revised Statutes Supplement, 1996, is amended to read:

1-135. Each office established or maintained in this state for the practice of public accounting accountancy in this state by a certified public accountant, by a partnership of certified public accountants, by or a limited liability company of certified public accountants registered under section 1-126, by a public accountant registered under sections 1-128 to 1-130 as such sections existed on September 20, 1957, by a partnership of public accountants, by or a limited liability company of public accountants registered under section 1-133, by one a foreign accountant registered under section 1-125, or by a corporation registered under section 1-134 shall be registered annually under the Public Accountancy Act of 1957 with the board, but no fee shall be charged for the registration of the first office. Am The board shall charge an annual fee shall be charged for the registration of the second and each additional office as established registered by such accountant or accountants. Such fee shall be in an amount to be determined, from time to time, by the board, not to exceed fifty dollars. The board shall by rule and regulation prescribe the procedure to be followed in effecting such registrations.

Each office shall be under the supervision of a manager holding who holds a permit issued under the provisions of section 1-136 which is in full force and effect. Such manager may serve in such capacity at one office only. Such manager shall be directly responsible for the supervision and management of the office and may be subject to disciplinary action for the actions of the business entity person or firm or any individuals persons employed by that office of the business entity person or firm within the State of Nebraska which relate to the practice of public accountancy.

Sec. 27. Section 1-136, Revised Statutes Supplement, 1996, is amended to read:

1-136. (1) Permits to engage in the practice of public accounting accountancy in this state shall be issued by the board to (a) persons who are holders of the certificate of certified public accountant issued under sections 1-114 to 1-124 and who have met the experience requirements of section 1-136.02, to persons, partnerships, and limited liability companies registered under sections 1-125 to 1-133, and to (b) foreign accountants registered under section 1-125, (c) partnerships and limited liability companies of certified public accountants registered under section 1-126, (d) persons registered as public accountants under sections 1-128 to 1-130 as such sections existed on September 20, 1957, (e) partnerships and limited liability companies of public accountants registered under section 1-133, and (f) corporations registered under section 1-134 as long as all offices of such certificate holder holders or registrant registrants in this state for the practice of public accountancy are maintained and registered as required under section 1-135. There shall be

(2)(a) Except as provided in the case of permits subject to subdivision (2)(b) of this section, the board shall charge an annual permit fee in an amount to be determined, from time to time, as established by the board, not to exceed one hundred dollars. All permits subject to this subdivision 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 as established by the board not to exceed one hundred dollars. The board may prorate the renewal fee to one-half the annual renewal fee for any permit subject to this subdivision issued for six months or less than one year.

(b) Commencing June 30, 1998, the board shall charge a biennial permit fee as established by the board not to exceed two hundred dollars for permits issued under subdivisions (1)(a), (1)(b), and (1)(d) of this section. All permits subject to this subdivision shall expire on June 30 of the first calendar year after the calendar year of issuance in which the age of the certificate holder or the registrant becomes divisible by two, and may be renewed biennially for a period of two years by certificate holders and registrants in good standing upon payment of a biennial renewal fee as established by the board not to exceed two hundred dollars. The board may prorate the fee for any permit subject to this subdivision issued for less

than two years.

(3) Failure of a certificate holder or registrant to apply for ~~such~~ ~~annual~~ a permit to practice within ~~(1)~~ (a) three years from the expiration date of the permit to practice last obtained or renewed or ~~(2)~~ (b) three years from the date upon which the certificate holder or registrant was granted issued a certificate or registration if no permit was ever issued to such person shall deprive him or her of the right to issuance or renewal of a permit unless the board, in its discretion, determines such failure to have been due to excusable, in 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 established by the board ~~shall from time to time determine,~~ but not in excess of not to exceed one hundred dollars and, commencing June 30, 1998, not to exceed two hundred dollars.

(4) Any certificate holder or registrant who has not lost his or her right to issuance or renewal of a permit and who is not actively engaged in the practice of public accounting accountancy 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 or 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 as established by the board of not more than to exceed forty percent of the fee charged persons actively engaged in the practice of public accounting accountancy as provided in this section. A person so classified shall not be deprived of the right to the issuance or renewal of a permit and may, upon application to the board and upon payment of the current ~~annual~~ permit fee, be granted issued a current ~~annual~~ permit.

