

Draft: 3/29/25

Producer Licensing (D) Task Force
Indianapolis, Indiana
March 25, 2025

The Producer Licensing (D) Task Force met in Indianapolis, IN, March 25, 2025. The following Task Force members participated: Larry D. Deiter, Chair (SD); Sharon P. Clark, Vice Chair (KY); Lori K. Wing-Heier represented by Joanne Bennett and Jacob Lauten (AK); Alan McClain (AR); Ricardo Lara represented by Charlene Ferguson (CA); Trinidad Navarro represented by Susan Jennette (DE); Dean L. Cameron represented by Eric Fletcher (ID); Marie Grant represented by Mary Kwei (MD); Robert L. Carey represented by Timothy N. Schott (ME); Anita G. Fox represented by Renee Campbell (MI); Angela L. Nelson represented by Jo A. LeDuc (MO); Jon Godfread represented by John Arnold (ND); Mike Causey represented by Angela Hatchell (NC); Eric Dunning (NE); Scott Kipper represented by Alexia Emmermann (NV); Glen Mulready represented by Erin Wainner and Courtney Khodabakhsh (OK); Michael Humphreys represented by Michael Fissel (PA); Elizabeth Kelleher Dwyer represented by Mariel Garcia (RI); Cassie Brown represented by Randall Evans (TX); Jon Pike represented by Tanji J. Northrup (UT); Scott A. White represented by Richard Tozer (VA); Patty Kuderer represented by Andrew Davis (WA); and Allan L. McVey represented by Robert Grishaber (WV).

1. Adopted its Fall National Meeting Minutes

Ferguson made a motion, seconded by Commissioner Clark, to adopt its Nov. 17, 2024, minutes (*see NAIC Proceedings – Fall 2024, Producer Licensing (D) Task Force*). The motion passed unanimously.

2. Heard a Presentation from WSIA, the Council, and Steptoe on How the Surplus Lines Market Operates

John Meetz (Wholesale & Specialty Insurance Association—WSIA) said WSIA represents the entirety of the surplus lines industry and is unique in representing both carriers doing business in the United States and surplus lines brokers licensed in the United States. As of Jan. 1, 2025, WSIA membership consists of 278 wholesale or broker members, 176 insurance market or carrier members, and over 300 associate and service members. Meetz said that in 2023, the surplus lines market wrote \$115 billion in premiums in the U.S., representing roughly 12% of the property/casualty (P/C) premium written in the United States.

Blair Bartlett (Council of Insurance Agents & Brokers—Council) said the Council is a trade association, and its members are independent commercial insurance brokerage firms. Bartlett said the Council member firms represent 47 of the top 50 largest brokers of the U.S. business, annually placing 90% of all P/C premiums and 70% of all employee benefit business in the United States.

Keri Kish (WSIA) provided an overview of how consumers get to the surplus lines market. Kish said a consumer may have a complex risk today that a retail agent is unable to write. When this occurs, the retail agent will go to a wholesale broker who is a surplus lines producer. The surplus lines producer will go to the markets, which the retail agent is unable to access. Kish said the surplus lines producer will negotiate the terms of the contract with a surplus lines insurer and then present the contract to the retail agent, who will then present the quote to their client. Kish said it is important to highlight the wholesale broker/surplus lines producer does not work directly with the consumer. The retail agent works directly with the consumer while the wholesale broker works directly with the insurance company or surplus lines carrier. Kish said the retail agent's responsibilities are to explain the quote they receive from the wholesale broker, go over the policy terms, answer any questions, provide advice on whether to accept the policy, and then bind the coverage. The wholesale broker's responsibilities include procuring the policy from the surplus lines market, negotiating terms with the surplus lines carrier, binding the

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coverage, paying surplus lines taxes and filings with the states, engaging in inspections, and ensuring the insurer is eligible and financially solvent.

Kate Jensen (Steptoe) said Steptoe represents the Council. Jensen said the NAIC's *Producer Licensing Model Act* (#218) addresses the activities of retail producers. Jensen said insurance producers must have a license to sell, solicit, or negotiate insurance. Jensen said the NAIC's *Non-Admitted Insurance Model Act* (#870) addresses the licensing trigger for surplus lines licenses, using the word "procure" with a surplus lines insurer. Jensen said a person shall not procure a contract of surplus lines insurance with a surplus lines insurer without a surplus lines insurance producer license. Jensen said a surplus lines broker/producer has a P/C license and can conduct both insured-facing and non-admitted carrier-facing activities. Jensen said about 20 states follow Model #870's "procure" approach through the definition of surplus lines broker/producer. Jensen said all states require an underlying P/C producer license to obtain a surplus lines license.

