

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 16

FINAL READING

Introduced by Conrad, 46; Briese, 41; Sanders, 45; Brewer, 43; Murman, 38; McDonnell, 5; Holdcroft, 36; Dungan, 26; Kauth, 31; Fredrickson, 20; Vargas, 7.

Read first time January 05, 2023

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to occupational regulation; to amend sections
2 81-2103, 81-2120, and 84-617, Reissue Revised Statutes of Nebraska,
3 and sections 84-933, 84-934, 84-940, and 84-947, Revised Statutes
4 Cumulative Supplement, 2022; to change requirements for membership
5 of the State Electrical Board; to provide powers and duties for the
6 State Electrical Board; to provide for an additional use of the
7 State Treasurer Administrative Fund; to define and redefine terms;
8 to provide for federal preemption; to provide for applicability of
9 provisions; to require occupational boards to make a determination
10 regarding an applicant with a criminal conviction; to require
11 occupational boards to issue an occupational license or government
12 certification based on a credential, private certification, or work
13 experience in another state or in the United States Military; to
14 provide for jurisprudential examinations and appeals; to change
15 provisions relating to preliminary applications by individuals with
16 a criminal conviction; to adopt the Interior Design Voluntary
17 Registration Act; to harmonize provisions; and to repeal the
18 original sections.
19 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-2103, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 81-2103 (1) There is hereby established an independent agency to be
4 known as the State Electrical Division which shall be under the
5 administrative and operative control of the executive director of such
6 division. The division shall include a seven-member State Electrical
7 Board appointed by the Governor with the consent of the Legislature. All
8 members of the board shall be residents of the State of Nebraska. The
9 board shall direct the efforts of the executive director and set the
10 policy of the division. The members of the board shall be (a) two ~~one~~ of
11 such ~~members shall be a~~ journeyman electricians, one of which shall be
12 appointed in accordance with subsection (2) of this section electrician,
13 (b) one shall be an electrical contractor or master electrician who shall
14 be appointed in accordance with subsection (3) of this section, (c) one
15 shall be a certified electrical inspector, (d) one shall be a licensed
16 professional electrical engineer, (e) one shall be a representative of a
17 public power district or rural electric cooperative in the state, (f) one
18 shall be a representative of the municipal electric systems in the state,
19 and (g) except as provided in subsection (2) of this section, one shall
20 be a member of any of such groups. The members of the board shall be
21 appointed for staggered terms of five years. Any vacancy occurring in the
22 membership of the board shall be filled by the Governor for the unexpired
23 term. Each member of the board shall serve until a ~~his or her~~ successor
24 is appointed and qualified. The executive director shall be the executive
25 secretary of the board and shall be responsible for all books, records,
26 and transcripts of proceedings of the board.

27 (2) At the expiration of the term of the member serving under
28 subdivision (1)(g) of this section as the member of any such groups on
29 the effective date of this act, such member shall be one of the two
30 journeyman electrician members, shall be affiliated with a nonprofit
31 labor organization for electrical workers holding a certificate of

1 exemption under section 501(c)(5) of the Internal Revenue Code, and shall
2 be selected from a list of journeyman electricians recommended by such
3 organization.

4 (3) At the expiration of the term of the electrical contractor or
5 master electrician member serving under subdivision (1)(b) of this
6 section on the effective date of this act, the electrical contractor or
7 master electrician member shall be affiliated with a nonprofit labor
8 organization for electrical workers holding a certificate of exemption
9 under section 501(c)(5) of the Internal Revenue Code and shall be
10 selected from a list of electrical contractors or master electricians
11 recommended by such organization.

12 Sec. 2. Section 81-2120, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 81-2120 (1) To the extent that any other state which provides for
15 the licensing of electricians provides for similar action, the board may
16 grant licenses, without examination, of the same grade and class to an
17 electrician who has been licensed by such other state for at least one
18 year, upon payment by the applicant of the required fee, and upon the
19 board being furnished with proof that the qualifications of the applicant
20 are equal to the qualifications of holders of similar licenses in
21 Nebraska.

22 (2)(a) Subject to subdivision (b) of this subsection, the board
23 shall issue a license to an individual upon application if:

24 (i)(A) The applicant holds (I) a credential in another state that
25 has a reciprocal credentialing agreement with the State of Nebraska for
26 such credential as determined by the board, (II) a military occupational
27 specialty in the United States Military as defined in section 7 of this
28 act, or (III) a license with a prerequisite of apprentice registration
29 and successful completion of an apprenticeship training program
30 registered by the United States Department of Labor; and

31 (B) Such credential, military occupational specialty, or license is

1 for an occupation with a similar scope of practice, as determined by the
2 board;

3 (ii) The applicant has held the credential, military occupational
4 specialty, or license for at least one year;

5 (iii) To obtain such credential, military occupational specialty, or
6 license, the applicant was required to pass an examination or meet
7 education, training, or experience standards;

8 (iv) The applicant does not have a disqualifying criminal record as
9 determined by the board;

10 (v) The applicant's credential, military occupational specialty, or
11 license has not been revoked because of negligence or intentional
12 misconduct related to the applicant's work in the occupation;

13 (vi) The applicant has not surrendered a credential, military
14 occupational specialty, or license because of negligence or intentional
15 misconduct related to the applicant's work in the occupation in any
16 state, in the United States Military, or in an apprenticeship training
17 program;

18 (vii) The applicant does not have a complaint, allegation, or
19 investigation pending before a board in any state, the United States
20 Military, or an apprenticeship training program that relates to
21 unprofessional conduct or an alleged crime. If such a complaint,
22 allegation, or investigation is pending, the State Electrical Board shall
23 not issue or deny a license until the complaint, allegation, or
24 investigation is resolved or the applicant otherwise meets the criteria
25 for a license to the satisfaction of the board; and

26 (viii) The applicant has paid all applicable fees required for
27 issuance of the license in this state.