Sec. 28. Section 1-136.01, Reissue Revised Statutes of Nebraska, is amended to read:

1-136.01. (1) As a condition for renewal of a permit pursuant to issued under subdivision (1)(a), (1)(b), or (1)(d) of section 1-136, the board, pursuant to rules and regulations adopted and promulgated by the board, may require permit holders to furnish evidence of participation in professional development in accounting, auditing, or related areas for fifteen days within the preceding three calendar years or, in order to facilitate the issuance of biennial permits as provided in subdivision (2)(b) of section 1-136, for ten days within the preceding two calendar years. The board may adopt and promulgate rules and regulations regarding such professional development, which shall be subject to the provisions of section 1-112.

(2) In determining compliance with the professional development requirement, the board may include credits earned during the current calendar year in addition to those earned in the previous three preceding calendar years in which professional development is required under subsection (1) of this section. If such credits are included they shall not count toward the next succeeding permit renewal requirement.

Sec. 29. Section 1-136.02, Revised Statutes Supplement, 1996, is amended to read:

1-136.02. (1) The board shall issue a permit under subdivision (1)(a) of section 1-136 to a holder of a certificate of certified public accountant when such holder has had:

(a) Two years of public accounting experience satisfactory to the board, in any state, (i) in practice as a certified public accountant or a public accountant, (ii) in employment as a staff accountant by anyone practicing engaging in the practice of public accounting accountancy, or (iii) in any combination of either of such types of experience;

(b) Three years of auditing experience satisfactory to the board in the office of the Auditor of Public Accounts or in the Department of Revenue; or

(c) Experience gained through employment by the federal government as a special agent or an internal revenue agent in the Internal Revenue Service, a degree from a college or university of recognized standing, and certification by a District Director of Internal Revenue that such person has had at least three and one-half years of field experience as a special agent or internal revenue agent.

(2) The board may issue a permit to practice under subdivision (1)(a) of section 1-136 to a holder of a reciprocal certificate issued pursuant to under section 1-124 upon a showing that:

(a) He or she meets all current requirements in this state for issuance of a permit to practice at the time the application is made; or

(b) At the time of the application for a permit to practice in this state, the applicant, within the ten years immediately preceding application, has had at least five years experience outside this state in the practice of public accountancy as a sole proprietor or as a staff accountant.

Sec. 30. Section 1-136.04, Reissue Revised Statutes of Nebraska, is amended to read:

1-136.04. Any person who has taken the examination required by described in section 1-114 prior to January 1, 1978, may qualify for permit issuance of a permit under subdivision (1)(a) of section 1-136 by (1) having four years of public accounting experience satisfactory to the board in any state in practice as a certified public accountant or as a public accountant or in any state in employment as a staff accountant by anyone practicing public accounting engaging in the practice of public accountancy, or any combination of either of such types of experience, or (2) having five years of auditing experience satisfactory to the board in the office of the Auditor of Public Accounts or in the Department of Revenue, in lieu of being a graduate from a college or university of recognized standing.

Sec. 31. Section 1-137, Revised Statutes Supplement, 1996, is amended to read:

1-137. After notice and hearing as provided in sections 1-140 to 1-149, the board may take disciplinary action as provided in section 1-148 for any one or any combination of the following causes:

(1) Fraud or deceit in obtaining a certificate as certified public accountant, in obtaining registration, under the Public Accountancy Act of 1957; or in obtaining a permit to practice public accounting under the act Public Accountancy Act;

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

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

(4) Violation of a rule of professional conduct adopted and promulgated by the board under the authority granted by the act;

(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 a 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 a permit issued 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 the certificate holder or registrant or (b) three years from the date upon which the certificate holder or registrant was granted issued 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 was excused by the board pursuant to the provisions of section 1-136.

Sec. 32. Section 1-138, Revised Statutes Supplement, 1996, is amended to read:

1-138. After notice and hearing as provided in sections 1-140 to 1-149, the board shall revoke the registration and permit to practice of a partnership or a limited liability company of certified public accountants or a partnership or a limited liability company of public accountants if at any time it does not have all the qualifications prescribed by section 1-126 or 1-133, respectively, under which it qualified for registration.

