

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2278

Introduced by

Senators Poolman, Luick

Representatives Devlin, Ruby, Sukut

1 A BILL for an Act to amend and reenact sections 43-07-04, 43-07-04.1, 43-07-07, 43-07-09,
2 43-07-10, and 43-07-15 of the North Dakota Century Code, relating to contractor licensing and
3 fees; to provide a penalty; and to declare an emergency.

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

5 **SECTION 1. AMENDMENT.** Section 43-07-04 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **43-07-04. License - How obtained - Failure to grant - Revocation for not in good**
8 **standing.**

9 1. To obtain a license under this chapter, an applicant who is eighteen years of age or
10 older shall submit, on forms the registrar prescribes, an application under oath
11 containing a statement of the applicant's experience and qualifications as a contractor.
12 A copy of a certificate of liability insurance must be filed with the application and the
13 contractor shall submit a statement from North Dakota workforce safety and insurance
14 that the contractor has secured workforce safety and insurance coverage satisfactory
15 to workforce safety and insurance. If the registrar deems it appropriate or necessary,
16 the registrar may also require any other information to assist the registrar in
17 determining the applicant's fitnesseligibility to act in the capacity of a contractor,
18 including, at the expense of the applicant, criminal history record information of the
19 applicant or the officers, members, or partners of the applicant which is held or
20 maintained by the bureau of criminal investigation or a similar entity in another state.
21 The application must contain a statement that the applicant desires the issuance of a
22 license under this chapter and must specify the class of license sought.

23 2. The registrar may refuse to grant a license if the registrar determines the application
24 contains ~~false, misleading, or incomplete information;~~ or the applicant fails or refuses

1 to authorize or pay for criminal history information requested by the registrar; ~~or as~~
2 ~~otherwise provided in sections 12-1-33-02.1 and 43-07-04.1.~~ The registrar shall notify
3 the applicant in writing if the registrar does not grant the license and shall provide the
4 applicant an opportunity to respond to or cure the defect in the application for a period
5 of ten days from the date of the written notification. An applicant aggrieved by a
6 decision of the registrar not to grant the license may appeal the decision to the district
7 court of the applicant's county of residence or Burleigh County.

8 3. No sooner than twenty days after sending written notice to a contractor at the
9 contractor's last-known address, the registrar shall classify as not in good standing the
10 license of any contractor who fails to:

- 11 a. Maintain liability insurance coverage required by this section or by section
12 43-07-10;
- 13 b. File, renew, or properly amend any fictitious name certificate required by
14 chapter 45-11;
- 15 c. Maintain an active status of a corporation or registration as a foreign corporation;
- 16 d. Maintain an active status of a limited liability company or registration as a foreign
17 limited liability company;
- 18 e. File or renew a trade name registration as required by chapter 47-25;
- 19 f. Maintain a limited liability partnership registration or foreign limited liability
20 partnership registration as required by chapter 45-22; or
- 21 g. Maintain a limited partnership certificate of limited partnership or foreign limited
22 partnership certificate of authority.

23 4. Any contractor who has been notified by the registrar that the contractor's license is
24 not in good standing shall cease soliciting or entering new contract projects. If the
25 contractor fails to correct the deficiency specified in the notice by evidence satisfactory
26 to the registrar within thirty days of the date of the notice or if the contractor solicits or
27 enters new contract projects while the contractor's license is not in good standing, the
28 registrar shall use the procedures of chapter 28-32 to revoke the license of the
29 contractor.

30 **SECTION 2. AMENDMENT.** Section 43-07-04.1 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **43-07-04.1. Conviction not bar to licensure -- Exceptions Denial, suspension, or**
2 **revocation of license - Eligibility.**

3 Conviction

4 1. The registrar may deny any application for license, deny any application for renewal of
5 license, or suspend or revoke any license, based on the applicant's or licensee's lack
6 of eligibility to act in the capacity of a contractor, upon proof of one or more of the
7 following:

8 a. The application for a license contains false or misleading information;

9 b. The applicant or licensee has been convicted of an offense that has direct
10 bearing upon the applicant's or licensee's ability to serve the public as a
11 contractor; or

12 c. The licensee or applicant has engaged in conduct as a contractor which is
13 dishonest or fraudulent and which the registrar finds injurious to the welfare of the
14 public.

15 2. Notwithstanding subdivision b of subsection 1, conviction of an offense does not
16 disqualify~~make~~ a person from~~ineligible~~ for licensure under this chapter unless the
17 secretary of state determines that the offense has a direct bearing upon a person's
18 ability to serve the public as a contractor or that, following conviction of any offense,
19 the person is not sufficiently rehabilitated under section 12.1-33-02.1.

20 3. Any applicant denied a license or denied renewal of a license may appeal the decision
21 to the district court of the applicant's county of residence or Burleigh County.

22 4. Section 43-07-15 applies to any decision by the registrar to revoke or suspend a
23 license.

24 **SECTION 3. AMENDMENT.** Section 43-07-07 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **43-07-07. License fees.**

27 At the time of making application for a license as described and required in this chapter, the
28 applicant shall pay to the registrar the following fees:

29 1. For a class A license, the sum of ~~three~~five hundred dollars.

30 2. For a class B license, the sum of ~~two~~four hundred dollars.

31 3. For a class C license, the sum of ~~one~~three hundred ~~thirty~~ fifty dollars.

1 4. For a class D license, the sum of ~~fifty~~two hundred dollars.
2 ~~All~~Twenty-five percent of all moneys collected by the registrar under this chapter must be
3 ~~deposited by the registrar in the secretary of state's general services operating fund to pay the~~
4 cost to administer this chapter and the balance of the moneys collected must be deposited with
5 the state treasurer, who shall credit them to the general fund of the state.

