

Banking, Commerce, and Insurance Committee

Nebraska Legislature

Occupational Regulation Review

of the

Credit Union Act

(Credit Union Loan Officer)

Pursuant to the

Occupational Board Reform Act,

Neb. Rev. Stat. §§ 84-933 to 84-948

Interim Study Resolution LR 371 (Williams) (107th Legislature)

December 2023

Committee Members

Julie Slama, Chairperson

Mike Jacobson, Vice Chairperson

Raymond Aguilar

Beau Ballard

Eliot Bostar

George Dungan

Kathleen Kauth

R. Brad von Gillern

Committee Staff Members

Joshua L. Christolear, Legal Counsel

Natalie Schunk, Committee Clerk

The Occupational Board Reform Act (OBRA), *Neb. Rev. Stat.* §§ 84-933 to 84-948, was enacted in 2018 to provide for legislative review of occupational regulations.

Neb. Rev. Stat. § 84-948(1) provides as follows:

1. Beginning in 2019, each standing committee of the Legislature shall annually review and analyze approximately twenty percent of the occupational regulations within the jurisdiction of the committee and prepare and submit an annual report electronically to the Clerk of the Legislature by December 15 of each year as provided in this section. Each committee shall complete this process for all occupational regulations within its jurisdiction within five years and every five years thereafter. Each report shall include the committee's recommendations regarding whether the occupational regulations should be terminated, continued, or modified.

The Banking, Commerce and Insurance Committee's recommendation is that the occupational regulations related to the Credit Union Act should be:

- Terminated*
- Continued*
- Modified*

Neb. Rev. Stat. § 84-948(2) provides as follows:

2. Each committee may require the submission of information by the affected occupational board and other affected or interested parties.

Banking, Commerce and Insurance Committee staff sent out a request for the submission of information by the Nebraska Department of Banking and Finance in the summer of 2022. The Department submitted the requested information on November 15, 2022. The information found in this report is directly related to answers provided in that submission. A link to the submitted information can be found below:

https://nebraskalegislature.gov/reports/committeesurvey_view.php

Neb. Rev. Stat. § 84-948(3) provides as follows:

3. A committee's report shall include, but not be limited to, the following:
 - a. **The title of the regulated occupation and the name of the occupational board responsible for enforcement of the occupational regulations;**

Title of Regulated Occupation: Loan Officer (Credit Union)

Name of Occupational Board: N/A (Regulated by Nebraska Department of Banking & Finance, Financial Institutions Division)

Neb. Rev. Stat §§ 21-1770. *The chief executive officer or the credit committee may apply to the department on forms supplied by the department for the licensing of one or more loan officers in order to delegate to such loan officers the power to approve loans and*

disburse loan funds up to the limits and according to policies established by the credit committee, if any, and in the absence of a credit committee, the board of directors. Such application shall include information deemed necessary by the department and shall be signed by the entire credit committee, if any, and in the absence of a credit committee, the entire board of directors, as well as the new loan officer seeking a license. No person shall act in the capacity of loan officer for more than thirty days until approved by the department unless the credit union has elected to opt out of licensing loan officers on forms supplied by the department.

b. The statutory citation or other authorization for the creation of the occupational regulations and occupation board;

The Credit Union Act. Neb. Rev. Stat §§ 21-1701 to 21-17,115

c. The number of members of the occupational board and how the members are appointed;

N/A

d. The qualifications for membership on the occupational board;

N/A

e. The number of times the occupational board is required to meet during the year and the number of times it actually met.

Required FY21-22 0 Held 0

Required FY20-21 0 Held 0

Required FY19-20 0 Held 0

Required FY18-19 0 Held 0

Required FY17-18 0 Held 0

f. Annual budget information for the occupational board for the five most recently completed fiscal years

Shared Budget. Other funding sources: none.

FY21-22 \$492,590

FY20-21 \$573,627

FY19-20 \$539,630

FY18-19 \$541,486

FY17-18 \$473,931

Spending Authority: Neb. Rev. Stat. § 8-601 (Administration). Neb. Rev. Stat. § 84-1116.01 (Authority beyond budget).

- g. For the immediately preceding five calendar years, or for the period of time less than five years for which the information is practically available, the number of government certificates, occupational licenses, and registrations the occupational board has issued, revoked, denied, or assessed penalties against, listed anonymously and separately per type of credential, and the reasons for such revocations, denials, and other penalties;**

Loan Officer (Credit Union)

<i>Period</i>	<i>Certs Issued</i>	<i>Individual Licenses</i>	<i>Firm Licenses</i>	<i>Revocation</i>
2017 to 2022	18			0

“Issued” in this context means application approved by the Department.

“Revoked” refers to situations where the Department has taken away a previously issued license.

“Denied” refers to initial license applications denied by the Director and does not include withdrawn applications.

“Penalty” refers to fines against an individual licensee and not conditions placed on licenses.

Certs Denied: 0

Certs Penalties Against: 0

- h. A review of the basic assumptions underlying the creation of the occupational regulations;**

LB 948 (Laws 1996) enabled state to charter state credit unions with same powers as federal credit unions; a committee statement from hearing on 1/16/1996 noted that bill was "an annual proposal, often referred to as the credit union 'wild card bill'"; only testifier other than introducer was rep from NE Credit Union League & Affiliates; introduced bill was single page, final reading version as amended was 75 pages; licensure of "money loaners" orig. in Laws 1913, ch. 250, p. 778 (HR 460).

