

AMENDMENTS TO LB16

(Amendments to Standing Committee amendments, AM748)

Introduced by Conrad, 46.

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

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

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

1 secretary of the board and shall be responsible for all books, records,
2 and transcripts of proceedings of the board.

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

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

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

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

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

31 (i)(A) The applicant holds (I) a credential in another state that

1 has a reciprocal credentialing agreement with the State of Nebraska for
2 such credential as determined by the board, (II) a military occupational
3 specialty in the United States Military as defined in section 6 of this
4 act, or (III) a license with a prerequisite of apprentice registration
5 and successful completion of an apprenticeship training program
6 registered by the United States Department of Labor; and

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

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

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

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

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

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

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

1 for a license to the satisfaction of the board; and

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

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

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

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

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

31 (e) An applicant may appeal the denial of a license under this

1 subsection. The appeal shall be in accordance with the Administrative
2 Procedure Act.

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

7 Sec. 3. Section 84-933, Revised Statutes Cumulative Supplement,
8 2022, is amended to read:

9 84-933 Sections 84-933 to 84-948 and sections 5 to 10 of this act
10 shall be known and may be cited as the Occupational Board Reform Act.

11 Sec. 4. Section 84-934, Revised Statutes Cumulative Supplement,
12 2022, is amended to read:

13 84-934 For purposes of the Occupational Board Reform Act, the
14 definitions in sections 84-935 to 84-944 and sections 5 and 6 of this act
15 apply.

16 Sec. 5. Potentially disqualifying conviction includes a conviction
17 for:

18 (1) Criminal attempt as provided in section 28-201, conspiracy as
19 provided in section 28-202, or aiding and abetting as provided in section
20 28-206, to commit an offense listed in this section;

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

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

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

24 (5) Assault in the first or second degree as provided in sections
25 28-308 and 28-309;

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

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

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

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

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

- 1 (11) Domestic assault as provided in section 28-323;
- 2 (12) Robbery as provided in section 28-324;
- 3 (13) Arson as provided in sections 28-502, 28-503, and 28-504;
- 4 (14) Fraud subject to criminal penalties as provided in sections
5 28-505, 28-631, 28-638, 28-639, 28-640, and 28-935;
- 6 (15) Theft as provided in sections 28-511, 28-512, 28-513, and
7 28-515;
- 8 (16) Forgery as provided in sections 28-602 and 28-603;
- 9 (17) Incest as provided in section 28-703;
- 10 (18) Child abuse as provided in section 28-707;
- 11 (19) Human trafficking, labor trafficking, sex trafficking, labor
12 trafficking of a minor, or sex trafficking of a minor as provided in
13 section 28-831;
- 14 (20) False reporting as provided in section 28-907;
- 15 (21) Perjury as provided in section 28-915;
- 16 (22) Assault on an officer, an emergency responder, certain
17 employees, or a health care professional in the first degree as provided
18 in section 28-929;
- 19 (23) Assault on an officer, an emergency responder, certain
20 employees, or a health care professional in the second degree as provided
21 in section 28-930;
- 22 (24) Assault on an officer, an emergency responder, certain
23 employees, or a health care professional in the third degree as provided
24 in section 28-931;
- 25 (25) Assault on an officer, an emergency responder, certain
26 employees, or a health care professional using a motor vehicle as
27 provided in section 28-931.01;
- 28 (26) An offense that has as an element the threat to inflict serious
29 bodily injury as defined in section 28-109 or death on another person,
30 the intentional infliction of serious bodily injury as defined in section
31 28-109 on another person, or intentionally causing the death of another

1 person;

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

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

6 Sec. 6. United States Military means any active duty or reserve
7 duty component of the armed forces of the United States, any state of the
8 United States, or any territory of the United States.

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

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

16 (1) An occupation regulated by:

17 (a) The Supreme Court;

18 (b) The Department of Banking and Finance;

19 (c) The Board of Engineers and Architects;

20 (d) The Board of Geologists;

21 (e) The Real Property Appraiser Board;

22 (f) The State Electrical Board;

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

24 or

25 (h) The State Real Estate Commission; or

26 (2) A credential issued for:

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

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

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

1 (d) A professional landscape architect pursuant to the Professional
2 Landscape Architects Act;

3 (e) A managing general agent pursuant to the Managing General Agents
4 Act;

5 (f) A public adjuster pursuant to the Public Adjusters Licensing
6 Act;

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

9 (h) A surplus lines producer pursuant to the Surplus Lines Insurance
10 Act;

11 (i) A utilization review agent pursuant to the Utilization Review
12 Act;

13 (j) A viatical settlement broker pursuant to the Viatical
14 Settlements Act; or

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

17 Sec. 9. (1) An individual who has a criminal conviction under the
18 laws of Nebraska or any other jurisdiction may submit an application to
19 the appropriate occupational board for an occupational license,
20 government certification, or state recognition of the individual's
21 personal qualifications and may include with the application additional
22 information about the individual's circumstances at the time of
23 application, mitigating factors, and other evidence of rehabilitation,
24 including:

