

LEGISLATIVE BILL 16

Approved by the Governor March 5, 2024

Introduced by Conrad, 46; Briese, 41; Sanders, 45; Brewer, 43; Murman, 38; McDonnell, 5; Holdcroft, 36; Dungan, 26; Kauth, 31; Fredrickson, 20; Vargas, 7; Lippincott, 34; Wayne, 13.

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

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

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

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

(2) At the expiration of the term of the member serving under subdivision (1)(g) of this section as the member of any such groups on the effective date of this act, such member shall be one of the two journeyman electrician members, shall be affiliated with a nonprofit labor organization for electrical workers holding a certificate of exemption under section 501(c)(5) of the Internal Revenue Code, and shall be selected from a list of journeyman electricians recommended by such organization.

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

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

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

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

(i)(A) The applicant holds (I) a credential in another state that has a reciprocal credentialing agreement with the State of Nebraska for such credential as determined by the board, (II) a military occupational specialty

in the United States Military as defined in section 7 of this act, or (III) a license with a prerequisite of apprentice registration and successful completion of an apprenticeship training program registered by the United States Department of Labor; and

(B) Such credential, military occupational specialty, or license is for an occupation with a similar scope of practice, as determined by the board;

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 3. Section 84-617, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

(c) Payments for copies of cashed state warrants;

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

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

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

(2) Money in the fund received pursuant to subdivisions (1)(a) through (d) of this section shall be credited to the General Fund quarterly. Money in the State Treasurer Administrative Fund received pursuant to ~~subdivisions~~ ~~subdivision~~ (1)(e) and (f) of this section shall be credited to the Unclaimed Property Cash Fund. The State Treasurer may retain such amount as he or she deems appropriate in the State Treasurer Administrative Fund for purposes of making change for cash payments. Any money in the 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(15) Theft as provided in sections 28-511, 28-512, 28-513, and 28-515;

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 7. United States Military means any active duty or reserve duty component of the armed forces of the United States, any state of the United States, or any territory of the United States.

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

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

(1) An occupation regulated by:

(a) The Supreme Court;

(b) The Department of Banking and Finance;

(c) The Board of Engineers and Architects;

(d) The Board of Geologists;

(e) The Real Property Appraiser Board;

(f) The State Electrical Board;

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

(h) The State Real Estate Commission; or

(2) A credential issued for:

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

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

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

(d) A professional landscape architect pursuant to the Professional

Landscape Architects Act;

- (e) A managing general agent pursuant to the Managing General Agents Act;
- (f) A public adjuster pursuant to the Public Adjusters Licensing Act;
- (g) A reinsurance intermediary-broker or reinsurance intermediary-manager pursuant to the Reinsurance Intermediary Act;
- (h) A surplus lines producer pursuant to the Surplus Lines Insurance Act;
- (i) A utilization review agent pursuant to the Utilization Review Act;
- (j) A viatical settlement broker pursuant to the Viatical Settlements Act;

or

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

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

- (a) The age of the individual when the individual committed the offense;
- (b) The time elapsed since the offense;
- (c) The circumstances and nature of the offense;
- (d) The completion of the criminal sentence;
- (e) The completion of, or active participation in, rehabilitative drug or alcohol treatment or individual counseling;
- (f) Testimonials and recommendations, which may include a progress report from the individual's probation or parole officer;
- (g) Other evidence of rehabilitation;
- (h) Education and training;
- (i) Employment history;
- (j) Employment aspirations;
- (k) Family responsibilities at the time of application;
- (l) Whether the individual is required to be bonded in the occupation; and
- (m) Any other information the individual deems appropriate.

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

- (a) The individual's conviction directly and specifically relates to the duties and responsibilities of the occupation;
- (b) The individual obtaining such license, certification, or state recognition would pose a direct and substantial risk to public safety because the individual has not been rehabilitated, as evidenced by information described in subsection (1) of this section, to safely perform the duties and responsibilities of the occupation; and
- (c) Beginning January 1, 2025, the individual has a potentially disqualifying conviction.

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

- (a) A deferred adjudication, participation in a diversion program, or an arrest not followed by a conviction;
- (b) A conviction of an offense for which no sentence of incarceration is statutorily authorized;
- (c) A conviction that has been sealed, annulled, dismissed, expunged, set aside, or pardoned;
- (d) A juvenile adjudication;
- (e) A nonviolent misdemeanor unless it is for an offense expressly listed in section 6 of this act;
- (f) A conviction older than three years for which the individual was not sentenced to a term of incarceration; or
- (g) A conviction for which the individual's incarceration ended more than three years before the date of the application, other than a potentially disqualifying conviction.