After notice and hearing as provided in sections 1-140 to 1-149, the board may take disciplinary action as provided in section 1-148 for any of the causes enumerated in section 1-137 or for any of the following additional causes:

(1) The revocation or suspension of the certificate or registration or the revocation or suspension or refusal to renew the permit to practice of any partner or member; or

(2) The cancellation, revocation, suspension, or refusal to renew the authority of the partnership or any partner thereof or the limited liability company or any member thereof to practice public accounting accountancy in any other state for any cause other than failure to pay a an annual registration fee in such other state.

Sec. 33. Section 1-139, Revised Statutes Supplement, 1996, is amended to read:

1-139. After notice and hearing as provided in sections 1-140 to 1-149, the board may take disciplinary action as provided in section 1-148 if the corporation, or any of its officers, employees, or agents, while acting for or in on behalf of such corporation, is guilty of any act, neglect, or

failure to act which would have been cause for such act as against an individual under the provisions of section 1-137.

Sec. 34. Section 1-140, Reissue Revised Statutes of Nebraska, is amended to read:

1-140. The board may initiate proceedings under the provisions of the Public Accountancy Act of 1957 either on its own motion or on the complaint of any person.

Sec. 35. Section 1-142, Reissue Revised Statutes of Nebraska, is amended to read:

1-142. If, after having been served with the notice of hearing as provided for herein pursuant to section 1-141, the accused fails to appear at said the hearing and defend, the board may proceed to hear evidence against him or her and may enter such order as shall be is justified by the evidence, which order shall be final unless he or she petitions for a review as set forth in section 1-149, ~~except~~ ~~PROVIDED~~, that within thirty days from the date of any order, upon a showing of good cause for failing to appear and defend, the board may reopen the proceedings and may permit the accused to submit evidence in his or her behalf.

Sec. 36. Section 1-143, Reissue Revised Statutes of Nebraska, is amended to read:

1-143. At any hearing the accused may appear in person and by counsel, produce evidence and witnesses on his or her own behalf, cross-examine witnesses, and examine such evidence as may be produced against him or her. The accused shall be entitled, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses on his or her behalf.

Sec. 37. Section 1-144, Reissue Revised Statutes of Nebraska, is amended to read:

1-144. The board, or any member thereof, may issue subpoenas to compel the attendance of witnesses and the production of documents, and may administer oaths, take testimony, hear proofs, and receive exhibits in evidence in connection with or upon hearing under the provisions of the Public Accountancy Act, of 1957. In case of disobedience to 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.

Sec. 38. Section 1-145, Reissue Revised Statutes of Nebraska, is amended to read:

1-145. The board shall not be bound by technical rules of evidence.

Sec. 39. Section 1-148, Revised Statutes Supplement, 1996, is amended to read:

1-148. Upon the completion of any hearing, the board, by majority vote, shall have the authority through entry of a written order to take in its discretion any or all of the following actions:

- (1) Issuance of censure or reprimand;
- (2) Suspension of judgment;
- (3) Placement of the permitholder, certificate holder, or holder of a registration registrant on probation;
- (4) Placement of a limitation or limitations on the permit, certificate, or registration and upon the right of the permitholder, certificate holder, or holder of a registration registrant to practice the profession to such extent, scope, or type of practice for such time and under such conditions as are found necessary and proper;
- (5) Imposition of a civil penalty not to exceed ten thousand dollars, ~~except that the board shall not impose a civil penalty under this subdivision for any cause enumerated in subdivisions (5) through (8) of section 1-137 and subdivisions (1) and (2) of section 1-138.~~ The amount of the penalty shall be based on the severity of the violation;
- (6) Entrance of an order of suspension of the permit, certificate, or registration;
- (7) Entrance of an order of revocation of the permit, certificate, or registration;
- (8) Imposition of costs as in ordinary civil actions in the district court, which may include attorney and hearing officer fees incurred by the board and the expenses of any investigation undertaken by the board; or
- (9) Dismissal of the action.

Sec. 40. Section 1-150, Reissue Revised Statutes of Nebraska, is amended to read:

1-150. Upon application in writing and after hearing pursuant to notice, the board may issue a new certificate to a certified public accountant whose certificate shall have has been revoked, or may permit the reregistration of anyone a person whose registration has been revoked, or may reissue or modify the suspension of any permit to practice public accounting

which has been revoked or suspended.

