

# STATE OF NEBRASKA

DEPARTMENT OF INSURANCE

Moorthy J. Hall  
Director

October 15, 1998  
CB-95



E. Benjamin Nelson  
Governor

## BULLETIN

SUBJECT: DEPARTMENT OF INSURANCE PROCEDURE RELATING TO THE  
FEDERAL VIOLENT CRIME CONTROL AND LAW ENFORCEMENT  
ACT OF 1994

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

Specifically, this 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, is 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, 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 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 filing an application for licensure with the Director of Insurance.

On the application, such individual must indicate whether he or she has been convicted of a felony and describe the circumstances under which the conviction arose. The applicant may attach documentation to the application, including copies of any court documents or statements explaining the conviction. If the Director denies the application, the applicant may request an administrative hearing. If, following the hearing, a license is granted, the Director will issue an order containing a written exemption as required and in accordance with the requirements of 18 U.S.C. §1033. If the Director denies the exemption, he or she will do so in a written order.

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The Nebraska Department of Insurance has received inquiries about an insurer's responsibilities under the Act. It is the Department's position that if an insurance company receives information that an agent, broker, employee, staff person, or other person engaged in the business of insurance has been convicted of any of the felonies described in 18 U.S.C. §1033, the insurer should immediately notify the Director of Insurance of the facts and circumstances of the matter.

The Department will then conduct an investigation to determine whether the Director has jurisdiction over the matter and whether to grant or deny such person an exemption in accordance with 18 U.S.C. §1033. Again, if the Director determines that jurisdiction is proper and that an exemption should be granted, he or she 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 from and in accordance with 18 U.S.C. §1033, or if the Director denies such exemption, he or she will issue a written order.



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TIMOTHY J. HALL  
Director of Insurance

PRIOR VERSION