

1 A bill to be entitled
2 An act relating to the Interstate Insurance Product
3 Regulation Compact; providing legislative findings and
4 intent; providing purposes; providing definitions;
5 providing for establishment of an Interstate Insurance
6 Product Regulation Commission; providing responsibilities
7 of the commission; specifying the commission as an
8 instrumentality of the compacting states; providing for
9 venue; providing powers of the commission; providing for
10 organization of the commission; providing for membership,
11 voting, and bylaws; designating the Chief Financial
12 Officer as the representative of this state on the
13 commission; providing for a management committee,
14 officers, and personnel of the commission; providing
15 authority of the management committee; providing for
16 legislative and advisory committees; providing for
17 qualified immunity, defense, and indemnification of
18 members, officers, employees, and representatives of the
19 commission; providing for meetings and acts of the
20 commission; providing rules and operating procedures;
21 providing rulemaking functions of the commission;
22 providing for opting out of uniform standards; providing
23 procedures and requirements; providing for commission
24 records and enforcement; authorizing the commission to
25 adopt rules; providing for disclosure of certain
26 information; requiring the commission to monitor for
27 compliance; providing for dispute resolution; providing
28 for product filing and approval; requiring the commission

29 to establish filing and review processes and procedures;
 30 providing for review of commission decisions regarding
 31 filings; providing for finance of commission activities;
 32 providing for payment of expenses; authorizing the
 33 commission to collect filing fees for certain purposes;
 34 providing for approval of a commission budget; exempting
 35 the commission from all taxation; prohibiting the
 36 commission from pledging the credit of any compacting
 37 states without authority; requiring the commission to keep
 38 complete accurate accounts, provide for audits, and make
 39 annual reports to the Governors and Legislatures of
 40 compacting states; providing for effective date and
 41 amendment of the compact; providing for withdrawal from
 42 the compact, default by compacting states, and dissolution
 43 of the compact; providing severability and construction;
 44 providing for binding effect of compact and other laws;
 45 providing an effective date.

46

47 Be It Enacted by the Legislature of the State of Florida:

48

49 Section 1. Legislative findings; intent.--

50 (1) The Legislature finds that the financial services
 51 marketplace has changed significantly in recent years and that
 52 asset-based insurance products, which include life insurance,
 53 annuities, disability income insurance, and long-term care
 54 insurance, now compete directly with other retirement and estate
 55 planning instruments that are sold by banks and securities
 56 firms.

57 (2) The Legislature further finds that the increased
58 mobility of the population and the risks borne by these asset-
59 based products are not local in nature.

60 (3) The Legislature further finds that the Interstate
61 Insurance Product Regulation Compact Model adopted by the
62 National Association of Insurance Commissioners and endorsed by
63 the National Conference of Insurance Legislators and the
64 National Conference of State Legislatures is designed to address
65 these market changes by providing a uniform set of product
66 standards and a single source for filing of new products.

67 (4) The Legislature further finds that the product
68 standards that have been developed provide a high level of
69 consumer protection. Further, it is noted that the Interstate
70 Insurance Product Regulation Compact Model includes a mechanism
71 for opting out of any product standard that the state determines
72 would not reasonably protect its citizens. With respect to long-
73 term care insurance, the Legislature understands that the
74 compact does not intend to develop a uniform standard for rate
75 increase filings, thereby leaving the authority over long-term
76 care rate increases with the state. The state relies on that
77 understanding in adopting this legislation. The state, pursuant
78 to the terms and conditions of this act, seeks to join with
79 other states and establish the Interstate Insurance Product
80 Regulation Compact, and thus become a member of the Interstate
81 Insurance Product Regulation Commission. The Commissioner of
82 Insurance Regulation is hereby designated to serve as the
83 representative of this state on the commission.

84 Section 2. Interstate Insurance Product Regulation
 85 Compact.--The Interstate Insurance Product Regulation Compact is
 86 hereby enacted into law and entered into by this state with all
 87 states legally joining therein in the form substantially as
 88 follows:

90 Interstate Insurance Product Regulation Compact

92 Preamble

94 This compact is intended to help states join together to
 95 establish an interstate compact to regulate designated insurance
 96 products. Pursuant to terms and conditions of this compact, this
 97 state seeks to join with other states and establish the
 98 Interstate Insurance Product Regulation Compact and thus become
 99 a member of the Interstate Insurance Product Regulation
 100 Commission.