Sec. 41. Section 1-151, Reissue Revised Statutes of Nebraska, is amended to read:

1-151. (1) No person shall assume or use the title or designation certified public accountant or the abbreviation C.P.A. or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant, unless such person (a) ~~(1)~~ is classified as inactive pursuant to under section 1-136 or (b) ~~(2)~~ has received been issued a certificate as a certified public accountant under the provisions of sections 1-114 to 1-124, and holds a permit issued under the provisions subdivision (1)(a) of section 1-136 which is not revoked or suspended, hereinafter referred to as a live permit, and all of such person's offices in this state for the practice of public accounting accountancy are maintained and registered as required under the provisions of section 1-135.

(2) A foreign accountant who has is registered under the provisions of section 1-125 and who holds a live permit issued under the provisions subdivision (1)(b) of section 1-136, which is not revoked or suspended may use the title under which he or she is generally known in his or her country, followed by the name of the country from which he or she received his or her certificate, license, or degree.

Sec. 42. Section 1-152, Revised Statutes Supplement, 1996, is amended to read:

1-152. No partnership or limited liability company shall assume or use the title or designation certified public accountant or the abbreviation C.P.A. or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such partnership or limited liability company is composed of certified public accountants unless such partnership or limited liability company is registered as a partnership of certified public accountants or a limited liability company of certified public accountants under section 1-126, and holds a live permit issued under subdivision (1)(c) of section 1-136, which is not revoked or suspended and all of such partnership's or limited liability company's offices in this state for the practice of public accounting accountancy are maintained and registered as required under section 1-135.

Sec. 43. Section 1-153, Reissue Revised Statutes of Nebraska, is amended to read:

1-153. No person shall assume or use the title or designation public accountant or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a public accountant, unless such person is registered as a public accountant under the provisions of sections 1-128 to 1-130 as such sections existed on September 20, 1957, and holds a live permit issued under the provisions subdivision (1)(d) of section 1-136 which is not revoked or suspended and all of such person's offices in this state for the practice of public accounting accountancy are maintained and registered as required under the provisions of section 1-135, or unless such person has been issued received a certificate as a certified public accountant under the provisions of sections 1-114 to 1-124, and holds a live permit issued under the provisions subdivision (1)(a) of section 1-136, which is not revoked or suspended and all of such person's offices in this state for the practice of public accounting accountancy are maintained and registered as required under section 1-135.

Sec. 44. Section 1-154, Revised Statutes Supplement, 1996, is amended to read:

1-154. No partnership or limited liability company shall assume or use the title or designation public accountant or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such partnership or limited liability company is composed of public accountants, unless such partnership or limited liability company is registered as a partnership of public accountants or a limited liability company of public accountants under section 1-133 or as a partnership of certified public accountants or a limited liability company of certified public accountants under section 1-126 and holds a live permit issued under subdivision (1)(c) or (1)(e) of section 1-136 which is not revoked or suspended and all of such partnership's or limited liability company's offices in this state for the practice of public accounting accountancy are maintained and registered as required under section 1-135.

Sec. 45. Section 1-155, Revised Statutes Supplement, 1996, is amended to read:

1-155. (1) No person, partnership, or limited liability company shall assume or use the title or designation certified accountant, chartered accountant, enrolled accountant, licensed accountant, or registered accountant or any other title or designation likely to be confused with certified public

accountant or public accountant or any of the abbreviations C.A., P.A., E.A., R.A., or L.A. or similar abbreviations likely to be confused with C.P.A. Anyone Any person who holds a live permit issued under section 1-136 which is not revoked or suspended and all of whose offices in this state for the practice of public accounting accountancy are maintained and registered as required under section 1-135 may hold himself or herself out to the public as an accountant or auditor.

(2) A foreign accountant registered under section 1-125, who holds a live permit issued under the provisions subdivision (1)(b) of section 1-136-7 which is not revoked or suspended and all of whose offices in this state for the practice of public accounting accountancy are maintained and registered as required under section 1-135 may use the title under which he or she is generally known in his or her country, followed by the name of the country from which he or she received his or her certificate, license, or degree.

