

R590. Insurance, Administration.

R590-281. License Applications Submitted by Individuals Who Have a Criminal Conviction.

R590-281-1. Authority.

This rule is promulgated pursuant to Subsection 31A-2-201(3) which authorizes the commissioner to adopt rules to implement the provisions of Title 31A.

R590-281-2. Purpose and Scope.

- (1) This rule sets eligibility requirements for license applicants who have a criminal conviction.
- (2) This rule applies to license applicants who have a criminal conviction.

R590-281-3. Definitions.

The following definitions shall apply for the purpose of this rule:

- (1) "License" means an initial resident individual or resident agency insurance license issued by the commissioner; and
- (2) "Proceeding" means:
 - (a) a criminal proceeding in which an individual is charged with a felony, or a misdemeanor involving fraud, misrepresentation, theft, or dishonesty, including a proceeding involving a plea in abeyance; or
 - (b) a regulatory enforcement proceeding in which an individual is alleged to have engaged in conduct involving fraud, misrepresentation, theft, or dishonesty.

R590-281-4. Eligibility to Apply for a License.

(1) Except as provided in Subsections (2) through (4), and except in the case of a juvenile adjudication, an individual who has been convicted of or pleaded no contest to a felony, or a misdemeanor involving fraud, misrepresentation, theft, or dishonesty is eligible to apply for a license if:

- (a) the individual has completed probation, parole, or has been released from incarceration;
- (b) the individual has no criminal proceeding pending;
- (c) the individual has paid in full all fines and interest ordered by the court related to the conviction;
- (d) the individual has paid in full all restitution ordered by the court related to the conviction; and
- (e) the following time periods have elapsed from the date the individual was convicted or released from incarceration, parole, or probation, whichever occurred last:
 - (i) seven years in the case of a felony;
 - (ii) five years in the case of a class A misdemeanor;
 - (iii) four years in the case of a class B misdemeanor; or
 - (iv) three years in the case of any other misdemeanor.
- (2) Subsection (1) does not apply to an individual whose criminal charge was dismissed pursuant to a plea in abeyance agreement under Title 77, Chapter 2a, Pleas in Abeyance.
- (3) In applying this rule, the department will give effect to a conviction for a lower degree of offense pursuant to Section 76-3-402.

(4)(a)(i) An individual who has been convicted of violating the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033, or who is deemed under 18 U.S.C. Sec. 1033 to have been convicted of a felony involving dishonesty or breach of trust, may not apply for a license without first obtaining written consent from the commissioner to engage or participate in the business of insurance.

- (ii) The policy and application for written consent are available on the department's website at www.insurance.utah.gov.
- (b) An individual who obtains written consent may apply for a license. The individual remains subject to all other license application requirements.
- (c) An application for written consent is required even if:
 - (i) a felony charge involving dishonesty or breach of trust has been dismissed pursuant to a plea in abeyance agreement under Title 77, Chapter 2a, Pleas in Abeyance; or
 - (ii) a felony conviction involving dishonesty or breach of trust has been reduced to a lower degree of offense pursuant to Section 76-3-402.
- (5) The department will deny a license application submitted by an individual who is not eligible under this Section.
- (6) Eligibility to apply for a license under R590-281 is a separate determination from and does not affect eligibility to engage in the business of insurance under 18 U.S.C. Sec. 1033.

R590-281-5. Severability.

If any provision of this rule, R590-281, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule which can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: insurance, licensing

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Authorizing, and Implemented or Interpreted Law: 31A-2-201(3)