Jensen said there is an opportunity for increased uniformity in surplus lines licensing, focusing on distinct licensure categories for producers and surplus lines brokers. Jensen said the industry is seeing conflating and confusing licensing standards. For instance, some states require the retail producer to be licensed as a surplus lines broker, even though they are going through the surplus lines broker to get to the non-admitted market. This is an unnecessary licensing requirement because the retail producer is only doing the insured-facing interaction.

In response to a question from Fletcher about whether the retail broker receives compensation for referring business to the surplus lines broker, Kish said the retail agent and wholesale broker split the commission. The retail agent prefers to use their markets first before going to another broker and splitting commissions.

3. Discussed the Draft 1033 Waiver Template

Tozer said he led a call with regulator subject matter experts (SMEs) to review the comments on the draft 1033 waiver template. Tozer said the draft template confirms the direction discussed at the last Producer Licensing (D) Task Force, which provides a person must seek written consent from their home state and that non-residents should not have to apply for a 1033 waiver. Tozer said the SMEs are close to finalizing their work and recommend another 30-day period to produce a new clean draft for review and comment by the Task Force and all interested parties. Tozer said there is a need to review the definition of "felony" due to state-by-state differences, and there is a need to review the use of the terms "waiver" and "written consent" to make sure they are appropriately used throughout the template.

Ferguson said California is close to supporting the draft 1033 waiver template. Ferguson said California is requesting the following edits to Section 2: (1) change the title to "Prohibited person must seek written consent;" (2) remove "in their home state" in the first sentence; and (3) edit the sentence about non-residents to state "Non-resident prohibited person applicants may not have to apply for a 1033 consent if they have received 1033 consent in their home state."

4. Adopted its Working Group Reports

A. Adjuster Licensing (D) Working Group

Khodabakhsh said the Working Group met on Feb. 27 (Attachment One) to discuss its revision of Chapter 18—Adjusters of the *State Licensing Handbook* (Handbook), designated home state standards, and licensing reciprocity for adjusters. Khodabakhsh said Rachel Chester (RI), Chair of the Adjuster Licensing (D) Working Group, is assembling a small drafting group to draft an adjuster licensing model act for the Working Group to review. The

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next Working Group call is scheduled for April 2. Director Deiter said the NAIC Membership has specific procedures for model law development, which the Working Group should review.

B. Producer Licensing Uniformity (D) Working Group

Khodabakhsh said the Working Group met Feb. 26 (Attachment Two) to discuss its charges and priorities for the year, including reviewing and updating the NAIC Uniform Licensing Standards (ULS) compliance charts and reviewing the Handbook. Khodabakhsh said the Working Group determined that 14 chapters need to be reviewed and potentially revised.

C. Uniform Education (D) Working Group

Tozer said the Working Group met March 7 (Attachment Three) to discuss reviewing three chapters in the Handbook: Chapter 6—Prelicensing Education, Chapter 8—Testing Programs, and Chapter 14—Continuing Education. Tozer said the Working Group has collected exam pass rates for 2024 from all examination vendors and will publish the data by the end of April.

Commissioner Clark made a motion, seconded by Ferguson, to adopt the reports of the Adjuster Licensing (D) Working Group, Producer Licensing Uniformity (D) Working Group, and the Uniform Education (D) Working Group. The motion passed unanimously.

5. Received a Report from the National Insurance Producer Registry

Director Deiter said the National Insurance Producer Registry (NIPR) Board of Directors meeting was held on March 23. NIPR had record revenue of just over \$82 million in 2024, a 14% year-over-year increase. Through February 2025, revenues are \$15.8 million, which is 9.6% over budget.

Laurie Wolf (NIPR) said NIPR continues to expand its electronic solutions for states and the industry, enabling efficient processing of licensee updates like name changes and Designated Responsible Licensed Producer (DRLP) changes. To date, NIPR has implemented these solutions in 33 states for name changes and 24 states for DRLP changes. Additionally, 38 states are currently utilizing NIPR's contact change request product for business entities. As states expand their regulatory oversight, NIPR continues to add new license classes, such as Pharmacy Benefit Managers (PBMs) and adjusters through the use of the NAIC Uniform Licensing Applications. Wolf said NIPR will launch a redesigned website (NIPR.com) this spring to offer a streamlined user experience that makes it easier for producers to navigate applications and renewals.