Sec. 46. Section 1-156, Reissue Revised Statutes of Nebraska, is amended to read:

1-156. No corporation shall assume or use the title or designation certified public accountant-7 or public accountant-7 nor shall any corporation assume or use the title or designation certified accountant, chartered accountant, enrolled accountant, licensed accountant, registered accountant, or any other title or designation likely to be confused with certified public accountant or public accountant-7 or any of the abbreviations C.P.A., P.A., C.A., E.A., R.A., L.A., or similar abbreviations likely to be confused with C.P.A., except 7 PROVIDED, that a corporation which is registered under the provisions of section 1-134-7 and holds a live permit issued under the provisions subdivision (1)(f) of section 1-136-7 which is not revoked or suspended and all of such corporation's offices in this state for the practice of public accounting accountancy are maintained and registered as required under the provisions of section 1-135, may use the words public accountant, accountant, auditor, and other appropriate words to indicate that it is engaged in the practice of public accounting accountancy but may not use the title or designation certified public accountant, certified accountant, chartered accountant, enrolled accountant, licensed accountant, registered accountant, or any other title or designation likely to be confused with certified public accountant or any of the abbreviations C.P.A., C.A., E.A., L.A., R.A., or similar abbreviations likely to be confused with C.P.A.

Sec. 47. Section 1-157, Revised Statutes Supplement, 1996, is amended to read:

1-157. No person shall sign or affix his or her name or any trade or assumed name used by him or her in his or her profession or business with any wording indicating that he or she is an accountant or auditor or with any wording indicating that he or she has expert knowledge in accounting or auditing to any accounting or financial statement or to any opinion on, report on, or certificate to any accounting or financial statement unless he or she holds a live permit issued under subdivision (1)(a), (1)(b), or (1)(d) of section 1-136 which is not revoked or suspended and all of his or her offices in this state for the practice of public accounting accountancy are maintained and registered as required under section 1-135. This section shall not prohibit any officer, employee, partner, limited liability company member, or principal of any organization from affixing his or her signature to any statement or report in reference to the financial affairs of the organization with any wording designating the position, title, or office which he or she holds in the organization, nor shall this section prohibit any act of a public official or public employee in the performance of his or her duties as such.

Sec. 48. Section 1-158, Revised Statutes Supplement, 1996, is amended to read:

1-158. No person shall sign or affix a partnership or limited liability company name, with any wording indicating that it is a partnership or limited liability company composed of accountants, auditors, or persons having expert knowledge in accounting or auditing, to any accounting or financial statement, or to any report on or certificate to any accounting or financial statement, unless the partnership or limited liability company holds a live permit issued under subdivision (1)(c) or (1)(e) of section 1-136 which is not revoked or suspended and all of its offices in this state for the practice of public accounting accountancy are maintained and registered as required under section 1-135.

Sec. 49. Section 1-159, Reissue Revised Statutes of Nebraska, is amended to read:

1-159. No person shall sign or affix a corporate name with any wording indicating that it is a corporation performing services as accountants or auditors or composed of accountants or auditors or persons having expert knowledge in accounting or auditing, to any accounting or financial statement,

or to any report on or certificate to any accounting or financial statement, ~~except~~ ~~PROVIDED~~, that a corporation which is registered under the provisions of section 1-134 and holds a live permit issued under the provisions ~~of~~ ~~subdivision (1)(f)~~ of section 1-136 ~~which is not revoked or suspended may~~ affix its corporate name which it had on September 20, 1957, with the wording indicated above.

Sec. 50. Section 1-160, Revised Statutes Supplement, 1996, is amended to read:

1-160. No person, partnership, limited liability company, or corporation not holding a live permit issued under section 1-136 ~~which is not revoked or suspended~~ shall hold himself, herself, or itself out to the public as an accountant or auditor by use of either or both of such words on any sign, card, or letterhead or in any advertisement or directory without indicating thereon or therein that such person, partnership, limited liability company, or corporation does not hold such a permit. This section shall not prohibit any officer, employee, partner, member, or principal of any organization from describing himself or herself by the position, title, or office he or she holds in such organization nor any act of any public official or public employee in the performance of his or her duties as such.

Sec. 51. Section 1-161, Revised Statutes Supplement, 1996, is amended to read:

1-161. No person shall assume or use the title or designation certified public accountant or public accountant in conjunction with names indicating or implying that there is a partnership or a limited liability company or in conjunction with the designation "and company" or "and Co." or a similar designation if, in any such case, there is in fact no bona fide partnership or limited liability company registered under ~~sections~~ ~~section~~ ~~1-126 to or~~ 1-133, except that a sole proprietor or partnership lawfully using such title or designation in conjunction with such names or designation on September 20, 1957, may continue to do so if he, she, or it otherwise complies with the provisions of the Public Accountancy Act of 1957.