102 Article I

104 PURPOSES.--The purposes of this compact are, through means
 105 of joint and cooperative action among the compacting states, to:

106 (1) Promote and protect the interest of consumers of
 107 individual and group annuity, life insurance, disability income,
 108 and long-term care insurance products.

109 (2) Develop uniform standards for insurance products
 110 covered under the compact.

137 (2) "Bylaws" mean those bylaws established by the
 138 commission for its governance, or for directing or controlling
 139 the commission's actions or conduct.

140 (3) "Compacting state" means any state which has enacted
 141 this compact legislation and which has not withdrawn pursuant to
 142 subsection (1) of Article XIV or been terminated pursuant to
 143 subsection (2) of Article XIV.

144 (4) "Commission" means the "Interstate Insurance Product
 145 Regulation Commission" established by this compact.

146 (5) "Commissioner" means the chief insurance regulatory
 147 official of a state, including, but not limited to,
 148 commissioner, superintendent, director, or administrator. For
 149 purposes of this compact, the Chief Financial Officer is the
 150 chief insurance regulatory official of this state.

151 (6) "Domiciliary state" means the state in which an
 152 insurer is incorporated or organized or, in the case of an alien
 153 insurer, its state of entry.

154 (7) "Insurer" means any entity licensed by a state to
 155 issue contracts of insurance for any of the lines of insurance
 156 covered by this compact.

157 (8) "Member" means the person chosen by a compacting state
 158 as its representative to the commission, or his or her designee.

159 (9) "Noncompacting state" means any state which is not at
 160 the time a compacting state.

161 (10) "Operating procedures" mean procedures adopted by the
 162 commission implementing a rule, uniform standard, or provision
 163 of this compact.

219 (1) Adopt rules, pursuant to Article VII, which shall have
 220 the force and effect of law and shall be binding in the
 221 compacting states to the extent and in the manner provided in
 222 this compact.

223 (2) Exercise its rulemaking authority and establish
 224 reasonable uniform standards for products covered under the
 225 compact, and advertisement related thereto, which shall have the
 226 force and effect of law and shall be binding in the compacting
 227 states, but only for those products filed with the commission;
 228 provided a compacting state shall have the right to opt out of
 229 such uniform standard pursuant to Article VII to the extent and
 230 in the manner provided in this compact and any uniform standard
 231 established by the commission for long-term care insurance
 232 products may provide the same or greater protections for
 233 consumers as, but shall not provide less than, those protections
 234 set forth in the National Association of Insurance
 235 Commissioners' Long-Term Care Insurance Model Act and Long-Term
 236 Care Insurance Model Regulation, respectively, adopted as of
 237 2001. The commission shall consider whether any subsequent
 238 amendments to the National Association of Insurance
 239 Commissioners' Long-Term Care Insurance Model Act or Long-Term
 240 Care Insurance Model Regulation adopted by the National
 241 Association of Insurance Commissioners require amending of the
 242 uniform standards established by the commission for long-term
 243 care insurance products.

244 (3) Receive and review in an expeditious manner products
 245 filed with the commission and rate filings for disability income
 246 and long-term care insurance products and give approval of those

247 products and rate filings that satisfy the applicable uniform
 248 standard, and such approval shall have the force and effect of
 249 law and be binding on the compacting states to the extent and in
 250 the manner provided in the compact.

251 (4) Receive and review in an expeditious manner
 252 advertisement relating to long-term care insurance products for
 253 which uniform standards have been adopted by the commission, and
 254 give approval to all advertisement that satisfies the applicable
 255 uniform standard. For any product covered under this compact,
 256 other than long-term care insurance products, the commission
 257 shall have the authority to require an insurer to submit all or
 258 any part of its advertisement with respect to that product for
 259 review or approval prior to use, if the commission determines
 260 that the nature of the product is such that an advertisement of
 261 the product could have the capacity or tendency to mislead the
 262 public. The actions of the commission as provided in this
 263 subsection shall have the force and effect of law and shall be
 264 binding in the compacting states to the extent and in the manner
 265 provided in the compact.