Wolf said NIPR, in collaboration with the NAIC, completed Western Zone producer licensing training in March. Staff from 15 of the 17 Western Zone jurisdictions participated. NIPR's Midwest Zone training is scheduled for June 10-12 in Chicago, with plans to host the remaining zone trainings in 2026. Wolf said NIPR is funding two regulators from each state to attend these trainings. The program provides a unique opportunity for regulators to explore producer licensing intricacies, address current and emerging industry issues, and engage in peer dialogue. The training covers best practices, regulatory changes impacting producer licensing, and the evolving landscape of state insurance regulation.

Wolf said NIPR restructured its state support team in January, creating three dedicated teams, each led by a state relationship account manager. These managers conduct regular calls with states to address their specific needs and streamline licensing processes.

Having no further business, the Producer Licensing (D) Task Force adjourned.

DISCUSSION DRAFT

Attachment Two

Template for 1033 Written Consent Process

Suggestion on How to Make 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. The 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 which 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 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 a 1033 written consent if they have received 1033 written consent in their Home State. States may require a nonresident prohibited person to apply for a 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 a fiduciary, official capacity or some other relationship based on trust, or 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. This term means 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. This term 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. Means directly or indirectly to cheat or defraud; to cheat or defraud for monetary gain or its equivalent; or wrongfully to 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 definition for dishonesty includes, lie, cheat, deceive, or defraud. Untrustworthiness, lack of integrity, honesty, fairness, etc.
- E. Felony. A "felony" is 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 authorized 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 or 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. Failure to file a timely amendment may result in 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 a 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:
 - a. the nature and severity of the offense and sentence;
 - b. the date of conviction(s);
 - c. the age at the time of committing the crime(s);
 - d. the nature and extent of injury and/or loss caused by the act for which the prohibited person was convicted;
 - e. unpaid judgment(s);
 - f. 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;
 - g. whether the prohibited person received an expungement or pardon from the sovereign that convicted him or her, and the reason for it;
 - h. 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 and payment of all fines, penalties or other assessments;
 - i. any aggravating or mitigating factors;
 - j. whether other jurisdictions have granted or denied an 18 U.S.C. § 1033 written consent;
 - k. the nature and strength of any letters of recommendation and other evidence of rehabilitation;
 - l. the prohibited person's employment history before and after the commission of the crime(s);
 - m. the nature of any consumer complaints in the Department's possession or reported by the prohibited person;
 - n. 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;
 - o. prohibited person's proposed type of employment in the insurance industry;
 - p. extent to which the prohibited person will be supervised in that employment;
 - q. 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; and
 - r. whether the prohibited person has had any professional license revoked or suspended by any state or federal agency.
 - s. whether the prohibited person's civil rights have been restored;
 - t. whether the prohibited person has a pattern of unlawful activity;

- u. extent an insurance license offers opportunity to engage in further criminal activity;
- v. 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.

**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.

PLEASE TYPE

SECTION I - APPLICANT INFORMATION

1. Full Name of Applicant:

Last Name	First Name	Middle Name
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Have you ever been known by or used another name, including maiden name? ☐ Yes ☐ No

If yes, Identify: _____

Home Address: _____

Street Address	City	State	ZIP
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Mailing Address: _____

P.O. Box or Street Address	City	State	ZIP
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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;
- G. dates of probation/parole (if you are currently under probation/parole, include the name and phone number of person supervising your parole or probation;

- H. restitution ordered/paid;
- I. fines/costs ordered/paid;
- J. pardons granted; and
- K. information as to whether or not 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 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 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, or 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, letter from 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: _____

COMMENTS ON 1033 TEMPLATE

Draft of Aug. 8, 2025

ACLI, Finseca, NAIFA

DELAWARE

CALIFORNIA

July 2, 2025

Director Larry D. Deiter
Department of Labor and Regulation
South Dakota Division of Insurance
124 S. Euclid Ave, 2nd Floor, Pierre, SD 57501

Re: Comments on the June 2025 Draft Template for 1033 Consent Process

CC: Tim Mullen, Director, Market Regulation, National Association of Insurance Commissioners

Dear Director Deiter:

Thank you for the opportunity to comment again on the draft Template for 1033 Consent Process. With our ongoing commitment to expanding access to financial security products and closing the coverage gap for middle class and lower income families, we believe this discussion on 1033 consent reform is an important step. As we have commented previously, we believe that, while we support Section 1033 and believe only morally fit and competent individuals should be granted licenses, the removal of unnecessary barriers to licensure is in society's best interest. We believe that states, insurance producers and consumers will benefit from a consistent and transparent process for 1033 consents while also preserving the important protections for our customers, including vulnerable adults. Recruitment and retention of well-qualified and well-vetted candidates is a common goal for our associations, and we believe for the NAIC as well.

