Adopted by the Producer Licensing (D) Task Force, Aug. 12, 2025

Template for 1033 Written Consent Process

Suggestion on How to Make the 1033 Written Consent Process Effective and Efficient

1. Introduction

A. Federal law provides penalties for a person who: (a) has been convicted of a felony involving dishonesty or breach of trust; and (b) willfully engages in the business of insurance affecting interstate commerce, unless the person receives written consent from the state insurance regulatory official with appropriate jurisdiction. See, Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. §§1033 and 1034.

B. A person who has not obtained written consent and who has been convicted of a felony involving dishonesty or breach of trust is a "prohibited person." A prohibited person who engages in the business of insurance faces possible federal criminal and civil action.

C. Federal law also penalizes those in the insurance industry who willfully allow prohibited persons to engage in the business of insurance. They must notify the [Insert Jurisdiction Insurance Department] ("the Department") in writing of an employee or agent who is a prohibited person. Insurance entities that already employ a prohibited person who does not have a written consent shall take the necessary steps to have the individual apply for a 1033 written consent.

Drafting note: Any state that has enacted the NAIC *Insurance Fraud Prevention Model Act* (#680) should be aware that Subsection 3.C (1) of the model states, "A person convicted of a felony involving dishonesty or breach of trust shall not participate in the business of insurance."

Drafting note: The term "waiver" as used in this document refers to the process of a prohibited person seeking a "written consent." The term "written consent" as used in this document refers to the state insurance regulatory official with appropriate jurisdiction allowing a prohibited person to engage in the business of insurance.

2. A Prohibited Person Must Seek Written Consent

A. A prohibited person must seek written consent in their Home State prior to engaging in the business of insurance. The process for obtaining written consent is set forth in this document. The process shall be made available to a person with a qualifying felony conviction seeking an insurance license or who wishes to be employed in the business of insurance in a non-licensed capacity in [Insert Jurisdiction]. Nonresident prohibited person applicants may not have to apply for 1033 written consent if they have received 1033 written consent in their Home State. States may require a nonresident prohibited person to apply for 1033 written consent if: (a) the Home State did not require 1033 written consent; or (b) when the Home State does not issue 1033 written consents on the same basis. The [Insert Jurisdiction Insurance Department] may require the prohibited person to release any information the [Insert Jurisdiction Insurance Department] may request as part of the investigation, including but not limited to, records of former employment, state and federal tax returns, business records, and banking records.

3. Definition of Relevant Terms

A. Breach of trust: A wrongful act, use, misappropriation, or omission with respect to any property or fund which has been committed to a person in an official fiduciary capacity or some other relationship based on trust; or

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the misuse of one's official fiduciary, or other position based on trust, to engage in a wrongful act, use, misappropriation, or omission. (For example, a fiduciary relationship is present in a lawyer/client relationship, physician/patient relationship, or caregiver/elder adult relationship.)

B. Business of insurance: The writing of insurance, adjusting claims, or the reinsuring of risks, by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who act as, or are, officers, directors, agents, or other licensed or unlicensed employees of insurers or who are other persons authorized to act on behalf of such persons, otherwise required under 18 U.S.C. § 1033.

C. Conviction: Includes but is not limited to having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere or no contest, or having been sentenced to probation, a suspended sentence, or a fine.

Drafting note: States should not consider for written consent a person who has successfully completed deferred adjudication and has not been convicted of a qualifying felony. States may include in the definition of "Conviction" a plea in abeyance, a diversion, a sealed, or an expunged conviction.

D. Dishonesty: To directly or indirectly cheat or defraud; to cheat or defraud for monetary gain or its equivalent; or to wrongfully take property belonging to another in violation of any criminal statute. Dishonesty includes acts involving lack of integrity, lack of probity, or a disposition to distort, cheat, or act deceitfully or fraudulently, and may include crimes which federal, state, or local laws define as dishonest. Common definitions for dishonesty include: lie, cheat, deceive, defraud; untrustworthiness; lack of integrity, honesty, fairness, etc.

E. Felony: An offense that is specifically classified as such in [insert appropriate reference to state law]. If there is no classification, an offense is a felony if the maximum term of imprisonment authorized is more than one year, or if the maximum penalty is death.

Drafting note: The definition of "felony" varies according to state law.

Drafting note: Attachment C of the NAIC *Guidelines for State Insurance Regulators to the Violent Crime Control and Law Enforcement Act of 1994* provides guidance for evaluating which felonies involve "Dishonesty or Breach of Trust."

4. Applying for Written Consent (This section is not applicable in jurisdictions that incorporate the 1033 written consent process into the producer licensing process and do not require a separate Application for Written Consent.)

A. Each prohibited person seeking written consent must submit a completed Application for Written Consent to Engage in the Business of Insurance ("Application") addressed to [Insert Individual Name to Review Request]. An Application shall be electronically submitted to [Insert Jurisdiction Email Address].