28 (b) Prior to issuance of a license under this subsection, the board
29 may require an applicant to pass a jurisprudential examination specific
30 to relevant state statutes and administrative rules and regulations that
31 regulate the occupation if issuance of such license in this state

1 requires a person to pass such an examination.

2 (c)(i) Except as otherwise provided in subdivision (ii) of this
3 subdivision, the board shall approve or deny a license under this
4 subsection in writing within sixty days after receiving a complete
5 application under this subsection or within five business days after the
6 next meeting of the board that is held after receiving a complete
7 application under this subsection, whichever is sooner.

8 (ii) The board may delay the approval or denial of a license under
9 this subsection past the deadline prescribed in subdivision (i) of this
10 subdivision if the approval or denial is delayed because of the
11 requirement to complete a criminal background check or a disciplinary
12 history review, but the board shall approve or deny such license in
13 writing within five business days after receiving the results of the
14 background check and the disciplinary history review or within five
15 business days after the next meeting of the board after receiving such
16 results, whichever is sooner. The board shall document in writing each
17 case in which approval or denial of an application is not provided within
18 sixty days after receipt of the complete application.

19 (d) For a license that has a prerequisite of apprentice registration
20 under the State Electrical Act, the board shall grant credit toward
21 requirements for such license for completion of any portion of an
22 apprenticeship training program registered by the United States
23 Department of Labor.

24 (e) An applicant may appeal the denial of a license under this
25 subsection. The appeal shall be in accordance with the Administrative
26 Procedure Act.

27 (f) A license issued pursuant to this subsection is valid only in
28 this state and does not make the individual eligible to work in another
29 state, in the United States Military, or under an interstate compact or
30 reciprocity agreement unless otherwise provided by law.

31 Sec. 3. Section 84-617, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 84-617 (1) There is hereby created the State Treasurer
3 Administrative Fund. Funds received by the State Treasurer pursuant to
4 his or her administrative duties shall be credited to the fund. Such
5 funds shall include:

6 (a) Payments for returned check charges or for electronic payments
7 not accepted;

8 (b) Payments for wire transfers initiated by the State Treasurer at
9 the request of state agencies;

10 (c) Payments for copies of cashed state warrants;

11 (d) Payments for copies, including microfilm, computer disk, or
12 magnetic tape, of listings relating to outstanding state warrants;~~and~~

13 (e) Payments for copies, including microfilm, computer disk, or
14 magnetic tape, of listings of owners of unclaimed property held by the
15 State Treasurer pursuant to the Uniform Disposition of Unclaimed Property
16 Act; and -

17 (f) Payments under the Interior Design Voluntary Registration Act.

18 (2) Money in the fund received pursuant to subdivisions (1)(a)
19 through (d) of this section shall be credited to the General Fund
20 quarterly. Money in the State Treasurer Administrative Fund received
21 pursuant to subdivisions subdivision (1)(e) and (f) of this section shall
22 be credited to the Unclaimed Property Cash Fund. The State Treasurer may
23 retain such amount as he or she deems appropriate in the State Treasurer
24 Administrative Fund for purposes of making change for cash payments. Any
25 money in the fund available for investment shall be invested by the state
26 investment officer pursuant to the Nebraska Capital Expansion Act and the
27 Nebraska State Funds Investment Act.

28 (3) ~~(2)~~ The State Treasurer may establish a fee schedule for any of
29 the services listed in subdivisions (1)(a) through (e) ~~subsection (1)~~ of
30 this section. The fees shall approximate the cost of providing the
31 service.

1 Sec. 4. Section 84-933, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 84-933 Sections 84-933 to 84-948 and sections 6 to 11 of this act
4 shall be known and may be cited as the Occupational Board Reform Act.

5 Sec. 5. Section 84-934, Revised Statutes Cumulative Supplement,
6 2022, is amended to read:

7 84-934 For purposes of the Occupational Board Reform Act, the
8 definitions in sections 84-935 to 84-944 and sections 6 and 7 of this act
9 apply.

10 Sec. 6. Potentially disqualifying conviction includes a conviction
11 for:

12 (1) Criminal attempt as provided in section 28-201, conspiracy as
13 provided in section 28-202, or aiding and abetting as provided in section
14 28-206, to commit an offense listed in this section;

15 (2) Murder as provided in sections 28-303 or 28-304;

16 (3) Manslaughter as provided in section 28-305;

17 (4) Motor vehicle homicide as provided in section 28-306;

18 (5) Assault in the first or second degree as provided in sections
19 28-308 and 28-309;

20 (6) Terroristic threats as provided in section 28-311.01;

21 (7) Stalking as provided in section 28-311.03;

22 (8) Kidnapping as provided in section 28-313;

23 (9) False imprisonment as provided in sections 28-314 and 28-315;

24 (10) A sexual act subject to criminal penalties as provided in
25 sections 28-317 to 28-322.05;

26 (11) Domestic assault as provided in section 28-323;

27 (12) Robbery as provided in section 28-324;

28 (13) Arson as provided in sections 28-502, 28-503, and 28-504;

29 (14) Fraud subject to criminal penalties as provided in sections
30 28-505, 28-631, 28-638, 28-639, 28-640, and 28-935;

