

THE FLORIDA SENATE
2013 SUMMARY OF LEGISLATION PASSED
Committee on Banking and Insurance

CS/CS/HB 383 — Interstate Insurance Product Regulation Compact

by Regulatory Affairs Committee; Insurance and Banking Subcommittee; and Rep. Hudson and others (CS/CS/CS/SB 242 by Appropriations Committee; Governmental Oversight and Accountability Committee; Banking and Insurance Committee; and Senator Hukill)

The bill enacts the Interstate Insurance Product Regulation Compact (Compact). The Compact is intended to help states join together to regulate designated insurance products, specifically, the following asset-based insurance products:

- Life insurance;
- Annuities;
- Disability income insurance; and
- Long-term care insurance, though the state is prospectively opting out of all uniform standards for long-term care insurance in the Compact.

The Compact is governed by the Interstate Insurance Product Regulation Commission (Commission). The Commission may:

- Develop uniform standards for product lines;
- Receive and promptly review products; and
- Approve product filings that satisfy applicable uniform standards.

The members of the Commission are representatives from each state that has joined the Compact. The Commission has authority to adopt uniform standards by rule. A “uniform standard” is a commission standard for a product line, plus subsequent amendments that use a substantially consistent methodology. A uniform standard includes all product requirements in the aggregate. A uniform standard must be construed to prohibit the use of inconsistent, misleading, or ambiguous provisions in a product. The uniform standard must also ensure that the form of any product made available to the public is not unfair, inequitable, or against public policy as determined by the Commission. Adoption of a uniform standard requires a two-thirds vote of Commission members.

The Commission also has authority to receive and review products filed with the Commission and rate filings for disability income and long-term care insurance products (Florida is opting out of all uniform standards involving long-term care). Products and disability income insurance rates that satisfy the appropriate uniform standard may be approved. Commission approval has the force and effect of law and is binding on compacting states. A product is the policy form or contract and includes any application, endorsement, or related form that is attached to and part of the policy or contract. The term also includes any evidence of coverage or certificate for an individual or group annuity, life insurance, disability income, or long-term care insurance product that an insurer is authorized to issue. A state may opt out of a uniform standard via legislation or rule. Florida is prospectively opting out of all uniform standards involving long-term care insurance products, as allowed by the terms of the Compact.

To obtain approval of a product, the insurer must file the product with the Commission and pay applicable fees. Any product approved by the Commission may be sold or otherwise issued in any compacting state in which the insurer is authorized to do business. An insurer may alternatively file its product with a state insurance department, and such filing will be subject to the laws of that state.

All lawful actions of the Commission, including all rules and operating procedures, are binding on compacting states. Agreements between the Commission and compacting states are binding in accordance with their terms. The Compact prevents the enforcement of any other law of a compacting state, except that the Commission may not abrogate or restrict the access to state courts; remedies related to breach of contract, tort, or other laws not specifically directed to the content of the product; state law relating to the construction of insurance contracts; or the authority of the state Attorney General. A Compact provision is ineffective as to a state, however, if it exceeds the constitutional limits imposed on the Legislature of a state. If an insurance product is filed with an individual state, it is subject to the law of that state.

The exclusivity provision of the Compact (stating that the rules and uniform standards of the compact are the exclusive provisions applicable to the content, approval, and certification of products governed by the Compact) applies only to uniform standards adopted by the Commission, and standards adopted by Florida are not limited or rendered inapplicable by the absence of a standard adopted by the Commission. The bill also applies all Florida standards to the content, approval, and certification of products in Florida, notwithstanding the exclusivity provision of the Compact.

The state exercises an opt out of all new uniform standards that the Commission adopts after March 1, 2013, that substantially alter or add to existing Commission uniform standards that the state adopted pursuant to this bill until the state enacts legislation to adopt or opt out of the new uniform standards or amendments to uniform standards. Effective July 1, 2014, the state will exercise an opt-out of uniform standards adopted by the Commission for the 10-day period for the unconditional refund of life insurance premiums, plus any fees or charges under s. 626.99, F.S.; underwriting criteria limiting the amount, extent, or kind of life insurance based on past or future travel that is inconsistent with s. 626.9541(1)(dd), F.S., as implemented by the Office of Insurance Regulation (OIR); and any Compact standard that conflicts with Florida statutes or rules providing consumer protections.

The OIR must prepare a report that examines the extent to which Compact standards provide consumer protections equivalent to those under state law and the Administrative Procedure Act for annuity, life insurance, disability income, and long-term care insurance products. The OIR must submit the report to the Senate President, the Speaker of the House of Representatives, and the Financial Services Commission by January 1, 2014.

If approved by the Governor, except as otherwise provided, these provisions take effect July 1, 2014.

Vote: Senate 39-0; House 116-0

