



Alabama Department of Insurance

CRIMINAL HISTORY DISCLOSURE FORM

INFORMATION AND INSTRUCTIONS

What is the purpose of the Criminal History Disclosure Form?

The Alabama Commissioner of Insurance may consider an applicant's criminal history in deciding whether to grant an application for a license or, if an individual already holds a license, whether to renew, suspend, or revoke that license.

Under 18 U.S.C. § 1033, it is a Federal criminal offense for an individual who has been convicted of an offense described in that statute or of a felony involving dishonesty or breach of trust to engage in the business of insurance without the written consent of an insurance regulatory official authorized to regulate insurers. *This Federal statute applies to licensed and unlicensed positions in the business of insurance.*

This form is intended to obtain detailed information about an individual's criminal history sufficient to permit the Commissioner to decide whether to grant, renew, or allow retention of a license; to decide whether written consent under 18 U.S.C. § 1033 is required; and to decide whether to grant written consent for purposes of 18 U.S.C. § 1033, if required.

You should review Insurance Department Regulation 482-1-146, available in the Legal section at www.aldoi.gov, for further information.

What types of convictions can be considered?

Under Alabama law, conviction of any felony can be a ground for denial, non-renewal, suspension, or revocation of a license.

The consent requirement of 18 U.S.C. § 1033 relates to a conviction of a specific insurance-related crime defined in § 1033 or of a felony involving dishonesty or breach of trust.

What is the difference between a felony and a misdemeanor?

In general, a felony is an offense for which a sentence of incarceration for more than one year can be imposed. A misdemeanor, on the other hand, is an offense for which a sentence of incarceration may not exceed one year. Since the definition of a felony may vary from state to state, the Department will defer to how the jurisdiction where the offense was committed classifies the offense.

What is a § 1033 consent and when is one required?

18 U.S.C. § 1033 is a Federal statute that makes certain acts within the business of insurance Federal criminal offenses. The statute also provides that it is a Federal criminal offense for a person who has been convicted of a crime defined in § 1033 or of a felony involving dishonesty or breach of trust to engage in the business of insurance unless that person has written consent of the appropriate state regulatory official. In Alabama, that official is the Commissioner of Insurance.

The consent requirement applies to licensed positions within the business of insurance. It can also apply to employment or contract positions in the business of insurance that do not require a license.

A license is not equivalent to a § 1033 consent. A § 1033 consent is separate from a license.

If I am applying for a non-resident license, must I have a § 1033 consent from my resident licensing state?

Yes. If consent is required under § 1033, a non-resident must have received a written consent from the proper insurance regulatory official in his/her resident licensing state – or that official’s written determination that a § 1033 consent is not required for a particular felony. The consent or determination of non-applicability must relate to the activities in the business of insurance for which the non-resident is seeking an Alabama license. Alabama will accept the resident state’s § 1033 consent (or determination § 1033 does not apply) if it is the policy of the resident state to give like validity to such consents or non-applicability determinations by Alabama to Alabama residents seeking non-resident licenses in that state.

What is considered a felony involving “dishonesty or a breach of trust” for § 1033 purposes?

This will be determined by the Department based upon the circumstances of a particular felony conviction. In general, any felony which, under the applicable laws of the jurisdiction where committed, includes one or more elements of deceit, untruthfulness, or falsification will be deemed a felony involving “dishonesty” for purposes of applying the § 1033 consent process. Such crimes can include, but are not limited to, any offense constituting or involving perjury, bribery, forgery, counterfeiting, false or misleading oral or written statements, deception, fraud, schemes or artifices to deceive or defraud, material misrepresentations and the failure to disclose material facts. In general, any felony which, factually or as an element of the offense, involves breach of a fiduciary-type duty imposed by applicable laws of the jurisdiction where committed will be deemed to be a felony involving a “breach of trust” for purposes of applying the § 1033 consent process.

Who must complete the Criminal History Disclosure Form?