Sec. 52. Section 1-162, Revised Statutes Supplement, 1996, is amended to read:

1-162. Nothing contained in the Public Accountancy Act of 1957 shall prohibit any person not a certified public accountant or public accountant from serving as an employee of, or an assistant to, a certified public accountant, public accountant, or partnership or limited liability company composed of certified public accountants or public accountants holding a permit to practice issued under section 1-136 or a foreign accountant registered under section 1-125, except that such employee or assistant shall not issue any accounting or financial statement over his or her name.

Sec. 53. Section 1-162.01, Revised Statutes Supplement, 1996, is amended to read:

1-162.01. Notwithstanding the provisions of the Nebraska Professional Corporation Act or the Public Accountancy Act of 1957 or any other provision of law inconsistent with this section, ~~partnerships, professional corporations, limited liability companies, and any other form of~~ business entity engaged in the practice of public accounting in Nebraska entitled to register with the board as a business entity of certified public accountants or public accountants ~~firms~~ may have persons as owners who are not licensed as certified public accountants or public accountants if the following conditions are met:

(1) Such persons shall not exceed forty-nine percent of the total number of owners of such ~~business entity~~ ~~firm~~;

(2) Such persons shall not hold, in the aggregate, more than thirty-three percent of such ~~business entity's~~ ~~firm's~~ equity capital or voting rights or receive, in the aggregate, more than thirty-three percent of such ~~business entity's~~ ~~firm's~~ profits or losses;

(3) Such persons shall not hold themselves out as certified public accountants or public accountants;

(4) Such persons shall not hold themselves out to the general public or to any client as an owner, partner, shareholder, limited liability company member, director, officer, or other official of the ~~business entity~~ ~~firm~~ except in a manner specifically permitted by the rules and regulations of the board;

(5) Such persons shall not have ultimate responsibility for the performance of any audit, review, or compilation of financial statements or other forms of attestation related to financial information;

(6) Such persons shall not be owners of a ~~business~~ ~~firm~~ engaged in the practice of ~~accounting~~ ~~public accountancy~~ without board approval if such persons (a) have been convicted of any felony under the laws of any state, of the United States, or of any other jurisdiction, (b) have been convicted of

any crime, an element of which is dishonesty or fraud, under the laws of any state, of the United States, or of any other jurisdiction, (c) have had their professional or vocational licenses, if any, suspended or revoked by a licensing agency of any state of the United States or of any other jurisdiction or such persons have otherwise been the subject of other final disciplinary action by any such agency, or (d) are in violation of any rule or regulation regarding character or conduct adopted and promulgated by the board relating to owners who are not certified public accountants or public accountants; and

(7) Such persons, regardless of where located, shall be ~~individuals~~ who actively participate in the business of the firm.

The board shall adopt and promulgate rules and regulations for purposes of interpretation and enforcement of compliance with this section.

Sec. 54. Section 1-163, Reissue Revised Statutes of Nebraska, is amended to read:

1-163. Nothing contained in the Public Accountancy Act of 1957 shall prohibit a certified public accountant or a registered public accountant of another state, or any accountant who holds a certificate, degree, or license in a foreign country, constituting a recognized qualification for the practice of public ~~accounting~~ accountancy in such country, from temporarily practicing in this state on professional business incident to his or her regular practice outside this state, PROVIDED, that if such temporary practice is conducted in conformity with the rules and regulations and rules of professional conduct adopted and promulgated by the board.

Sec. 55. Section 1-164, Reissue Revised Statutes of Nebraska, is amended to read:

1-164. Nothing contained in the Public Accountancy Act of 1957 shall prohibit any person from carrying on the regular business of banking, nor prohibit any person from carrying on the regular practice of law, nor prohibit any farm organization or agricultural cooperative association, or the employees thereof, from rendering accounting, auditing, or business analysis services when such services are rendered only to its members or to other farm organizations or agricultural cooperative associations.

Sec. 56. Section 1-164.01, Reissue Revised Statutes of Nebraska, is amended to read:

1-164.01. Nothing in the Public Accountancy Act of 1957 or the rules and regulations adopted and promulgated under such the act shall be construed to prohibit anyone any person who does not hold a permit issued under subdivision (1)(a), (1)(b), or (1)(d) of section 1-136 from preparing, compiling, or signing financial statements if an accompanying report, letter, or other statement does not express an opinion or other form of assurance as to the fairness, accuracy, or reliability of such statements.