There is not a stated legislative purpose found in the Act, but the basic assumption behind its purpose can be identified from certain statutes within the Act:

21-1770. Loan officer license; opt out; The chief executive officer or the credit committee may apply to the department on forms supplied by the department for the licensing of one or more loan officers in order to delegate to such loan officers the power to approve loans and disburse loan funds up to the limits and according to policies established by the credit committee, if any, and in the absence of a credit committee, the board of directors. Such application shall include information deemed necessary by the

department and shall be signed by the entire credit committee, if any, and in the absence of a credit committee, the entire board of directors, as well as the new loan officer seeking a license. No person shall act in the capacity of loan officer for more than thirty days until approved by the department unless the credit union has elected to opt out of licensing loan officers on forms supplied by the department.

Source: Laws 1996, LB 948, § 70; Laws 1999, LB 107, § 4; Laws 2017, LB140, § 148.

The Director was given rule-making authority in Section 21-1732:

21-1732 (1) The director may adopt and promulgate rules and regulations to carry out the Credit Union Act.

The Director was assigned Title 46 in the Nebraska Administrative Code (NAC) as the location for its properly promulgated rules related to Credit Unions.

i. A statement from the occupational license board on the effectiveness of the occupational regulations, and

Following Statement from NDBF Deputy Director Darcy Bailar:

Loan officers who interact and work with loan and credit product customers are in a position of trust and have access to sensitive personal financial information about Nebraska consumers. Loan officers also are given authority by their institutions to make loans of certain amounts without Board approval and therefore can put a financial institution at risk when making loans. The Department and the State have a strong interest in monitoring the industry and removing bad actors. The low amount of license denials demonstrates a low barrier to entry into the profession. The number of licenses revoked or given penalties is very low in comparison to the number of registrants. The existing regulatory framework gives the Department the necessary authority to remove bad actors who misuse customer and credit union funds or take advantage of the sensitive information they have access to or their position of power. The Department would share information with relevant Federal regulators in order to maintain a cohesive supervisory network.

Establishing minimum requirements for loan officers helps protect communities from illegal and possibly predatory practices and may promote local economic growth.

What is the potential harm if this occupation is no longer licensed, certified, or regulated? Nebraska would lose some of its authority to monitor individuals working in credit unions, remove bad actors, and reduce risk to credit unions. The Department would not be able to ensure that loan officers in credit union meet minimum standards related to character and experience. The ability to remove bad actors is an important protection for Nebraska consumers.

j. A comparison of whether and how other states regulate the occupation.

All states, and relevant Federal agencies, have regulatory processes to monitor credit union institutions and provide for their safety and soundness. Violation of any other states credit union regulations may disqualify an individual from working in other states.

Neb. Rev. Stat. § 84-948(4) provides as follows:

4. Subject to subsection (5) of this section, each committee shall also analyze, and include in its report, whether the occupational regulations meet the policies stated in section 84-946 considering the following recommended courses of action for the meeting such policies:
 - a. **If the need is to protect consumers against fraud, the likely recommendation will be to strengthen powers under the Uniform Deceptive Trade Practices Act or require disclosures that will reduce misleading attributes of the specific good or service;**

Not necessary. Field of loan origination is highly regulated both at state and federal level.

- b. **If the need is to protect consumers against unclean facilities or to promote general health and safety, the likely recommendations will be to require periodic inspections of such facilities;**

N/A

- c. **If the need is to protect consumers against potential damages and failure by providers to complete a contract fully or up to standards, the likely recommendations will to require that be bonded;**

Bonding requirement found at Neb. Rev. Stat. § 21-1767.01.

- d. **If the need is to protect a person who is not party to contract between the provider and consumer, the likely recommendation will be to require that he provider have insurance;**

Errors and omissions insurance and directors and officers insurance are not mandatory, but are allowed under Neb. Rev. Stat. § 21-1797. As a matter of practicality, nearly all credit unions maintain both types of insurance, and thus a requirement to be so insured would be unnecessary.

- e. **If the need is to protect consumers against a potential damages by transient providers, the likely recommendation will be to require that providers register their businesses with the Secretary of State;**

All credit union loan officers are required to be licensed in the state.

- f. **If the need is to protect consumers against a shortfall or imbalance of knowledge about the goods and services relative to the providers' knowledge, the likely recommendation will be to enact government certifications, and;**

All credit union loan officers are required to be licensed in the state.

- g. If the need is to address a systematic information shortfall such that a reasonable consumer is unable to distinguish between the quality of providers, there is an absence of institutions that provide adequate guidance to the consumer, and the consumer's ability to distinguish between providers and the lack of adequate guidance allows for undue risk of present, significant, and substantiated harms, the likely recommendation will be to enact an occupational license.**

All credit union loan officers are required to be licensed in the state.

Neb. Rev. Stat. § 84-948(5) provides as follows:

5. If a lawful occupation is subject to the Nebraska Regulation of Health Professions Act, the analysis under section (4) of this section shall be made using the least restrictive method of regulation as set out in section 71-6222.

N/A

Neb. Rev. Stat. § 84-948(6) provides as follows:

6. In developing recommendations under this section, the committee shall review any report issued to the Legislature pursuant to the Nebraska Regulation of Health Professions Act, if applicable, and consider any findings or recommendations of such report related to the occupational regulations under review.

N/A

Neb. Rev. Stat. § 84-948(7) provides as follows:

7. If the committee finds that it is necessary to change professional regulations, the committee shall recommend the least restrictive regulation consistent with the public interest and the policies in this section and section 84-946.

The regulatory framework for issuance of certificates and permits is established by the Legislature and administered by the Nebraska Department of Banking and Finance. It is serving the expectations of Nebraska's loan and credit product customers when they utilize credit union loan officers. As a whole, this regulatory framework is appropriate and balanced and does not need modification at this time.