

Banking, Commerce, and Insurance Committee

Nebraska Legislature

Occupational Regulation Review

of the

Business of Debt Management (*Neb. Rev. Stat.* §§ 69-1201 to 69-1217)

(*Debt Management Licensee*)

Pursuant to the

Occupational Board Reform Act,

Neb. Rev. Stat. §§ 84-933 to 84-948

And Interim Study Resolution LR 121 (Slama)

December 2023

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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 Debt Management Licensees should be:

- Terminated*
- Continued*
- Modified*

Unable to provide recommendation. See below.

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 Secretary of State on July 5, 2023. Committee staff sent a reminder email regarding the need for submission on December 12, 2023. As of the time of this report, the Secretary of State has refused to comply with Committee staff's request for submission of information. As such, this OBRA report was unable to be fully completed.

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: Debt Management Licensee (aka Credit Counselor)
Name of Occupational Board: N/A. However, licenses for this occupation are granted by the Secretary of State.*

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

Neb. Rev. Stat §§ 69-1201 to 69-1217.

- 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.**

Unable to provide. See above.

Required FY22-23 Held

Required FY21-22 Held

Required FY20-21 Held

Required FY19-20 Held

Required FY18-19 Held

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

Unable to provide. See above.

FY22-23

FY21-22

FY20-21

FY19-20

FY18-19

- 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;**

Debt Management Licensee (aka Credit Counselor)

<i>Period</i>	<i>Certs Issued</i>	<i>Individual Licenses</i>	<i>Firm Licenses</i>	<i>Revocation</i>
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2018 to 2023				
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Unable to provide. See above.

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

Committee statement from 4/11/1967 hearing noted that committee had been unaware of "a business known as debt management"; rationale for bill as discussed at hearing was "to prevent misrepresentation and abuse," with some reports of "excessive charges"; hearing statement noted that "we received testimony that other states have laws which license and regulate this type of business"; objections at hearing noted from "different retail credit associations," and committee amendment was adopted based on "the lines of LB 545 of the 1965 session"; as amended, bill required license application with info re: involved parties and business entity, \$100 license fee for "the main office within each county and fifty dollars for each additional office," plus "investigation fee" of \$100 for each year license is issued; denial, revocation, and suspension grounds provided in bill as amended: felony conviction, violations of the act, fraud or deceit in procuring license, continual course of unfair conduct, insolvency/bankruptcy/receivership.

The Secretary was given rule-making authority in Section 69-1208:

"Rules and regulations issued by the secretary under sections 69-1201 to 69-1217 shall be promulgated in accordance with the provisions of the Administrative Procedure Act."

*The Secretary was assigned Title 433 and 434 in the Nebraska Administrative Code (NAC) as the location for its properly promulgated rules. **As indicated above the basic assumption underlying the creation of regulations includes the establishment of regulations to prevent misrepresentation and abuse in the profession of debt management.***

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

Unable to provide. See above.

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

Unable to provide. See above.

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;**

Unable to provide. See above.

- 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;**

Unable to provide. See above.

- 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;**

Unable to provide. See above.

- 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;**

Unable to provide. See above.

- 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;**

Unable to provide. See above.

- 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.**

Unable to provide. See above.

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.

Unable to provide. See above.