



LOUISIANA DEPARTMENT OF INSURANCE
JAMES J. DONELON
COMMISSIONER

**ADVISORY LETTER 2018-02
(REVISED AND REISSUED)**

TO: ALL INSURANCE PRODUCERS

FROM: JAMES J. DONELON, COMMISSIONER OF INSURANCE

**RE: EMPLOYING OR ALLOWING TO ASSOCIATE WITH YOUR BUSINESS,
ANY PERSON ENGAGED IN THE BUSINESS OF INSURANCE WHO
HAS BEEN CONVICTED OF A FELONY**

DATE: MAY 23, 2022

Advisory Letter 2018-02, originally issued July 31, 2018, is being revised and reissued to provide the procedure to request consent or a waiver as established by Regulation 119. Louisiana law prohibits an insurance producer from employing in his business or allowing to associate with his business any person convicted of a felony. La. R.S. 22:1554(A)(18) gives the Commissioner of Insurance ("Commissioner") the authority to allow an insurance producer to employ in his business or to associate with his business an individual previously convicted of a felony if the producer first obtains written consent or a waiver from the Commissioner. Regulation 119 establishes the procedure by which an insurance producer may request consent or a waiver to employ or to otherwise associate with his business an individual engaged in the business of insurance who has been convicted of a felony in accordance with La. R.S. 22:1554(A)(18).

La. R.S. 22: 1554(A) provides:

"The commissioner may place on probation, suspend, revoke, refuse to issue, renew, or reinstate an insurance producer license, or may levy a fine not to exceed five hundred dollars for each violation occurring, up to ten thousand dollars aggregate for all violations in a calendar year per applicant or licensee, or any combination of actions, for any one or more of the following causes:

(18) A producer, without the consent of or a waiver from the commissioner, has employed or allowed to associate with his business, in any manner, any person engaged in the business of insurance who has been convicted of a felony under the laws of this state or any other state or territory, the District of Columbia, the United States, or any foreign country. As used in this Section, business of insurance means the writing of insurance or the reinsuring of risks by an insurance producer or 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 employees of producers or insurers, or who are other persons authorized to act on behalf of such persons."

La. R.S. 22:1554(A)(18) restricts the employment or the association with the business of Louisiana licensed producers of persons who have been convicted of a felony. It is incumbent upon insurance producers to make a written request to obtain consent or a waiver from the Commissioner if the insurance producer intends to employ or allow to associate with his insurance business in any manner a person who has been convicted of a felony. The consent or a waiver shall be issued solely to the employing insurance producer and remain in effect during the employment of the individual with the insurance producer. Such consent or waiver is not transferrable to another employer and may be rescinded if the employee is found to have subsequently committed an act pursuant to La. R.S. 22:1554(A)(7), or it is found that the request for consent or a waiver contained materially false information or omitted material information.

In order to ensure compliance with La. R.S. 22:1554(A)(18), insurance producers should screen potential employees by performing a background check. If you need to obtain consent or a waiver from the Commissioner, you must submit a completed *Request for Consent or a Waiver Pursuant to La. R.S. 22:1554(A)(18)* form electronically at producerlicensing@ldi.la.gov. An employer is not required to submit a bill of information or other charging documents, court minutes, sentencing documents, and proof of successful completion of sentence for the felony conviction(s) if the employee has an active license in Louisiana.

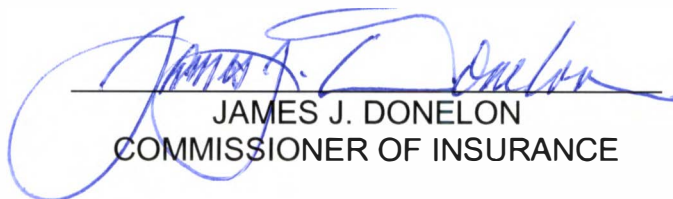
La. R.S. 22:1554(A)(18) operates independently from the federal law contained in 18 U.S.C. 1033. That federal law places the responsibility of obtaining a waiver on individuals who have been convicted of a felony involving dishonesty or a breach of trust. Under 18 U.S.C 1033, those individuals who are considered prohibited persons cannot engage in the business of insurance unless they are given written consent to work in the business of insurance by an appropriate insurance regulator. A written consent granted by an insurance regulator under 18 U.S.C. 1033 merely releases the holder of the consent from his or her status as a "prohibited person" under federal law. Whether the holder of the consent is qualified to engage in the business of insurance then becomes a matter of state law, just as it would have been in the absence of 18 U.S.C. 1033. State law requires a hiring producer to obtain consent or a waiver from the Commissioner for any and all felony convictions of a potential or current employee. As a result, both the producer and the convicted felon will be required to obtain consent or a waiver from of the Commissioner in some situations.

The failure of an insurance producer to obtain consent or a waiver from the Commissioner in compliance with La. R.S. 22:1554(A)(18) may result in regulatory action which may include any of the following actions or a combination of actions: probation, suspension or revocation of your producer license, refusal to issue, renew or reinstate your producer license, and/or a fine of up to five hundred dollars for each violation.

The Commissioner may deny consent or a waiver if he finds (1) the competence, experience or integrity of the employee are such that it would not be in the best interest of clients of the employer or the public to allow the individual to be employed in the business of insurance; (2) the employing insurance producer or the employee knowingly makes a materially false statement or omission of material information in the request; or (3) any other reason as provided for in applicable statutes and regulations. If the consent or waiver is denied, you have the right to an administrative hearing pursuant to La. R.S. 22:2191 *et seq.*

If there are any questions or concerns regarding Advisory Letter 2018-02 (Revised and Reissued), please contact the Deputy Commissioner of the Office of Licensing electronically at public@ldi.la.gov or by telephone at (225) 219-5941.

Baton Rouge, Louisiana this 23rd day of May, 2022.



JAMES J. DONELON
COMMISSIONER OF INSURANCE



LOUISIANA DEPARTMENT OF INSURANCE
JAMES J. DONELON
COMMISSIONER

**REQUEST FOR CONSENT OR A WAIVER
PURSUANT TO LA. R.S. 22:1554(A)(18)**

PART 1 - GENERAL INFORMATION

1. Employing Insurance Producer's Name: _____
2. Employer Insurance Producer's License Number: _____
3. Employee's Name: _____
4. Employee's Date of Birth: _____
6. Employee's Residence Address: _____
7. Employee's Job Title: _____
8. Employee's Date of Hire: _____
9. Is the employee currently licensed in Louisiana as an Insurance Producer, Claims Adjuster, Public Adjuster, or Consultant or is in the process of applying for a license as an Insurance Producer, Claims Adjuster, Public Adjuster, or Consultant?
 Yes – You may skip Part 2.
 No – Continue to Part 2

PART 2 - REQUIRED ATTACHMENTS

The following items must be included as part of the request for a waiver:

- A detailed description of the employee's job duties.
- A statement from the employee explaining the facts and circumstances of the felony conviction.
- The bill of information or other charging documents, court minutes, sentencing documents, and proof of successful completion of sentence relative to the employee's felony conviction(s).

I hereby certify that, under penalty of perjury, all of the information submitted in this request and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this request constitutes grounds for administrative action against my license.

Signature of Employing Producer

Date