25 (a) The age of the individual when the individual committed the
26 offense;

27 (b) The time elapsed since the offense;

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

29 (d) The completion of the criminal sentence;

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

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

3 (g) Other evidence of rehabilitation;

4 (h) Education and training;

5 (i) Employment history;

6 (j) Employment aspirations;

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

8 (l) Whether the individual is required to be bonded in the
9 occupation; and

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

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

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

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

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

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

1 following:

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

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

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

8 (d) A juvenile adjudication;

9 (e) A nonviolent misdemeanor unless it is for an offense expressly
10 listed in section 5 of this act;

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

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

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

19 Sec. 10. (1) Subject to subsection (2) of this section and except
20 as otherwise provided in section 8 of this act or an occupational
21 licensing compact:

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

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

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

30 (iii) To obtain such credential or specialty, the applicant was
31 required to pass an examination or meet education, training, or

1 experience standards;

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

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

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

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

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

26 (b) If an applicant has work experience for an occupation in a state
27 or in the United States Military that does not use a credential similar
28 to an occupational license, a government certification, or a military
29 occupational specialty to regulate an occupation with a similar scope of
30 practice to an occupation for which this state requires an occupational
31 license or government certification, as determined by the occupational

1 board, the occupational board shall issue an occupational license or
2 government certification to an individual upon application based on work
3 experience in another state or in the United States Military if:

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

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

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

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

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

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

27 (c) If an applicant holds a private certification and has work
28 experience for an occupation in a state or in the United States Military
29 that does not use an occupational license, a government certification, or
30 a military occupational specialty to regulate an occupation with a
31 similar scope of practice to an occupation for which this state requires

1 an occupational license or government certification, as determined by the
2 occupational board, the occupational board shall issue an occupational
3 license or government certification to an individual upon application
4 based on such certification and work experience in another state or in
5 the United States Military if:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 review is required, within five business days after the next meeting of
2 the board after receiving such results.

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

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

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

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

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

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

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

27 Sec. 11. Section 84-940, Revised Statutes Cumulative Supplement,
28 2022, is amended to read:

29 84-940 (1) Occupational regulation means a statute, rule,
30 regulation, practice, policy, or other state law requiring an individual
31 to possess certain personal qualifications or to comply with registration

1 requirements to use an occupational title or work in a lawful occupation.

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

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

14 Sec. 12. Section 84-947, Revised Statutes Cumulative Supplement,
15 2022, is amended to read:

16 84-947 (1) The fundamental right of an individual to pursue an
17 occupation includes the right of an individual with a criminal history to
18 obtain an occupational license, government certification, or state
19 recognition of the individual's personal qualifications.

20 (2)(a) An individual who has a criminal conviction under the laws of
21 Nebraska or any other jurisdiction may submit to the appropriate
22 occupational board a preliminary application for an occupational license,
23 government certification, or state recognition of the individual's
24 personal qualifications for a determination as to whether the
25 individual's criminal conviction would disqualify the individual from
26 obtaining the occupational license, government certification, or state
27 recognition of the individual's personal qualifications from that
28 occupational board. The preliminary application may be submitted at any
29 time, including prior to obtaining required education or paying any fee,
30 other than the fee for the preliminary application under subsection (9)
31 {7} of this section.

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

7 (i) The age of the individual when the individual committed the
8 offense;

9 (ii) The time elapsed since the offense;

10 (iii) The circumstances and nature of the offense;

11 (iv) The completion of the criminal sentence;

12 (v) The completion of, or active participation in, rehabilitative
13 drug or alcohol treatment or individual counseling;

14 (vi) Testimonials and recommendations, which may include a progress
15 report from the individual's probation or parole officer;

16 (vii) Other evidence of rehabilitation;

17 (viii) Education and training;

18 (ix) Employment history;

19 (x) Employment aspirations;

20 (xi) Family responsibilities at the time of the application;

21 (xii) Whether the individual is required to be bonded in the
22 occupation; and

23 (xiii) Any other information the individual deems appropriate.

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

1 criminal history disqualifies the individual from obtaining an
2 occupational license, government certification, or state recognition of
3 the individual's personal qualifications only if: -

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

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

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

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

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

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

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

1 and ratification by the appropriate occupational board; and

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

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

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

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

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

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

27 (d) A juvenile adjudication;

28 (e) A nonviolent misdemeanor unless it is for an offense expressly
29 listed in section 5 of this act;

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

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

4 (7) (5) The individual may appeal the determination of the
5 occupational board. The appeal shall be in accordance with the
6 Administrative Procedure Act.

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

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

26 Sec. 13. Original sections 81-2103 and 81-2120, Reissue Revised
27 Statutes of Nebraska, and sections 84-933, 84-934, 84-940, and 84-947,
28 Revised Statutes Cumulative Supplement, 2022, are repealed.