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

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

- (a) An occupational board shall issue an occupational license or government certification to an individual upon application if:
 - (i) The applicant holds a credential in another state or a military occupational specialty in the United States Military for an occupation with a similar scope of practice, as determined by the occupational board;
 - (ii) The applicant has held the credential or military occupational specialty for at least one year;
 - (iii) To obtain such credential or specialty, the applicant was required to pass an examination or meet education, training, or experience standards;
 - (iv) The applicant does not have a disqualifying criminal record as determined by the occupational board and verified by a criminal background

check. For an applicant applying for a credential regulated by the Uniform Credentialing Act, the criminal background check shall be conducted according to section 38-131;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(v) The applicant has not had a credential, military occupational specialty, or private certification revoked because of negligence or intentional misconduct related to the applicant's work in the occupation;

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

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

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

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

certification under subsection (1) of this section, an occupational board may require an applicant to pass a jurisprudential examination specific to relevant state statutes and administrative rules and regulations that regulate the occupation if issuance of such occupational license or government certification in this state requires a person to pass such an examination.

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

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

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

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

(5)(a) An occupational license or government certification issued pursuant to this section is valid only in this state and does not make the individual eligible to work in another state, in the United States Military, or under an interstate compact, or reciprocity agreement unless otherwise provided by law.

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

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

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

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

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

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

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

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

(3) Occupational regulation does not include (a) business licensure, facility licensure, building permit requirements, or zoning and land-use regulation except to the extent that the same state laws that require a business license, a facility license, a building permit, or zoning and land-use regulation also regulate an individual's personal qualifications to perform a lawful occupation, ~~or~~ (b) an occupational license administered by the Supreme Court, or (c) an occupational credential regulated by the Nebraska Commission on Law Enforcement and Criminal Justice.

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

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

(2)(a) An individual who has a criminal conviction under the laws of Nebraska or any other jurisdiction may submit to the appropriate occupational board a preliminary application for an occupational license, government certification, or state recognition of the individual's personal qualifications for a determination as to whether the individual's criminal conviction would disqualify the individual from obtaining the occupational license, government certification, or state recognition of the individual's personal qualifications

from that occupational board. The preliminary application may be submitted at any time, including prior to obtaining required education or paying any fee, other than the fee for the preliminary application under subsection (9) (7) of this section.

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

- (i) The age of the individual when the individual committed the offense;
 - (ii) The time elapsed since the offense;
 - (iii) The circumstances and nature of the offense;
 - (iv) The completion of the criminal sentence;
 - (v) The completion of, or active participation in, rehabilitative drug or alcohol treatment or individual counseling;
 - (vi) Testimonials and recommendations, which may include a progress report from the individual's probation or parole officer;
 - (vii) Other evidence of rehabilitation;
 - (viii) Education and training;
 - (ix) Employment history;
 - (x) Employment aspirations;
 - (xi) Family responsibilities at the time of the application;
 - (xii) Whether the individual is required to be bonded in the occupation;
- and
- (xiii) Any other information the individual deems appropriate.

(3) Upon receipt of a preliminary application under subsection (2) of this section and a fee if required under subsection (9) (7) of this section, the appropriate occupational board shall make a determination of whether the individual's criminal conviction would disqualify the individual from obtaining an occupational license, government certification, or state recognition of the individual's personal qualifications from that occupational board in accordance with subsection (4) of this section. In making such determination, an individual's criminal history disqualifies the individual from obtaining an occupational license, government certification, or state recognition of the individual's personal qualifications only if: -

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

(b) The individual obtaining such license, certification, or state recognition would pose a direct and substantial risk to public safety because the individual has not been rehabilitated, as evidenced by information described in subdivision (2)(b) of this section, to safely perform the duties and responsibilities of the occupation; and

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

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

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

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

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

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

(5) (4) The determination of the occupational board shall issue its determination in writing within ninety days after receiving a preliminary application under subsection (2) of this section. The determination shall include findings of fact and conclusions of law, including clear and convincing evidence for any adverse determination made by the occupational board. If the occupational board determines that the individual's criminal conviction would disqualify the individual, the occupational board may advise the individual of any action the individual may take to remedy the disqualification. If the occupational board finds that the individual has been convicted of a subsequent criminal conviction, the occupational board may rescind a determination upon finding that the subsequent criminal conviction would be disqualifying under subsection (3) of this section.

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

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

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

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

(d) A juvenile adjudication;

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

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

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

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

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

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

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

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

Sec. 16. For purposes of the Interior Design Voluntary Registration Act:

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

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

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

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

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

(b) The state of permanent fixtures or equipment;

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

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

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

(i) Services that constitute:

(A) The practice of professional engineering; or

(B) The practice of professional architecture, except as specifically provided for within the Engineers and Architects Regulation Act;

(ii) The construction or alteration of:

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

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

(C) Any mechanical, plumbing, heating, air conditioning, ventilation,

electrical, vertical transportation, fire sprinkler, or fire alarm system;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) An individual who has been credentialed to practice interior design for fifteen years or more in one or more jurisdictions and who has practiced interior design for fifteen years in compliance with the credentialing laws in the jurisdictions where such individual interior design practice has occurred since initial issuance of the credential may, upon application, be listed on the interior design registry after:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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