We support the NAIC's goal of simplifying the 1033 waiver form process and developing uniformity and a consistent approach, for states to adopt. However, we do have several suggestions in connection with the Template for 1033 Consent Process language in the exposed discussion draft:

One remaining concern that we have is the continued inclusion of Nolo pleas in the draft Template. Nolo and similar pleas like no contest are typically required for "pre-trial" diversion program. These pleas are generally only available to first-time offenders charged with lesser offences. Operationally, these pleas of Nolo and other similar pleas are required to enter the diversionary program, which if successfully completed expunges an individual's record and therefore no "conviction" has ever occurred.

We believe that inclusion of Nolo pleas could inadvertently increase the numbers of applicants required to go through a 1033 waiver and would run counter to the goals of diversion programs. Applicants also are still required to disclose to Department of

American Council of Life Insurers | 101 Constitution Ave, NW, Suite 700 | Washington, DC 20001-2133

The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

Insurance these pleas in their uniform application, so Departments are already receiving disclosure of these pleas, just outside of the 1033 consent process.

We greatly appreciate the opportunity to provide comments on the 1033 consent discussion draft. We welcome any questions you may have and look forward to working with you on this and other aspects of the producer licensing process.

Sincerely,



David Leifer
Vice President & Associate
General Counsel
American Council of Life
Insurers



Melissa Bova
Senior Vice President,
State Affairs & Policy
Finseca



Roger Moore
Policy Director
NAIFA

Delaware – 1033 Template Comments

After reviewing the proposed changes, we have the following comments:

1. Is this a replacement for the Federal 1033 Waiver Request Application or an NAIC recommended revision to that Federal form?
2. In Section IV, Attachments , item 4 and item 6, we object to the wording “if applicable” We feel the acknowledgment/confirmation by the employer of the criminal background is important. We feel this wording would allow the applicant to fight us on the requirement and delay the licensing process.

We may have missed the purpose of these changes. Delaware created an alternate form for our State based on the Federal 1033 Waiver Request Application for those candidates with felony convictions other than ones related to breach of trust or dishonesty. The revised form was specific to Delaware and not intended to replace the Federal form. Are the proposed changes intended to replace the 1033 Waiver Application to be used consistently by all States?

Sincerely,

Robin L. Pyfer, MCM
Supervisor of Market Conduct and Producer Licensing



RICARDO LARA
CALIFORNIA INSURANCE COMMISSIONER

**NAIC 2025 Summer National Meeting, Minneapolis, Minnesota
Producer Licensing Task Force Meeting, Tuesday, August 12, 2025**

Agenda Item 2. Consider Adoption of the 1033 Waiver Template

California's Responses to Delaware, ACLI, Finseca, and NAIFA Comments:

California approves the current version of the 1033 Waiver Template. However, the comments submitted by Delaware, ACLI, Finseca, and NAIFA are to be considered during this meeting. During this discussion, California would vote "no" on the following proposed changes to the 1033 Waiver Template.

California's "no" votes are based on the following:

1. Remove "if applicable" - It is necessary to retain the "if applicable" language because many 1033 applicants **do not** have an employer or prospective employer at the time they apply for the consent. Many are not yet connected with an employer or prospective employer in the insurance industry, but want written consent in order to start their pursuit of an insurance career. The "if applicable" language is a recognition of this fact and allows the regulator to still evaluate and assess the relevant felony conviction, and determine whether 1033 should be granted, notwithstanding the fact that the applicant has yet to connect with an employer or a prospective employer in the insurance industry.
2. Remove "nolo contendere pleas and no contest pleas" – California believes the 1033 Consent Application Forms should continue to ask about and even require 1033 Consent for those who have entered no contest pleas involving qualifying convictions and been convicted based on that no-contest plea. The insurance regulator is able to use the no-contest plea even if the court suspends imposition of sentencing or places the defendant into a diversion program. California's 1033 regulations expressly states that a no-contest plea equals a conviction.

The only time the regulator may be unable to use a plea of no contest or even a plea of guilty is when the court refrains from entering a judgment or order formally adjudicating the defendant as guilty. In these cases, there is no judgment of guilt, and the guilty or no contest plea alone, is not sufficient for requiring 1033 Consent (since the court deferred entering a judgment formally adjudicating the defendant as guilty). California's 1033 regulations expressly state that 1033 Consent is not required if the court deferred entering a judgment of guilt and never subsequently entered such a judgment of guilt in the case.

If the PLTF approves the above proposed changes and asks for a vote to Consider for Adoption the 1033 Waiver Template, California would vote "no" on the Adoption for the above stated reasons.

This concludes California's responses. Thank you, Chair Director Deiter and Vice Chair Sharon Clark.