B. A prohibited person has the responsibility to read the Application in its entirety and answer every question completely and accurately. Failure to complete the Application or submit any requested documentation may result in the denial [or dismissal] of the Application. An amendment to the Application must be filed upon the occurrence of any event, discovery, or recollection of any fact that would change any answer on the Application, and a copy of that amendment must be sent to other states where written consent was granted.

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Failure to file a timely amendment may result in the denial of written consent or withdrawal of previously granted written consent.

5. Process For Granting or Denying an Application

A. Each jurisdiction will establish a process for the receipt and review of an Application. This may include incorporating the 1033 written consent process into the process a jurisdiction uses to issue an insurance license.
B. Notification of 1033 waiver application availability should be clearly presented prior to or during the licensing application process.
C. A jurisdiction's process for review of a 1033 waiver application should be provided to an applicant at the time of submission.
D. A jurisdiction should submit its final decision to grant or deny a 1033 waiver to the NAIC's 1033 State Decision Repository.

6. Standard by Which an Application Is Evaluated

A. An Application provides a prohibited person with the opportunity to demonstrate that, notwithstanding the conviction(s), they are trustworthy to engage or participate in the business of insurance. A prohibited person has the burden of satisfying this standard. Factors that may be considered by the Commissioner may be determined by each jurisdiction's rules, and may include, but are not limited to, the following:
   i. The nature and severity of the offense and sentence.
   ii. The date of conviction(s).
   iii. The age at the time of committing the crime(s).
   iv. The nature and extent of injury and/or loss caused by the act for which the prohibited person was convicted.
   v. Unpaid judgment(s).
   vi. Whether the crime was related to the business of insurance or the exercise of any professional or other license or authority conferred by a federal, state, or local governmental agency.
   vii. Whether the prohibited person received an expungement or pardon from the sovereign that convicted him or her, and the reason for it.
   viii. Whether the prohibited person successfully completed parole or probation without incident and all court requirements, including, but not limited to, completion of community service, court-ordered treatment, payment of all fines, penalties, or other assessments.
   ix. Any aggravating or mitigating factors.
   x. Whether other jurisdictions have granted or denied an 18 U.S.C. § 1033 written consent.
   xi. The nature and strength of any letters of recommendation and other evidence of rehabilitation.
   xii. The prohibited person's employment history before and after the commission of the crime(s).
   xiii. the nature of any consumer complaints in the Department's possession or reported by the prohibited person.
   xiv. Whether and to what extent the prohibited person has made materially false statements in any license application or in any other documents filed with the Department.
   xv. The prohibited person's proposed type of employment in the insurance industry.
   xvi. The extent to which the prohibited person will be supervised in that employment.
   xvii. Whether and to what extent the prohibited person has made materially false statements in any application or in other documents filed with any other state or federal agency.
   xviii. Whether the prohibited person has had any professional license revoked or suspended by any state or federal agency.

xix. Whether the prohibited person's civil rights have been restored.
xx. Whether the prohibited person has a pattern of unlawful activity.
xxi. The extent to which an insurance license offers opportunity to engage in further criminal activity.
xxii. The level of cooperativeness of the prohibited person during the application process.

7. Conditions of Written Consent

A. An Application granted by the Commissioner is conditioned on the truth of the documents and information submitted by or on behalf of the prohibited person. If a prohibited person has made materially false or misleading statements, has presented materially false or misleading information, or has failed to disclose material information, that may constitute a separate violation of law.

B. A person whose Application is granted has the Commissioner's written consent to engage in the business of insurance according to the terms and conditions of the written consent.

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SHORT FORM APPLICATION
FOR WRITTEN CONSENT TO ENGAGE IN THE BUSINESS OF INSURANCE
PURSUANT TO 18 U.S.C. §§ 1033

Notice to Applicant: 18 U.S.C. § 1033 prohibits certain activities by or affecting persons engaged, or proposing to become engaged, in the business of insurance:

(e)(1)(A) **Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined as provided in this title or imprisoned not more than five (5) years, or both.**

(B) **Any individual who is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined as provided in this title or imprisoned not more than five (5) years, or both.**

(e)(2) **A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if such person has the written consent of any regulatory official authorized to regulate the insurer, which written consent specifically refers to this section.**

This Application will be reviewed by the chief insurance regulatory official in this state to determine whether the Applicant should be given written consent to engage in the business of insurance or participate in the business pursuant to 18 U.S.C. § 1033(e)(2).

You must answer every question on the Application. If a question does not apply, indicate N/A in the space provided for the answer. Your answers are not limited to the space provided on the Application. Attach additional pages as needed. The Department of Insurance will not process incomplete Applications. Additional information may be requested.

