

CORRECTED COPY

LEGISLATIVE BILL 41

Approved by the Governor February 15, 1993

Introduced by Landis, 46

AN ACT relating to the Nebraska State Board of Public Accountancy; to amend sections 1-112, 1-136.02, 1-137, 1-138, 1-139, and 1-148, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the issuance of rules and regulations; to provide for the issuance of a permit to practice to a holder of a reciprocal certificate as prescribed; to change provisions relating to disciplinary actions as prescribed; to provide powers and duties; to eliminate a temporary certificate provision; and to repeal the original sections, and also section 1-127, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 1-112, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-112. The board may adopt, promulgate, and amend rules 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. ~~At least sixty days prior to the promulgation of any such rule or amendment, the board shall mail copies of the proposed rule or amendment to each holder of a permit issued under section 1-136 with a notice advising him of the proposed effective date of the rule or amendment and requesting that he submit his comments thereon at least fifteen days prior to such effective date. Such comments shall be advisory only. Failure to mail any such rule, amendment, or notice to all permit holders shall not affect the validity of any such rule or amendment.~~ The rules and regulations shall be adopted and promulgated pursuant to the Administrative Procedure Act.

Sec. 2. That section 1-136.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-136.02. (1) The board shall ~~not~~ issue a permit under section 1-136 to ~~any~~ a holder of a certificate of certified public accountant ~~until~~ when such holder has had;

(a) Two ~~(1)~~ two years of public accounting experience satisfactory to the board, in any state, (i) in practice as a certified public accountant or ~~as~~ a public accountant, (ii) ~~or in any state in employment as a staff accountant by anyone practicing public accounting,~~ or (iii) in any combination of either of such types of experience;

~~(b) Three~~, ~~(2) 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, ~~or (3) experience~~ gained through employment by the federal government as a special agent or an internal revenue agent in the Internal Revenue Service, ~~and who holds a degree from a college or university of recognized standing, and is certified~~ certification by a District Director of Internal Revenue ~~as having 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 to a holder of a reciprocal certificate issued pursuant to 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. 3. 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 1-149, 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, 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, ~~or~~ in obtaining registration under the Public Accountancy Act of 1957, or in obtaining a permit to practice public accounting under the act;

(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 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 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~~ the 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.

Sec. 4. That section 1-138, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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 if at any time it does not have all the qualifications prescribed by section 1-126 or 1-133 under which it qualified for registration.

After notice and hearing as provided in sections 1-140 to 1-149, the board may ~~revoke or suspend the registration of a partnership, or may revoke, suspend, or refuse to renew its permit under the provisions of section 1-136 to practice or may censure the holder of any such permit~~ 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

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

Sec. 5. That section 1-139, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-139. After notice and hearing as provided in sections 1-140 to 1-149, the board may ~~revoke or suspend any registration granted to a corporation under the provisions of section 1-134, or may revoke, suspend, or refuse to renew any permit issued to a corporation under the provisions of section 1-136, or may censure the holder of any such permit;~~ 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 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. 6. That section 1-148, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-148. ~~The decision of the board shall be by majority vote thereof.~~ 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 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 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. 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; or

(8) Dismissal of the action.

Sec. 7. That original sections 1-112, 1-136.02, 1-137, 1-138, 1-139, and 1-148, Reissue Revised Statutes of Nebraska, 1943, and also section 1-127, Reissue Revised Statutes of Nebraska, 1943, are repealed.