

CALIFORNIA CODE OF REGULATIONS
TITLE 10. INVESTMENT
CHAPTER 5. INSURANCE COMMISSIONER
SUBCHAPTER 1. PRODUCTION OF INSURANCE
ARTICLE 5.7. PRODUCER LICENSING BACKGROUND REVIEW GUIDELINES

§ 2183. Authority and Purpose.

These regulations are promulgated pursuant to the authority granted the Commissioner under the provisions of Section 12921(a) of the Insurance Code. The purpose of these regulations is to set forth licensing background review guidelines for use in determining the denial, suspension, revocation, and/or restriction of an insurance producer license or license application.

§ 2183.1. Applicability.

The producer licensing background review guidelines described in Sections 2183, 2183.1, 2183.2, 2183.3, and 2183.4 shall apply to all persons who possess, or who have applied for, any insurance producer license governed by the Insurance Code, including, but not limited to agent, broker, solicitor, bail agent, bail solicitor, or adjuster.

§ 2183.2. Substantial Relationship Criteria for Crimes or Wrongful Acts.

For purposes of denial, suspension, revocation, and/or restriction of a license or license application, statutes within the Insurance Code list specific grounds and also allow for action based upon findings that include, but are not limited to, the licensee or applicant lacking integrity, having a poor business reputation, or that permitting the licensee or applicant to hold an insurance license is against the public interest. The following is a partial list of crimes or acts that are substantially related to the qualifications, functions or duties of an insurance licensee:

- (a) Any felony conviction;
- (b) A misdemeanor conviction which evidences present or potential unfitness to perform the functions authorized by the license in the manner consistent with the public health, safety, and welfare, including but not limited to, soliciting, attempting, or committing crimes involving the following:
 - (1) Dishonesty or fraud;
 - (2) Any conviction arising out of acts performed in the business of insurance or any other licensed business or profession;
 - (3) Theft;
 - (4) Sexually related conduct affecting a person who is an observer or non-consenting participant in the conduct or convictions, or which requires registration pursuant to the provisions of Section 290 of the Penal Code;
 - (5) Resisting, delaying, or obstructing a public officer in violation of Penal Code Section 148;
 - (6) Any act or offense wherein the person willfully causes injury to the person or property of another;
 - (7) Violation of a relation of trust or confidence, or a breach of fiduciary duty;

(8) Multiple convictions which demonstrate a pattern of repeated and willful disregard for the law.

(c) Any act which demonstrates a willful attempt to derive a personal financial benefit through the nonpayment or underpayment of taxes, assessments, or levies duly imposed upon the licensee or applicant by federal, state or local government or a willful failure to comply with a court order.

§ 2183.3. Weight of Substantially Related Acts.

In considering discipline of a license or license application, the weight to be accorded to a substantially related crime or act described in Section 2183.2 (a), (b), or (c) may be determined by the application of guidelines including, but not limited to, the following:

- (a) The extent to which the particular act or omission has adversely affected other person(s) or victim(s), including but not limited to, insurers, clients, employers or other persons, and the probability such adverse effects will continue;
- (b) The recency or remoteness in time of the act, misconduct, or omission;
- (c) The type of license applied for or held by the licensee or applicant involved;
- (d) The extenuating or aggravating circumstances surrounding the act, misconduct, or omission;
- (e) Whether the licensee or applicant has a history of prior license discipline, particularly where the prior discipline is for the same or similar type of conduct.

§ 2183.4. Criteria for Evaluating Rehabilitation.

The Commissioner may consider all of the evidence presented, including evidence offered by the licensee or applicant, to determine whether the licensee or applicant has sufficiently rehabilitated from the prior act, misconduct, or omission such that the licensee or applicant is fit to hold an insurance license. When evaluating the rehabilitation of an applicant for an insurance license, or when considering the suspension, revocation, and/or restriction of an insurance license, on the grounds of conviction of a crime or the commission of some other wrongful act, the Commissioner may consider criteria, including, but not limited to, the following:

- (a) Nature and severity of the act, misconduct, or omission;
- (b) Total criminal record;
- (c) The time that has elapsed since commission of the act, misconduct, or omission; however, the mere passage of time without unlawful or wrongful activity is not alone sufficient to establish rehabilitation;
- (d) Whether the licensee or applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee or applicant; however, termination of probation or parole or obtaining a Penal Code Section 1203.4 expungement of the conviction, or other comparable orders of a court, including federal courts, are not alone sufficient evidence of rehabilitation;
- (e) Whether the licensee or applicant has made any restitution or done anything to recompense the injured party or to alleviate the wrong or damage caused by the act, misconduct, or omission;
- (f) Significant and/or conscientious involvement in community or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.