31 (15) Theft as provided in sections 28-511, 28-512, 28-513, and

1 28-515;

2 (16) Forgery as provided in sections 28-602 and 28-603;

3 (17) Incest as provided in section 28-703;

4 (18) Child abuse as provided in section 28-707;

5 (19) Human trafficking, labor trafficking, sex trafficking, labor
6 trafficking of a minor, or sex trafficking of a minor as provided in
7 section 28-831;

8 (20) False reporting as provided in section 28-907;

9 (21) Perjury as provided in section 28-915;

10 (22) Assault on an officer, an emergency responder, certain
11 employees, or a health care professional in the first degree as provided
12 in section 28-929;

13 (23) Assault on an officer, an emergency responder, certain
14 employees, or a health care professional in the second degree as provided
15 in section 28-930;

16 (24) Assault on an officer, an emergency responder, certain
17 employees, or a health care professional in the third degree as provided
18 in section 28-931;

19 (25) Assault on an officer, an emergency responder, certain
20 employees, or a health care professional using a motor vehicle as
21 provided in section 28-931.01;

22 (26) An offense that has as an element the threat to inflict serious
23 bodily injury as defined in section 28-109 or death on another person,
24 the intentional infliction of serious bodily injury as defined in section
25 28-109 on another person, or intentionally causing the death of another
26 person;

27 (27) An offense for which registration is required under the Sex
28 Offender Registration Act; or

29 (28) Any offense under the laws of another jurisdiction that is
30 substantially equivalent to any of the offenses listed in this section.

31 Sec. 7. United States Military means any active duty or reserve

1 duty component of the armed forces of the United States, any state of the
2 United States, or any territory of the United States.

3 Sec. 8. To the extent that an occupational board or lawful
4 occupation is also governed by federal law, federal law shall take
5 precedence over the Occupational Board Reform Act. The act shall not be
6 construed to preempt federal law governing lawful occupations in this
7 state.

8 Sec. 9. Section 84-947 and sections 10 and 11 of this act do not
9 apply to:

10 (1) An occupation regulated by:

11 (a) The Supreme Court;

12 (b) The Department of Banking and Finance;

13 (c) The Board of Engineers and Architects;

14 (d) The Board of Geologists;

15 (e) The Real Property Appraiser Board;

16 (f) The State Electrical Board;

17 (g) The Nebraska Commission on Law Enforcement and Criminal Justice;

18 or

19 (h) The State Real Estate Commission; or

20 (2) A credential issued for:

21 (a) A certified public accountant pursuant to the Public Accountancy
22 Act;

23 (b) An insurance consultant pursuant to sections 44-2606 to 44-2635;

24 (c) An insurance producer pursuant to the Insurance Producers
25 Licensing Act;

26 (d) A professional landscape architect pursuant to the Professional
27 Landscape Architects Act;

28 (e) A managing general agent pursuant to the Managing General Agents
29 Act;

30 (f) A public adjuster pursuant to the Public Adjusters Licensing
31 Act;

1 (g) A reinsurance intermediary-broker or reinsurance intermediary-
2 manager pursuant to the Reinsurance Intermediary Act;

3 (h) A surplus lines producer pursuant to the Surplus Lines Insurance
4 Act;

5 (i) A utilization review agent pursuant to the Utilization Review
6 Act;

7 (j) A viatical settlement broker pursuant to the Viatical
8 Settlements Act; or

9 (k) A physician or osteopathic physician pursuant to the Medicine
10 and Surgery Practice Act.

11 Sec. 10. (1) An individual who has a criminal conviction under the
12 laws of Nebraska or any other jurisdiction may submit an application to
13 the appropriate occupational board for an occupational license,
14 government certification, or state recognition of the individual's
15 personal qualifications and may include with the application additional
16 information about the individual's circumstances at the time of
17 application, mitigating factors, and other evidence of rehabilitation,
18 including:

19 (a) The age of the individual when the individual committed the
20 offense;

21 (b) The time elapsed since the offense;

22 (c) The circumstances and nature of the offense;

23 (d) The completion of the criminal sentence;

24 (e) The completion of, or active participation in, rehabilitative
25 drug or alcohol treatment or individual counseling;

26 (f) Testimonials and recommendations, which may include a progress
27 report from the individual's probation or parole officer;

28 (g) Other evidence of rehabilitation;

29 (h) Education and training;

30 (i) Employment history;

31 (j) Employment aspirations;

1 (k) Family responsibilities at the time of application;

2 (l) Whether the individual is required to be bonded in the
3 occupation; and

4 (m) Any other information the individual deems appropriate.

5 (2) Upon receipt of an application pursuant to subsection (1) of
6 this section and any applicable fees, the appropriate occupational board
7 shall make a determination of whether the individual's criminal history
8 disqualifies the individual from obtaining such occupational license,
9 government certification, or state recognition of the individual's
10 personal qualifications from that occupational board. In making such
11 determination, an individual's criminal history disqualifies the
12 individual from obtaining an occupational license, government
13 certification, or state recognition of the individual's personal
14 qualifications only if:

15 (a) The individual's conviction directly and specifically relates to
16 the duties and responsibilities of the occupation;

17 (b) The individual obtaining such license, certification, or state
18 recognition would pose a direct and substantial risk to public safety
19 because the individual has not been rehabilitated, as evidenced by
20 information described in subsection (1) of this section, to safely
21 perform the duties and responsibilities of the occupation; and

22 (c) Beginning January 1, 2025, the individual has a potentially
23 disqualifying conviction.

