

PROJECT HISTORY - 2006

AUTHORIZATION FOR CRIMINAL HISTORY RECORD CHECK MODEL ACT (#222)

1. Project Description

The Authorization for Criminal History Record Check Model Act provides the basic regulatory framework for the use of electronic fingerprints provided by a resident insurance producer. This model language was developed for states to adopt in order 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.

2. Group Responsible for Drafting the Model and States Participating

The Producer Licensing Working Group of the Market Regulation and Consumer Affairs (D) Committee was responsible for developing the model act. Laurie Wolf (ND) chaired the working group. The following states were members of the working group: Alaska, Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming.

To help facilitate the drafting process, the Producer Licensing Working Group appointed the Fingerprint Subgroup. Linda Brunette (AK) chaired this subgroup. The subgroup was comprised of Arizona, California, Delaware, Florida, Idaho, Indiana, Kentucky, Louisiana, Michigan, Nebraska, New York, North Carolina, North Dakota, Ohio, and Pennsylvania.

3. Project Authorized by What Charge and Date First Given to the Group

The Market Regulation and Consumer Affairs (D) Committee charge for the Producer Licensing Working Group reads as follows, "Appoint a working group to develop and implement uniform standards, interpretations and treatment of producer licensees and licensing terminology; coordinate and consult with the National Insurance Producer Registry Board of Directors to develop and implement uniform producer licensing initiatives, with a primary emphasis on encouraging the use of electronic technology; develop a Uniform Adjuster Licensing Model Act; and monitor and respond to developments related to licensing reciprocity." The group first received the charge for the Authorization for Criminal History Background Check Model Act in March 2003.

4. Description of the Drafting Process (e.g., drafted by a subgroup, interested parties, the full group, etc). Include any parties outside the members that participated

The drafting process was open to comments and participation by all interested parties. Industry representatives participated fully in the process and discussion sessions. Drafts of the model were circulated for public comment. The process resulted in a total of fifteen drafts of the model.

5. A General Description of the Due Process (e.g., exposure periods, public hearings, or any other means by which widespread input from industry, consumers and legislators was solicited)

Drafts of the model act were circulated for comment and posted on the NAIC Web site. The Producer Licensing (D) Working Group adopted the model act on Nov. 6, 2005. The Market Regulation & Consumer Affairs Committee held a meeting at the NAIC 2005 Winter National Meeting to receive comments and discuss the model. The Committee held another meeting via conference call on Jan. 20, 2006.

6. A Discussion of the Significant Issues (items of some controversy raised during the due process and the group's response)

Earlier versions of the model included provisions for the creation of an NAIC centralized fingerprint repository. The working group received numerous comments from industry groups opposing the need for a centralized repository and raised concerns about the confidential, sensitive nature of an individual's fingerprints being stored at the NAIC. The working group also received comments from the American Council of Life Insurers regarding NAIC control of the repository. All references to the NAIC fingerprint repository have been deleted from the model.

Earlier versions of the model included provisions as to when company officers and directors will be subject to the submission of fingerprints for background checks. All references to the fingerprinting of directors and officers have been eliminated.

Earlier versions of the model also included a fingerprint exemption for individuals who fulfilled the requirements of the United States Securities Exchange Commission Regulation 240.17(f)2 SEC rule 17f-2; 17CFR240.17f-2 and are currently licensed and in good standing with the National Association of Securities Dealers. This exemption has been eliminated from the model.

7. Any Other Important Information (e.g., amending an accreditation standard).

This model will allow states 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.

Subsection 3A and 3B of the model must be enacted by a state exactly as written. The PLWG adopted the language in these sections after preliminary review and recommendations by the U.S. Department of Justice, who is the federal agency that provides comment on whether the proposed legislation is compliant with Public Law 92-544 and the parameters set forth by the FBI and the United States Department of Justice. Any changes to these sections would jeopardize approval by the U.S Department of Justice.