



**INSURANCE DEPARTMENT NOTICE NO. 2010-08**

**TO** All Persons and Entities currently engaged or participating, or seeking to engage or participate, in the Business of Insurance in Pennsylvania

**FROM** Stephen J. Johnson, CPA *[Signature]*  
Deputy Insurance Commissioner

**DATE** July 17, 2010

**RE** The Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C., Section 1033 and 1034

**This document supersedes the notice published at 30 Pa.B. 1333 (March 4, 2000) and shall remain in effect until a subsequent notice is published in the *Pennsylvania Bulletin*.**

By Insurance Department Notice No. 2000-04 all persons and entities engaged or participating, or seeking to engage or participate, in the business of insurance in this Commonwealth were advised that the Insurance Department (Department) had adopted an Application for Written Consent to Engage in the Business of Insurance Pursuant to The Violent Crime Control and Law Enforcement Act of 1994 (act), 18 U.S.C. §§ 1033 and 1034 (relating to application for written consent).

Under the act, it is a criminal offense for an individual who has been convicted of a criminal felony involving dishonesty or a breach of trust, or an offense under the act, to willfully engage or participate in the business of insurance, or to willfully permit such participation, without the written consent of the appropriate insurance regulatory official. The written consent must specify that the consent is granted for the purpose of permitting insurance activity under § 1033 (e) of the act.

The act broadly defines the term "business of insurance" and provides no exemptions or "grandfather" provisions for convictions that occurred prior to its enactment or for persons who are already engaged or participating in the business of insurance. Individuals prohibited from engaging or participating in the business of insurance without written consent are referred to as "prohibited persons." The Department has jurisdiction under the act to consider requests for written consent filed by the following types of prohibited persons:

1. Officers, directors, employees, consultants, and subcontractors of domestic insurers and insurance-related entities, including but not limited to, insurance companies, associations and exchanges, Lloyds insurers, health maintenance organizations, fraternal benefit societies, beneficial associations, hospital plan corporations, health services plan corporations, preferred provider organizations, premium finance

companies, insurance administrators, viatical settlement providers, risk retention groups and purchasing groups.

2. Resident licensees and their officers, directors and employees, including but not limited to insurance agents, brokers, insurance producers, agencies, exclusive general agents, managing general agents and managers, reinsurance intermediaries, surplus lines agents, public adjusters, public adjustor solicitors, viatical settlement brokers and motor vehicle physical damage appraisers.

A Commonwealth resident who is a prohibited person must apply for and obtain the written consent of the Department to begin or to continue to engage or participate in the business of insurance. Written consent under the act must be obtained even if the prohibited person is now or has ever been licensed or otherwise approved by the Department to transact business. In addition, a prohibited person who resides outside of the Commonwealth must obtain the written consent of his or her domiciliary insurance regulatory official to be permitted to begin or continue to engage or participate in the business of insurance in this Commonwealth.

While the act provides a mechanism whereby a prohibited person may apply to the appropriate insurance regulatory official for written consent, it does not allow a prohibited person to work in the business of insurance while applying for that consent. The Department maintains full discretion in deciding whether or not to grant written consents, which will be determined on a case-by-case basis taking into account materials submitted to the Department by the applicant.

All affected persons are encouraged to thoroughly review the act and insure that they are complying with it. Failure to inform the Department of a prior felony on a license application may result in a violation of the act as well as constitute grounds for denial or revocation of a license. Employers must make diligent efforts to identify prohibited persons and insure that they are not violating the act by permitting prohibited persons to engage or participate in the business of insurance without written consent. In addition to efforts to identify prohibited persons as part of the employment application process, employers should consider conducting periodic workforce surveys to identify any subsequent convictions that require written consent.

The Department's application for written consent is available on the Department website at [www.insurance.pa.gov](http://www.insurance.pa.gov).

Questions concerning this notice may be directed to the Department at: [ra-in-company@state.pa.us](mailto:ra-in-company@state.pa.us) or [ra-in-producer@state.pa.us](mailto:ra-in-producer@state.pa.us) or by contacting the Office of Corporate and Financial Regulation at (717)783-2142 or the Office of Market Regulation, Bureau of Licensing and Enforcement at (717)787-3840.