

Nebraska Department of Insurance
Guidance Document
IGD - - F1

Title: Department of Insurance Procedure Relating to the Federal Violent Crime Control and Law Enforcement of 1994

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On September 13, 1994, the omnibus anti-crime bill entitled the "Violent Crime Control and Law Enforcement Act of 1994" "Act" (Public Law 103-322, H.R. 3355) became law. The Act includes federal criminal and civil enforcement provisions aimed directly at white-collar crime and insurance fraud.

The Act provides that a person who has been convicted of a felony involving:

(1) Breach of trust; (2) dishonesty; or (3) insurance crimes as defined in 18 U.S.C §1033, are prohibited from engaging in insurance activities unless written consent is granted by the Director of Insurance in accordance with 18 U.S.C §1033. Employees of insurance companies or other entities engaged in insurance activities, persons who are licensed by the Department or who seek to become in insurance activities, and persons who are licensed by the Department or who seek to become licensed, are subject to the Act. Any individual who has been convicted who has been convicted of a felony involving breach of trust, dishonesty, or an insurance crime as described above, and who desires a license to engage in insurance transactions may seek an exemption from the federal prohibition of engaging in insurance activities by applying for licensure with the Director of Insurance.

The review process begins with the individual applying for their insurance license. On the application, an individual must indicate whether he or she has been convicted of a felony and include a description of the circumstances under which the conviction arose. The applicant must also provide background documentation, including copies of all court documents or statements explaining the conviction. The application and documentation can be submitted via NIPR.com. Once the complete application and background documentation have been received, the Department will review the information to see if a license can be issued and if a 1033 Consent Waiver is applicable. If a 1033 consent waiver is required, then the applicant will be notified, and the 1033 application will be sent for the applicant to complete. Once the completed 1033 application is received, a review will be completed of the information.

The Director will decide to grant the waiver and issue the license or to deny the waiver and the license. The applicant may request an administrative hearing if the Director denies the application.

If an insurance company receives information that an agent, broker, employee, staff person, or other person engaged in the business of insurance was convicted of any of the felonies described in 18 U.S.C. §1033, the insurer should immediately notify the NDOI of the facts and circumstances of the matter.

The NDOI will investigate whether the NDOI has jurisdiction over the matter and whether to grant or deny such person an exemption under 18 U.S.C. §1033. If the Director determines that jurisdiction is proper and that an exemption should be granted, the Director will issue a written consent. If an exemption is denied, then the individual will have the opportunity to request an administrative hearing. If, following a hearing, the Director grants an exemption under 18 U.S.C. §1033, or if the Director denies such exemption, the Director will issue a written order.