24 (3) An individual shall not be required to disclose nor shall
25 consideration be given in a determination under this section to the
26 following:

27 (a) A deferred adjudication, participation in a diversion program,
28 or an arrest not followed by a conviction;

29 (b) A conviction of an offense for which no sentence of
30 incarceration is statutorily authorized;

31 (c) A conviction that has been sealed, annulled, dismissed,

1 expunged, set aside, or pardoned;

2 (d) A juvenile adjudication;

3 (e) A nonviolent misdemeanor unless it is for an offense expressly
4 listed in section 6 of this act;

5 (f) A conviction older than three years for which the individual was
6 not sentenced to a term of incarceration; or

7 (g) A conviction for which the individual's incarceration ended more
8 than three years before the date of the application, other than a
9 potentially disqualifying conviction.

10 (4) The individual may appeal the determination of the occupational
11 board. The appeal shall be in accordance with the Administrative
12 Procedure Act.

13 Sec. 11. (1) Subject to subsection (2) of this section and except
14 as otherwise provided in section 9 of this act or an occupational
15 licensing compact:

16 (a) An occupational board shall issue an occupational license or
17 government certification to an individual upon application if:

18 (i) The applicant holds a credential in another state or a military
19 occupational specialty in the United States Military for an occupation
20 with a similar scope of practice, as determined by the occupational
21 board;

22 (ii) The applicant has held the credential or military occupational
23 specialty for at least one year;

24 (iii) To obtain such credential or specialty, the applicant was
25 required to pass an examination or meet education, training, or
26 experience standards;

27 (iv) The applicant does not have a disqualifying criminal record as
28 determined by the occupational board and verified by a criminal
29 background check. For an applicant applying for a credential regulated by
30 the Uniform Credentialing Act, the criminal background check shall be
31 conducted according to section 38-131;

1 (v) The applicant's credential or military occupational specialty
2 has not been revoked because of negligence or intentional misconduct
3 related to the applicant's work in the occupation;

4 (vi) The applicant has not surrendered a credential or military
5 occupational specialty because of negligence or intentional misconduct
6 related to the applicant's work in the occupation in any state or in the
7 United States Military;

8 (vii) The applicant does not have a complaint, allegation, or
9 investigation pending before a board in any state or in the United States
10 Military that relates to unprofessional conduct or an alleged crime. If
11 such a complaint, allegation, or investigation is pending, the
12 occupational board shall not issue or deny an occupational license or
13 government certification until the complaint, allegation, or
14 investigation is resolved or the applicant otherwise meets the criteria
15 for an occupational license or government certification to the
16 satisfaction of the occupational board; and

17 (viii) The applicant has paid all applicable fees required for
18 issuance of the occupational license or government certification in this
19 state;

20 (b) If an applicant has work experience for an occupation in a state
21 or in the United States Military that does not use a credential similar
22 to an occupational license, a government certification, or a military
23 occupational specialty to regulate an occupation with a similar scope of
24 practice to an occupation for which this state requires an occupational
25 license or government certification, as determined by the occupational
26 board, the occupational board shall issue an occupational license or
27 government certification to an individual upon application based on work
28 experience in another state or in the United States Military if:

29 (i) The applicant is not applying for a credential for an occupation
30 that requires a credential issued under the Uniform Credentialing Act;

31 (ii) The applicant worked for at least three years in the

1 occupation;

2 (iii) The applicant has not had a credential or military
3 occupational specialty revoked because of negligence or intentional
4 misconduct related to the applicant's work in the occupation;

5 (iv) The applicant has not surrendered a credential or military
6 occupational specialty because of negligence or intentional misconduct
7 related to the applicant's work in the occupation in any state or in the
8 United States Military;

9 (v) The applicant does not have a complaint, allegation, or
10 investigation pending before a board in any state or in the United States
11 Military that relates to unprofessional conduct or an alleged crime. If
12 such a complaint, allegation, or investigation is pending, the
13 occupational board shall not issue or deny an occupational license or
14 government certification until the complaint, allegation, or
15 investigation is resolved or the applicant otherwise meets the criteria
16 for an occupational license or government certification to the
17 satisfaction of the occupational board; and

18 (vi) The applicant has paid all applicable fees required for
19 issuance of the occupational license or government certification in this
20 state; and

21 (c) If an applicant holds a private certification and has work
22 experience for an occupation in a state or in the United States Military
23 that does not use an occupational license, a government certification, or
24 a military occupational specialty to regulate an occupation with a
25 similar scope of practice to an occupation for which this state requires
26 an occupational license or government certification, as determined by the
27 occupational board, the occupational board shall issue an occupational
28 license or government certification to an individual upon application
29 based on such certification and work experience in another state or in
30 the United States Military if:

31 (i) The applicant is not applying for a credential for an occupation

1 that requires a credential issued under the Uniform Credentialing Act;

2 (ii) The applicant worked for at least two years in the occupation;

3 (iii) The applicant holds a private certification in the occupation;

4 (iv) The provider of such certification holds the applicant in good

5 standing;

6 (v) The applicant has not had a credential, military occupational

7 specialty, or private certification revoked because of negligence or

8 intentional misconduct related to the applicant's work in the occupation;

9 (vi) The applicant has not surrendered a credential, military

10 occupational specialty, or private certification because of negligence or

11 intentional misconduct related to the applicant's work in the occupation

12 in any state or in the United States Military;

13 (vii) The applicant does not have a complaint, allegation, or

14 investigation pending before a board in any state or in the United States

15 Military or another entity that relates to unprofessional conduct or an

16 alleged crime. If such a complaint, allegation, or investigation is

17 pending, the occupational board shall not issue or deny an occupational

18 license or government certification until the complaint, allegation, or

19 investigation is resolved or the applicant otherwise meets the criteria

20 for an occupational license or government certification to the

21 satisfaction of the occupational board; and

22 (viii) The applicant has paid all applicable fees required for

23 issuance of the occupational license or government certification in this

24 state.