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PLEASE TYPE

SECTION I - APPLICANT INFORMATION

Full Name of Applicant:

_____

Last Name **First Name** **Middle Name**

Have you ever been known by or used another name, including a maiden name? ☐ **Yes** ☐ **No**

If yes, identify: _____

_____

Home Address:

_____

Street Address **City** **State** **ZIP**

Mailing Address:

_____

P.O. Box or Street Address **City** **State** **ZIP**

Personal Email Address: _____

Home Telephone Number:_____**Work Telephone Number:**

Social Security No._____

Have you ever used or been issued another Social Security number? _____

If so, provide an explanation and previous/other Social Security number(s)

_____

_____

Place and Date of Birth:

_____

(Answer all questions fully and completely. Failure to answer the questions fully will result in delays in the application process. You are not limited to the space below. Attach additional pages if needed.

SECTION II - CRIMINAL HISTORY

1. **List any felony(s) for which you have been convicted. Include details of any negotiated plea agreements and pleas of nolo contendere to an Information or Indictment.**

   Provide a full description of your acts involved in these matters. Include the following:

   A. **Dates of charge**
   B. **Location**
   C. **Nature of offense**
   D. **Detailed written statement explaining the circumstances of each incident**
   E. **Sentence**
   F. **Dates of incarceration**

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G. Dates of probation/parole (if you are currently under probation/parole, include the name and phone number of the person supervising your parole or probation)
H. Restitution ordered/paid
I. Fines/costs ordered/paid
J. Pardons granted
K. Information as to whether your civil and political rights have been restored.

Attach additional pages if needed.

_____

_____

_____

_____

2. Have you ever applied for written consent from an insurance regulatory authority? ☐ Yes ☐ No If yes, provide details below:

State(s): _____

☐ **Granted**
☐ **Denied**
☐ **Other** _____

Please provide details of the outcome of prior or pending applications for written consent:

_____

_____

_____

_____

SECTION III - PRESENT/PROPOSED INSURANCE EMPLOYMENT

1. Please specify the name and address of your current or proposed employer to which the requested written consent will apply.

_____

_____

_____

_____

2. Please describe in detail the office, position, and title to which the requested written consent will apply, and provide a complete description of the activities, duties, and responsibilities. Please attach or describe any proposed or current written or oral agreements, contracts, or understandings with any entity engaged in the business of insurance as defined by 18 U.S.C. § 1033. (If written consent is given, it will be applicable to the activities described herein.) Please include your date of employment or proposed date of employment.

_____

_____

_____

_____

SECTION IV - ATTACHMENTS

Attach the following documents to this Application for written consent. Applications without attachments and applications with incomplete attachments will be returned to the applicant.

1. **Certified copy of the applicant's criminal history.**
2. **Certified copy of the indictment, criminal complaint, docket sheet, or other initiating documents for the charge(s) that is the subject of this Application.**
3. **Certified copy of the order of judgment and sentence of the court for the conviction(s) that is the subject of this Application, including certification of completion and performance of all conditions imposed by the court.**
4. **If applicable, an affidavit or written statement from the individual that seeks to employ you stating in detail the duties and responsibilities that you are performing or are to perform for them and for which you seek written consent and that it is that individual's opinion that the performance of these responsibilities does not constitute a threat to the public.**
5. **If applicable, letters of recommendation.**
6. **If applicable, a letter from the applicant's employer or prospective employer indicating they are aware of the felony conviction.**

Drafting note: Some jurisdictions may not require certified copies of documents.

I,_____(name of applicant), swear under penalty of law that my statements in the attached Application, and the documents appended thereto, are true and correct and complete. I understand that my statements in the Application and the attachments to my Application will be relied upon by the Insurance Commissioner, Director, or Superintendent of Insurance, or other appropriate party, in the jurisdiction for which this application is made in the execution of his or her duties under the Insurance Code, and 18 U.S.C. § 1033, in making a decision on this Application. I understand that if I have made any false statement in this Application, or if there are any false statements included in the attachments to this Application, I may be criminally prosecuted under any state criminal or administrative remedies available and that any insurance license(s) that I currently hold, or for which I have applied, will be subject to suspension or revocation. I further understand that these false statement(s) would also constitute a violation of 18 U.S.C. § 1033. For purposes of this Application, I do not contest the validity of any felony conviction upon which this request would be granted. *By signing this Application, I* grant permission to the Commissioner, Director or Superintendent of Insurance, or other appropriate party in the jurisdiction for which this application is made to verify information with any federal, state or local government agency, current or former employer, or insurance company, to request records of former employment, state and federal tax returns, business records, and banking records *to confirm the information in this Application and I expressly consent and authorize any person, business or agency to release any information the Insurance Department may request as part of the investigation, including but not limited to, records of my former employment, state and federal tax returns, business records, and banking records.*

Signature of Applicant: _____ Date: _____

Drafting note: Some jurisdictions may require applications to be notarized.

STATE OF_____

COUNTY OF_____

Subscribed, sworn to, and acknowledged before me by_____to be his/her free act and deed this____day of_____, 20____.

_____

Notary Public State at Large My Commission Expires:

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