Sec. 57. Section 1-164.02, Revised Statutes Supplement, 1996, is amended to read:

1-164.02. Nothing in the Public Accountancy Act of 1957 or the rules and regulations adopted and promulgated under such the act shall be construed to prohibit a person holding a certificate of a certified public accountant from forming a business partnership or limited liability company with a person an accountant not holding a license certificate or permit.

Sec. 58. Section 1-164.03, Reissue Revised Statutes of Nebraska, is amended to read:

1-164.03. Nothing in the Public Accountancy Act of 1957 or the rules and regulations adopted and promulgated under such the act shall be construed to prohibit a person an accountant not holding a license certificate or permit from using the title accountant in his or her business practices.

Sec. 59. Section 1-165, Reissue Revised Statutes of Nebraska, is amended to read:

1-165. Whenever, in the judgment of the board, any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of the provisions of sections 1-151 to 1-161, the board may make application to the appropriate court for an order enjoining such acts or practices, and upon a showing by the board that such person has engaged, or is about to engage, in any such acts or practices, an injunction, a restraining order, or such other order as may be appropriate shall be granted by such court without bond.

Sec. 60. Section 1-166, Reissue Revised Statutes of Nebraska, is amended to read:

1-166. Any person who violates any provision of sections 1-151 to 1-161 shall be guilty of a Class II misdemeanor. If a member of the board has reason to believe that any person is liable to punishment under this section, the board ~~it~~ may certify the facts to the Attorney General of this state, who may in his or her discretion cause appropriate proceedings to be brought.

Sec. 61. Section 1-167, Reissue Revised Statutes of Nebraska, is amended to read:

1-167. The display or uttering by a person of a card, sign, advertisement, or other printed, engraved, or written instrument or device, bearing a person's name in conjunction with the words certified public accountant or any abbreviation thereof, or public accountant or any abbreviation thereof shall be prima facie evidence in any action brought under the provisions of section 1-165 or 1-166 that the person whose name is so displayed caused or procured the display or uttering of such card, sign, advertisement, or other printed, engraved, or written instrument or device, and that such person is holding himself or herself out to be a certified public accountant or a public accountant holding a permit to practice issued under the provisions of section 1-136. In any such action evidence of the commission of a single act prohibited by the provisions of the Public Accountancy Act of 1957 shall be sufficient to justify an injunction or a conviction without evidence of a general course of conduct.

Sec. 62. Section 1-170, Reissue Revised Statutes of Nebraska, is amended to read:

1-170. Whenever any statute, or rule or regulation made adopted and promulgated by authority of any statute, requires that any audit, report, financial statement, or other document for any department, division, board, commission, agency, or officer of this state, be prepared by certified public accountants, such requirement, except as provided in section 1-171, shall be construed to mean certified public accountants, or public accountants holding a live permit to engage in the practice of public accounting in this state, issued under the provisions of subdivision (1)(a) or (1)(d) of section 1-136.

Sec. 63. Section 1-171, Reissue Revised Statutes of Nebraska, is amended to read:

1-171. Whenever any federal regulation requires any audit, report, financial statement, or other document to be prepared by a certified public accountant, such requirement shall be construed to mean a certified public accountant holding a permit issued under subdivision (1)(a) of section 1-136.

Sec. 64. Original sections 1-105.01 to 1-108.01, 1-110, 1-113, 1-114, 1-116 to 1-125, 1-134, 1-136.01, 1-136.04, 1-140, 1-142 to 1-145, 1-150, 1-151, 1-153, 1-156, 1-159, 1-163 to 1-164.01, 1-164.03 to 1-167, 1-170, and 1-171, Reissue Revised Statutes of Nebraska, and sections 1-109, 1-111, 1-112, 1-126, 1-133, 1-135, 1-136, 1-136.02, 1-137 to 1-139, 1-148, 1-152, 1-154, 1-155, 1-157, 1-158, 1-160 to 1-162.01, 1-164.02, and 1-169, Revised Statutes Supplement, 1996, are repealed.

Sec. 65. The following sections are outright repealed: Sections 1-130, 1-131, and 1-132, Reissue Revised Statutes of Nebraska.