25 (2) Prior to issuance of an occupational license or government

26 certification under subsection (1) of this section, an occupational board

27 may require an applicant to pass a jurisprudential examination specific

28 to relevant state statutes and administrative rules and regulations that

29 regulate the occupation if issuance of such occupational license or

30 government certification in this state requires a person to pass such an

31 examination.

1 (3)(a) Except as otherwise provided in subdivision (b) or (c) of
2 this subsection, an occupational board shall approve or deny an
3 occupational license or government certification in writing within sixty
4 days after receiving a complete application under subsection (1) of this
5 section or within five business days after the next meeting of the
6 occupational board that is held after receiving a complete application
7 under subsection (1) of this section, whichever is sooner.

8 (b) An occupational board may delay the approval or denial of an
9 occupational license or government certification past the deadline
10 prescribed in subdivision (a) of this subsection if the approval or
11 denial is delayed because of the requirement to complete a criminal
12 background check or a disciplinary history review, but such board shall
13 approve or deny an occupational license or government certification in
14 writing within five business days after receiving the results of the
15 background check and the disciplinary history review or within five
16 business days after the next meeting of the occupational board after
17 receiving such results, whichever is sooner. Each occupational board
18 shall document in writing each case in which approval or denial of an
19 application is not provided within sixty days after receipt of the
20 complete application.

21 (c) Notwithstanding subdivisions (a) and (b) of this subsection, a
22 board that generally only holds a meeting quarterly shall only be
23 required to approve or deny a license in writing within five business
24 days after the next meeting of the board after receiving a complete
25 application or, if a criminal background check or disciplinary history
26 review is required, within five business days after the next meeting of
27 the board after receiving such results.

28 (4) An applicant may appeal the denial of an occupational license or
29 government certification under this section. The appeal shall be in
30 accordance with the Administrative Procedure Act.

31 (5)(a) An occupational license or government certification issued

1 pursuant to this section is valid only in this state and does not make
2 the individual eligible to work in another state, in the United States
3 Military, or under an interstate compact, or reciprocity agreement unless
4 otherwise provided by law.

5 (b) Nothing in this section shall be construed to prevent this state
6 from entering into a licensing compact or reciprocity agreement with
7 another state, foreign province, or foreign country.

8 (c) Nothing in this section shall be construed to prevent this state
9 from recognizing an occupational credential issued by a private
10 certification organization, foreign province, foreign country,
11 international organization, or other entity.

12 (d) Nothing in this section shall be construed to require a private
13 certification organization to grant or deny private certification to any
14 individual.

15 (e) This section provides a method of obtaining an initial
16 occupational license or initial government certification in addition to
17 and not in conflict with other methods under other provisions of law.

18 (f) Nothing in this section shall be construed to require an
19 occupational board to issue an occupational credential in a manner that
20 violates federal law.

21 Sec. 12. Section 84-940, Revised Statutes Cumulative Supplement,
22 2022, is amended to read:

23 84-940 (1) Occupational regulation means a statute, rule,
24 regulation, practice, policy, or other state law requiring an individual
25 to possess certain personal qualifications or to comply with registration
26 requirements to use an occupational title or work in a lawful occupation.

27 (2) Occupational regulation includes any government certification,
28 registration, and occupational license except as otherwise specifically
29 provided in the Occupational Board Reform Act.

30 (3) Occupational regulation does not include (a) business licensure,
31 facility licensure, building permit requirements, or zoning and land-use

1 regulation except to the extent that the same state laws that require a
2 business license, a facility license, a building permit, or zoning and
3 land-use regulation also regulate an individual's personal qualifications
4 to perform a lawful occupation, ~~or~~ (b) an occupational license
5 administered by the Supreme Court, or (c) an occupational credential
6 regulated by the Nebraska Commission on Law Enforcement and Criminal
7 Justice.

8 Sec. 13. Section 84-947, Revised Statutes Cumulative Supplement,
9 2022, is amended to read:

10 84-947 (1) The fundamental right of an individual to pursue an
11 occupation includes the right of an individual with a criminal history to
12 obtain an occupational license, government certification, or state
13 recognition of the individual's personal qualifications.

14 (2)(a) An individual who has a criminal conviction under the laws of
15 Nebraska or any other jurisdiction may submit to the appropriate
16 occupational board a preliminary application for an occupational license,
17 government certification, or state recognition of the individual's
18 personal qualifications for a determination as to whether the
19 individual's criminal conviction would disqualify the individual from
20 obtaining the occupational license, government certification, or state
21 recognition of the individual's personal qualifications from that
22 occupational board. The preliminary application may be submitted at any
23 time, including prior to obtaining required education or paying any fee,
24 other than the fee for the preliminary application under subsection (9)
25 (7) of this section.

26 (b) The individual may include with the preliminary application
27 additional information about the individual's ~~current~~ circumstances at
28 the time of the application, mitigating factors, and other evidence of
29 rehabilitation, including: including the time since the offense,
30 completion of the criminal sentence, other evidence of rehabilitation,
31 testimonials, employment history, and employment aspirations.