This form (or relevant parts of it) must be completed by any individual: (1) who first discloses in a license application that he/she has been charged with or convicted of a criminal offense; (2) who discloses a felony arrest, indictment, or conviction as required by Insurance Department Regulation 482-1-054; (3) about whom the Department has discovered the existence of undisclosed prior charges or convictions for a criminal offense; or (4) who requests written consent under 18 U.S.C. § 1033.

What do I need to do?

Carefully read through these instructions and the form to see what parts apply to you and what information you will need to send or gather. *Depending on your individual circumstances, some parts of the form may not apply to you.* If a question does not apply, you may leave it blank or type in "N/A."

If you only have prior misdemeanor violations and have NOT been convicted of a felony, you need to complete only Sections I, II, and the signature part in Section IX; and you do NOT need to attach photographs.

Answer the questions that apply to you fully, accurately and truthfully. *Please TYPE your responses.* You should attach additional pages if necessary. Misstatements in or omissions from the form may have serious consequences, including criminal prosecution.

Provide all the documentation requested. *Copies of documentation obtained from a court or government agency must be certified by that court or agency.* You must substantiate any claimed inability to get certified copies of court or agency records.

Be sure to date and sign the form and have your signature notarized.

The form must be complete with all necessary documentation attached when it is submitted to the Department. The Department will not process an incomplete form. Failure to submit all the required information will delay any final action.

Keep a copy of the form and documentation for your records. The original completed form and all documentation should be sent to:

Alabama Department of Insurance
Attn: Legal Division
P.O. Box 303351
Montgomery, Alabama 36130-3351

When should I return the completed form?

You should return the completed form and all applicable documentation as soon as possible but within any time period stated in any official communication from the Department. Be sure to keep a copy of the completed form for your records. You may be requested to submit additional written information and/or to be interviewed. If so, you should comply with the time periods set forth in the request.

If you have a license application pending, that application will not be acted upon until after the completed form and documentation and requested additional information, if any, have been received and reviewed by the Alabama Department of Insurance and any interview, if requested, has been completed. If you have not returned the completed form and documentation the time stated in an official communication from the Department or if you do not properly respond to a request for additional information or an interview, your license application may be denied and you will be required to reapply for the license.

What if I need to make a change on the form due to a change in circumstances?

A written amendment to the form must be filed immediately upon the occurrence of any event which would change any answer on the application. If you fail to file a timely amendment, it could result in denial or withdrawal of approval or written consent.

What is done with the Criminal History Disclosure Form?

A Review Committee of the Department of Insurance will review the completed form and documentation, any supplemental information, and interview results, and make a recommendation to the Commissioner about what action should be taken. The Commissioner is not bound by the recommendation.

The form will be treated as confidential by the Department and will not be deemed a public record.

Information disclosed in the form may be the basis for further administrative action by the Department.

How long does the process take?

Once the information-gathering process is complete, the Department will make reasonable efforts to have a final disposition from the Commissioner within twenty (20) days. The actual time could be longer.

If the Department requests additional information and/or a personal or telephone interview, the review and decision process will not continue until, and the twenty (20) day target disposition time will run from, the later to occur of receipt of the requested information or completion of the interview.

What can I do if my application or request for consent is denied?

If you disagree with a decision to deny a license application and/or a request for an 18 U.S.C. § 1033 consent, you may request a hearing before the Commissioner or his/her designee. If that hearing is requested and conducted, and you disagree with the result, you may seek review by a court. The notification you receive will generally describe these options.

What if I have further questions?

In case of questions, you may contact the Alabama Department of Insurance Legal Division at 334-241-4117.

PLEASE NOTE: The Alabama Department of Insurance cannot give legal advice. If you think you need legal advice, you should contact an attorney. The Alabama State Bar offers a Lawyer Referral Service. You can find more information on the Lawyer Referral Service at the Alabama State Bar's website -- www.alabar.org.

REMEMBER TO KEEP A COPY OF THE COMPLETED FORM FOR YOUR RECORDS.

RESPONSES ON THE FORM MUST BE TYPED.