

AUTHORIZATION FOR CRIMINAL HISTORY RECORD CHECK MODEL ACT

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Section 1. Purpose and Scope

The purpose of this Act is to set forth the requirements for states to obtain access to the Criminal Justice Information Services Division of the Federal Bureau of Investigation (FBI) criminal history record information and secure information or reports from the Criminal Justice Information Services Division of the FBI.

The scope of this Act is to set forth the applicability of the criminal history record check to applicants for a home state insurance producer license.

Section 2. Definitions

When used in this Act:

- A. “Applicant” means a natural person applying for any of the following:
 - (1) An initial home state license as an insurance producer;
 - (2) An additional line of authority under an existing home state insurance producer license where a criminal history record check has not been obtained; or
 - (3) A resident insurance producer license under change of home state provisions.

Drafting Note: This Act shall not apply to a person applying for renewal or continuation of a home state insurance producer license or a non-resident insurance producer license.

- B. “Fingerprints” means an impression of the lines on the finger taken for the purpose of identification. The impression may be electronic or in ink converted to an electronic format.
- C. “Insurance commissioner” or “commissioner” means the official in any state that is responsible for regulation of the business of insurance.

Drafting Note: Use the title of the chief insurance regulatory official wherever the term “Insurance commissioner” or “commissioner” appears.

- D. “Insurance producer” means a natural person required to be licensed under the laws of this state to sell, solicit or negotiate insurance.
- E. “Home State” means the District of Columbia and any state or territory of the United States in which an insurance producer maintains his or her principal place of residence or principal place of business and is licensed to act as an insurance producer.

Section 3. Authorization of the Insurance Commissioner

- A. In order to make a determination of license eligibility, the commissioner is authorized to require fingerprints of applicants and submit such fingerprints and the fee required to perform the criminal history record checks to the state identification bureau (or state department of justice or other public state agency) and the FBI for state and national criminal history record checks.

Drafting Note: The FBI requires that fingerprints be submitted to the state Department of Law Enforcement, Public Safety or Criminal Justice for a check of state records before the fingerprints are submitted to the FBI for a criminal history record check. The FBI recommends all fingerprint submissions be in an electronic format. Public Law 92-544 requires specific parameters to submit fingerprints and obtain criminal history record information. The FBI has approved the language in Section 3A to authorize a state identification bureau to submit fingerprints on behalf of its applicants in conjunction with licensing and employment.

- B. The commissioner shall require a criminal history record check on each applicant in accordance with this Act. The commissioner shall require each applicant to submit a full set of fingerprints (including a scanned file from a hard copy fingerprint) in order for the insurance commissioner to obtain and receive National Criminal History Records from the FBI Criminal Justice Information Services Division.
- C. The insurance commissioner may contract for the collection and transmission of fingerprints authorized under this Act. If the commissioner does so, the commissioner may order the fee for collecting and transmitting fingerprints to be payable directly to the contractor by the applicant. The insurance commissioner may agree to a reasonable fingerprinting fee to be charged by the contractor.
- D. The insurance commissioner is authorized to receive criminal history record information in lieu of the state identification bureau (or state department of justice or other public state agency) that submitted the fingerprints to the FBI.

Drafting Note: This provision does not permit the sharing of criminal history record information with the NAIC or other insurance commissioners as such sharing of information is prohibited by 28 CFR 20.33.

Section 4. Confidentiality

The commissioner shall treat and maintain an applicant's fingerprints and any criminal history record information obtained under the Act as confidential and shall apply security measures consistent with the Criminal Justice Information Services Division of the Federal Bureau Investigation standards for the electronic storage of fingerprints and necessary identifying information and limit the use of records solely to the purposes authorized in this Act. The fingerprints and any criminal history record information shall not be subject to subpoena, other than one issued in a criminal action or investigation, and shall be confidential by law and privileged, and shall not be subject to discovery or admissible in evidence in any private civil action.

Section 5. Regulations

The insurance commissioner may, in accordance with [insert appropriate reference to state law], promulgate regulations as are necessary for the administration of this Act.

Section 6. Effective Date

This Act shall take effect [insert date].

Chronological Summary of Action (all references are to the Proceedings of the NAIC).

2006 Proc. 2nd Quarter 40, 83-89 (adopted).