- 1 (i) The age of the individual when the individual committed the
2 offense;
- 3 (ii) The time elapsed since the offense;
- 4 (iii) The circumstances and nature of the offense;
- 5 (iv) The completion of the criminal sentence;
- 6 (v) The completion of, or active participation in, rehabilitative
7 drug or alcohol treatment or individual counseling;
- 8 (vi) Testimonials and recommendations, which may include a progress
9 report from the individual's probation or parole officer;
- 10 (vii) Other evidence of rehabilitation;
- 11 (viii) Education and training;
- 12 (ix) Employment history;
- 13 (x) Employment aspirations;
- 14 (xi) Family responsibilities at the time of the application;
- 15 (xii) Whether the individual is required to be bonded in the
16 occupation; and
- 17 (xiii) Any other information the individual deems appropriate.
- 18 (3) Upon receipt of a preliminary application under subsection (2)
19 of this section and a fee if required under subsection (9) (7) of this
20 section, the appropriate occupational board shall make a determination of
21 whether the individual's criminal conviction would disqualify the
22 individual from obtaining an occupational license, government
23 certification, or state recognition of the individual's personal
24 qualifications from that occupational board in accordance with subsection
25 (4) of this section. In making such determination, an individual's
26 criminal history disqualifies the individual from obtaining an
27 occupational license, government certification, or state recognition of
28 the individual's personal qualifications only if: -
- 29 (a) The individual's conviction directly and specifically relates to
30 the duties and responsibilities of the occupation;
- 31 (b) The individual obtaining such license, certification, or state

1 recognition would pose a direct and substantial risk to public safety
2 because the individual has not been rehabilitated, as evidenced by
3 information described in subdivision (2)(b) of this section, to safely
4 perform the duties and responsibilities of the occupation; and

5 (c) Beginning January 1, 2025, the individual has a potentially
6 disqualifying conviction.

7 (4) In determining whether an individual's criminal history is
8 disqualifying under subsection (3) of this section, the occupational
9 board shall only make an adverse determination after:

10 (a) The executive director or employee designee of the occupational
11 board issues a preliminary adverse determination after completing the
12 following actions:

13 (i) Providing an opportunity for an informal meeting with the
14 individual, which shall be held in-person, by remote video, or by
15 teleconference within sixty days after receiving an application for
16 consideration. The individual shall be allowed to include character
17 witnesses at such informal meeting. The executive director or employee
18 designee shall not make an adverse determination based on an individual's
19 decision not to attend an informal meeting or not to include character
20 witnesses; and

21 (ii) Issuing and submitting a written preliminary determination to
22 the appropriate occupational board for consideration and ratification
23 within sixty days after receiving the preliminary application for
24 consideration or after the informal meeting, whichever is later. A
25 preliminary adverse decision shall not become final without consideration
26 and ratification by the appropriate occupational board; and

27 (b) The occupational board ratifies the preliminary adverse
28 determination and issues a final adverse determination in writing within
29 ninety days after the issuance of the preliminary adverse determination.

30 (5) ~~(4) The determination of the occupational board shall issue its~~
31 ~~determination in writing within ninety days after receiving a preliminary~~

1 ~~application under subsection (2) of this section. The determination shall~~
2 ~~include findings of fact and conclusions of law, including clear and~~
3 ~~convincing evidence for any adverse determination made by the~~
4 ~~occupational board.~~ If the occupational board determines that the
5 individual's criminal conviction would disqualify the individual, the
6 occupational board may advise the individual of any action the individual
7 may take to remedy the disqualification. If the occupational board finds
8 that the individual has been convicted of a subsequent criminal
9 conviction, the occupational board may rescind a determination upon
10 finding that the subsequent criminal conviction would be disqualifying
11 under subsection (3) of this section.

12 (6) An individual shall not be required to disclose nor shall
13 consideration be given in a determination under this section to the
14 following:

15 (a) A deferred adjudication, participation in a diversion program,
16 or an arrest not followed by a conviction;

17 (b) A conviction of an offense for which no sentence of
18 incarceration is statutorily authorized;

19 (c) A conviction that has been sealed, annulled, dismissed,
20 expunged, set aside, or pardoned;

21 (d) A juvenile adjudication;

22 (e) A nonviolent misdemeanor unless it is for an offense expressly
23 listed in section 6 of this act;

24 (f) A conviction older than three years for which the individual was
25 not sentenced to a term of incarceration; or

26 (g) A conviction for which the individual's incarceration ended more
27 than three years before the date of the application, other than a
28 potentially disqualifying conviction.

29 (7) (5) The individual may appeal the determination of the
30 occupational board. The appeal shall be in accordance with the
31 Administrative Procedure Act.

1 (8) ~~(6)~~ An individual shall not file another preliminary application
2 under this section with the same occupational board within two years
3 after the final decision on the previous preliminary application, except
4 that if the individual has taken action to remedy the disqualification as
5 advised by the occupational board, the individual may file another
6 preliminary application under this section with the same occupational
7 board at any time after six months following ~~after~~ the final decision on
8 the previous preliminary application.

9 (9) ~~(7)~~ An occupational board may charge a fee not to exceed one
10 hundred dollars for each preliminary application filed pursuant to this
11 section. The fee is intended to offset the administrative costs incurred
12 under this section. If an individual's income at the time of the
13 preliminary application is at or below three hundred percent of the
14 federal poverty level, such individual may submit with the preliminary
15 application a request for a waiver of the fee along with supporting
16 documentation to show such individual's income. If the occupational board
17 determines that the individual's income is at or below three hundred
18 percent of the federal poverty level, the occupational board shall waive
19 the fee.