6 **SECTION 4. AMENDMENT.** Section 43-07-09 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **43-07-09. Duty of registrar - Expiration of license.**

9 Within fifteen days from the date of application, the registrar may investigate and determine
10 each applicant's ~~fitness~~eligibility to act in the capacity of a contractor as ~~defined in this~~
11 ~~chapter~~provided in section 43-07-04.1, and no license may be issued to such applicant until the
12 registrar receives all documentation necessary to obtain a license and the appropriate fee. The
13 license issued on an original application entitles the licensee to act as a contractor within this
14 state, subject to the limitations of such license, until the expiration of the then current fiscal year
15 ending March first, except that an initial license issued to a licensee in January or February is
16 valid until March first of the subsequent year.

17 **SECTION 5. AMENDMENT.** Section 43-07-10 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **43-07-10. Renewal of license - Grounds for nonrenewal - Time requirements -**
20 **Invalidity of license for failure to renew.**

21 1. Any license issued under this chapter may be renewed for each successive fiscal year
22 by obtaining from the registrar a certificate of renewal. To obtain a certificate of
23 renewal, the licensee shall file with the registrar an application that includes a listing of
24 each project, contract, or subcontract completed by the licensee during the preceding
25 calendar year in this state over the amount of twenty-five thousand dollars and the
26 nature of the work of each project, contract, or subcontract. The registrar shall within a
27 reasonable time forward a copy of the list to the state tax commissioner. The applicant
28 shall include with the application a copy of a certificate of liability insurance naming the
29 secretary of state as the certificate holder unless the registrar has a current valid
30 certificate of insurance on file, and a certification that the applicant has submitted all
31 payroll taxes, including North Dakota income tax, workforce safety and insurance

1 premiums, and unemployment insurance premiums due at the time of renewal, which
2 documents need not be notarized.

3 2. The registrar may refuse to renew a license if the registrar determines the application
4 contains false, misleading, or incomplete information or if the contractor's license is
5 not in good standing for any of the reasons listed in subsection 3 of section 43-07-04.
6 The registrar shall notify the applicant in writing if the registrar does not grant the
7 license and shall provide the applicant an opportunity to respond to or cure the defect
8 in the application for a period of ten days from the date of the written notification. An
9 applicant aggrieved by a decision of the registrar not to grant the license may appeal
10 the decision to the district court of the applicant's county of residence or Burleigh
11 County.

12 3. The application for a certificate of renewal must be made to the registrar on or before
13 the first day of March of each year. At the time of filing the application for a certificate
14 of renewal, the applicant shall pay to the registrar a renewal fee equal to twenty
15 percent of the license fee established in section 43-07-07. If any contractor applies for
16 a renewal under a class different from the license previously issued, the new class
17 license may be issued upon the payment of the fee required for the issuance of the
18 license of the class applied for. If any contractor fails to file an application for a
19 certificate of renewal by the March first deadline, the contractor's license is not in good
20 standing and the contractor must be deemed to be unlicensed within the meaning of
21 sections 43-07-02 and 43-07-18. Within sixty days after March first, the contractor
22 must be notified by mail that the contractor's license is not in good standing. The
23 contractor then has until June first to renew by paying a penalty fee of ~~seventy-five-~~
24 ~~percent of the renewal fee~~ fifty dollars, filing an application for a certificate of renewal,
25 and paying the renewal fee. A contractor who applies for a certificate of renewal before
26 or within ninety days of the filing deadline is not subject to the investigation authorized
27 in section 43-07-09. After the June first deadline any licenses not renewed are
28 revoked. Any application for a certificate of renewal must be fully completed within
29 sixty days of the date the application is received by the registrar or the registrar shall
30 return the application to the contractor who then is subject to section 43-07-09. The

1 registrar may destroy all renewals provided for in this section after they have been on
2 file for six years.

3 **SECTION 6. AMENDMENT.** Section 43-07-15 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **43-07-15. Revocation Procedure for revocation or suspension of license - Restitution -**
6 **Civil penalties - Appeal –Procedure.**

7 The registrar shall review each complaint filed under section 43-07-14. If the registrar
8 determines a written complaint filed under section 43-07-14 provides sufficient facts upon which
9 a reasonable person could conclude that one or more of the acts or omissions set forth in
10 section 43-07-14 has been committed, the registrar may initiate an adjudicative proceeding in
11 accordance with chapter 28-32. If, after an adjudicative proceeding or as part of an informal
12 disposition under chapter 28-32, the registrar determines that the licensee is guilty of an act or
13 omission charged or if the licensee admits guilt to an act or omission charged, the registrar may
14 suspend or revoke the contractor's license, order a civil penalty of not more than one thousand
15 dollars, order restitution in an amount not more than five thousand dollars, or impose some
16 lesser sanction or remedy. The registrar may suspend the contractor's license for a period of not
17 more than sixty months. The registrar may not renew, reinstate, or issue a new license until the
18 licensee has paid any civil penalty or restitution imposed under this section. The registrar may
19 bring an action in district court to recover restitution or penalties under this section. A contractor
20 aggrieved by a decision of the registrar in revoking or suspending the contractor's license or
21 ordering restitution or penalties may appeal the decision to the district court of that person's
22 county of residence or Burleigh County. Any licensee may not obtain a license under any name
23 during the period of revocation or suspension. A "licensee" whose license is revoked or
24 suspended includes any officer, director, agent, member, or employee of the licensee. The
25 provisions of chapter 28-32 govern any appeal and proceedings ~~hereunder~~under this section.

26 **SECTION 7. EMERGENCY.** Section 2 of this Act is declared to be an emergency measure.