20 Sec. 14. Sections 14 to 21 of this act shall be known and may be
21 cited as the Interior Design Voluntary Registration Act.

22 Sec. 15. In order to safeguard life, health, and property, to
23 promote the public welfare, and to recognize the need for design
24 professionals to obtain government-issued permits or approval that may
25 only be obtained with a construction document stamp, the profession of
26 interior design is declared to be subject to regulation in the public
27 interest. On and after January 1, 2025, it shall be unlawful for any
28 person to hold oneself out to be a registered interior designer unless
29 the person is registered under the Interior Design Voluntary Registration
30 Act.

31 Sec. 16. For purposes of the Interior Design Voluntary Registration

1 Act:

2 (1) Design means the preparation of schematics, layouts, plans,
3 drawings, specifications, calculations, and other diagnostic documents
4 which show the features of a registered interior design project;

5 (2) Direct supervision means having full professional knowledge over
6 work that constitutes the practice of registered interior design;

7 (3) Good ethical character means such character that will enable a
8 person to discharge the fiduciary duties of a registered interior
9 designer to such person's client and to the public for the protection of
10 the public health, safety, and welfare;

11 (4) Interior alteration or construction project means a project for
12 an interior space or area within a proposed or existing building or
13 structure, including construction, modification, renovation,
14 rehabilitation, or historic preservation that involves changing or
15 altering:

16 (a) The design function or layout of rooms; or

17 (b) The state of permanent fixtures or equipment;

18 (5) Interior nonstructural element means an element or component of
19 a building that does not require structural bracing, is not load-bearing,
20 and is not essential to the structural or seismic integrity of the
21 building;

22 (6)(a) Practice of registered interior design means the design of
23 interior spaces as part of an interior alteration or construction project
24 in conformity with public health, safety, and welfare requirements,
25 including the preparation of any document relating to a building code
26 description, any project egress plan that does not require additional
27 exits in the space affected, any space planning, any finish material, any
28 furnishing, any fixture, any equipment, and the preparation of any
29 document and technical submission relating to interior construction; and

30 (b) Services that are not in the scope of the practice of registered
31 interior design include:

1 (i) Services that constitute:

2 (A) The practice of professional engineering; or

3 (B) The practice of professional architecture, except as

4 specifically provided for within the Engineers and Architects Regulation

5 Act;

6 (ii) The construction or alteration of:

7 (A) The structural system of a building, including changing the
8 building's live or dead load on the structural system;

9 (B) The building envelope, including an exterior wall, wall
10 covering, or wall opening, an exterior window, an exterior door, any
11 architectural trim, a balcony or similar projection, a bay, an oriel
12 window, any roof assembly and rooftop structure, and any glass and
13 glazing for exterior use in both vertical and sloped applications;

14 (C) Any mechanical, plumbing, heating, air conditioning,
15 ventilation, electrical, vertical transportation, fire sprinkler, or fire
16 alarm system;

17 (D) An egress system beyond the exit access component of such
18 system; and

19 (E) Any life safety system such as a fire safety or fire protection
20 of structural elements and smoke evacuation and compartmentalization
21 system or a fire-rated vertical shaft in multistory structures;

22 (iii) Changes to an occupancy classification of greater hazard as
23 determined by the International Building Code; and

24 (iv) Changes to the construction classification of the building or
25 structure according to the International Building Code;

26 (7) Project means one or more related activities that require the
27 practice of registered interior design for completion; and

28 (8) Registered interior designer or registrant means a person who is
29 listed on the registry of interior designers under the Interior Design
30 Voluntary Registration Act.

31 Sec. 17. To be a registered interior designer, an individual shall:

1 (1) Apply to the State Treasurer in a form and manner prescribed by
2 the State Treasurer;

3 (2) Pay an application fee of not more than fifty dollars as
4 determined by the State Treasurer; and

5 (3) Satisfy the requirements for placement on the registry as
6 provided in section 18 of this act.

7 Sec. 18. (1)(a) The interior design registry is created.

8 (b) The State Treasurer shall list each interior designer
9 registration in the registry. A listing in the registry shall be valid
10 for the term of the registration and upon renewal unless such listing is
11 refused renewal or is removed as provided in the Interior Design
12 Voluntary Registration Act.

13 (c) The registry shall contain (i) the individual's full name and
14 (ii) any other information as the State Treasurer may require by rules
15 and regulations.

16 (2) Except as otherwise provided in this section or section 20 of
17 this act, the following shall be considered as the minimum evidence
18 satisfactory to the State Treasurer that an applicant is eligible for
19 listing on the interior design registry:

20 (a) Education eligibility as outlined by the Council for Interior
21 Design Qualification to sit for an examination on technical and
22 professional subjects of interior design as required by the council;

23 (b) Experience eligibility as outlined by the Council for Interior
24 Design Qualification to sit for an examination on technical and
25 professional subjects of interior design as required by the council;

26 (c) Successful passage of an examination on technical and
27 professional subjects of interior design as required by the Council for
28 Interior Design Qualification;

29 (d) Passage of an examination on the statutes, rules and
30 regulations, and other requirements unique to this state regarding the
31 practice of registered interior design; and

1 (e) Demonstration of good reputation and good ethical character by
2 attestation of references. The names and complete addresses of references
3 acceptable to the State Treasurer shall be included in the application
4 for registration.

5 (3) An individual holding a credential to practice interior design
6 issued by a proper authority of any jurisdiction, based on credentials
7 that do not conflict with subsection (2) of this section, may, upon
8 application, be listed on the interior design registry after:

9 (a) Successful passage of an examination on the statutes, rules and
10 regulations, and other requirements unique to this state regarding the
11 practice of registered interior design; and

12 (b) Demonstration of good reputation and good ethical character by
13 attestation of references. The names and complete addresses of references
14 acceptable to the State Treasurer shall be included in the application
15 for registration.

16 (4) An individual who holds a current and valid certification issued
17 by the Council for Interior Design Qualification and who submits
18 satisfactory evidence of such certification to the State Treasurer may,
19 upon application, be listed on the interior design registry after:

20 (a) Successful passage of an examination on the statutes, rules and
21 regulations, and other requirements unique to this state regarding the
22 practice of registered interior design; and

23 (b) Demonstration of good reputation and good ethical character by
24 attestation of references. The names and complete addresses of references
25 acceptable to the State Treasurer shall be included in the application
26 for registration.

27 (5) An individual who has been credentialed to practice interior
28 design for fifteen years or more in one or more jurisdictions and who has
29 practiced interior design for fifteen years in compliance with the
30 credentialing laws in the jurisdictions where such individual interior
31 design practice has occurred since initial issuance of the credential

1 may, upon application, be listed on the interior design registry after:

2 (a) Successful passage of an examination on the statutes, rules and
3 regulations, and other requirements unique to this state regarding the
4 practice of registered interior design; and

5 (b) Demonstration of good reputation and good ethical character by
6 attestation of references. The names and complete addresses of references
7 acceptable to the State Treasurer shall be included in the application
8 for registration.

9 (6) None of the examination materials described in this section
10 shall be considered public records.

11 (7) The State Treasurer or the State Treasurer's agent shall direct
12 the time and place of the interior design examinations referenced in this
13 section.

14 (8) The State Treasurer may adopt the examinations and grading
15 procedures of the Council for Interior Design Qualification. The State
16 Treasurer may also adopt guidelines published by the council.

17 (9) Registration shall be effective upon listing in the registry.

18 Sec. 19. (1) Each registered interior designer shall obtain a seal.
19 The design of the seal shall be determined by the State Treasurer. The
20 following information shall be on the seal: State of Nebraska;
21 registrant's name; registrant's business city; and the words Registered
22 Interior Designer.

23 (2) Whenever the seal is applied, the registrant's signature shall
24 be across the seal. The seal and date of its placement shall be on all
25 technical submissions and calculations whenever presented to a client or
26 any public or governmental agency. It shall be unlawful for a registrant
27 to affix such registrant's seal or to permit such seal to be affixed to
28 any document after the expiration of the registration or for the purpose
29 of aiding or abetting any other person to evade or attempt to evade the
30 Interior Design Voluntary Registration Act.

31 (3) The seal and date shall be placed on all originals, copies,

1 tracings, or other reproducible drawing and the first and last pages of
2 specifications, reports, and studies in such a manner that the seal,
3 signature, and date will be reproduced and be in compliance with the
4 Interior Design Voluntary Registration Act. The application of the
5 registrant's seal shall constitute certification that the work was done
6 by the registrant or under the registrant's control.

7 (4) A registered interior designer shall not affix such registered
8 interior designer's seal and signature to technical submissions that are
9 subject to the Engineers and Architects Regulation Act unless the
10 technical submissions were:

11 (a) Prepared entirely by the registered interior designer; or

12 (b) Prepared entirely under the direct supervision of the registered
13 interior designer.

14 (5) A registered interior designer may affix such registered
15 interior designer's seal to technical submissions not subject to the
16 Engineers and Architects Regulation Act if the registered interior
17 designer has reviewed or adapted in whole or in part such submissions and
18 integrated them into such registered interior designer's work.

19 Sec. 20. (1) Beginning January 1, 2025, it is unlawful for any
20 person to use the title registered interior designer or similar
21 description to convey the impression that such person is a registered
22 interior designer unless the person is registered under the Interior
23 Design Voluntary Registration Act.

24 (2) Nothing in the Interior Design Voluntary Registration Act shall
25 be construed to: (a) Require a person to be a registered interior
26 designer in order to engage in an activity traditionally performed by an
27 interior designer or interior decorator, including any professional
28 service limited to the planning, design, and implementation of kitchen
29 and bathroom spaces or the specification of products for kitchen and
30 bathroom areas; or (b) prevent or restrict the practice, service, or
31 activity of any person licensed to practice a profession or an occupation

1 in this state from engaging in such profession or occupation.

2 (3) A licensed architect holding a license in good standing under
3 the Engineers and Architects Regulation Act may register with the State
4 Treasurer as a registered interior designer without having to meet the
5 registration requirements outlined in section 18 of this act.

6 Sec. 21. (1) The State Treasurer shall:

7 (a) Operate an interior designer registry listing registered
8 interior designers;

9 (b) Credit fees collected under the Interior Design Voluntary
10 Registration Act to the State Treasurer Administrative Fund; and

11 (c) Prescribe individually identifiable seals to be used by
12 registered interior designers pursuant to section 19 of this act.

13 (2) The State Treasurer may adopt and promulgate rules and
14 regulations to carry out the Interior Design Voluntary Registration Act.

15 Sec. 22. Original sections 81-2103, 81-2120, and 84-617, Reissue
16 Revised Statutes of Nebraska, and sections 84-933, 84-934, 84-940, and
17 84-947, Revised Statutes Cumulative Supplement, 2022, are repealed.