266 (5) Exercise its rulemaking authority and designate
 267 products and advertisement that may be subject to a self-
 268 certification process without the need for prior approval by the
 269 commission.

270 (6) Adopt operating procedures, pursuant to Article VII,
 271 which shall be binding in the compacting states to the extent
 272 and in the manner provided in this compact.

273 (7) Bring and prosecute legal proceedings or actions in
 274 its name as the commission; provided the standing of any state

275 insurance department to sue or be sued under applicable law
 276 shall not be affected.

277 (8) Issue subpoenas requiring the attendance and testimony
 278 of witnesses and the production of evidence.

279 (9) Establish and maintain offices.

280 (10) Purchase and maintain insurance and bonds.

281 (11) Borrow, accept, or contract for services of
 282 personnel, including, but not limited to, employees of a
 283 compacting state.

284 (12) Hire employees, professionals, or specialists; elect
 285 or appoint officers and fix their compensation, define their
 286 duties, give them appropriate authority to carry out the
 287 purposes of the compact, and determine their qualifications; and
 288 establish the commission's personnel policies and programs
 289 relating to, among other things, conflicts of interest, rates of
 290 compensation, and qualifications of personnel.

291 (13) Accept any and all appropriate donations and grants
 292 of money, equipment, supplies, materials, and services and to
 293 receive, use, and dispose of the same; provided at all times the
 294 commission shall strive to avoid any appearance of impropriety.

295 (14) Lease, purchase, and accept appropriate gifts or
 296 donations of, or otherwise to own, hold, improve, or use, any
 297 property, real, personal, or mixed; provided at all times the
 298 commission shall strive to avoid any appearance of impropriety.

299 (15) Sell, convey, mortgage, pledge, lease, exchange,
 300 abandon, or otherwise dispose of any property, real, personal,
 301 or mixed.

302 (16) Remit filing fees to compacting states as may be set
 303 forth in the bylaws, rules, or operating procedures.

304 (17) Enforce compliance by compacting states with rules,
 305 uniform standards, operating procedures, and bylaws.

306 (18) Provide for dispute resolution among compacting
 307 states.

308 (19) Advise compacting states on issues relating to
 309 insurers domiciled or doing business in noncompacting
 310 jurisdictions, consistent with the purposes of this compact.

311 (20) Provide advice and training to those personnel in
 312 state insurance departments responsible for product review and
 313 to be a resource for state insurance departments.

314 (21) Establish a budget and make expenditures.

315 (22) Borrow money.

316 (23) Appoint committees, including advisory committees,
 317 comprising members, state insurance regulators, state
 318 legislators or their representatives, insurance industry and
 319 consumer representatives, and such other interested persons as
 320 may be designated in the bylaws.

321 (24) Provide and receive information from and to cooperate
 322 with law enforcement agencies.

323 (25) Adopt and use a corporate seal.

324 (26) Perform such other functions as may be necessary or
 325 appropriate to achieve the purposes of this compact consistent
 326 with the state regulation of the business of insurance.

327

328

329

Article V

330 ORGANIZATION.--

331 (1) Membership; voting; bylaws.--

332 (a)1. Each compacting state shall have and be limited to
 333 one member. Each member shall be qualified to serve in that
 334 capacity pursuant to applicable law of the compacting state. Any
 335 member may be removed or suspended from office as provided by
 336 the law of the state from which he or she is appointed. Any
 337 vacancy occurring in the commission shall be filled in
 338 accordance with the laws of the compacting state in which the
 339 vacancy exists. Nothing in this article shall be construed to
 340 affect the manner in which a compacting state determines the
 341 election or appointment and qualification of its own
 342 commissioner.

343 2. The Chief Financial Officer is hereby designated to
 344 serve as the representative of this state on the commission.

345 (b) Each member shall be entitled to one vote and shall
 346 have an opportunity to participate in the governance of the
 347 commission in accordance with the bylaws. Notwithstanding any
 348 other provision of this article, no action of the commission
 349 with respect to the adoption of a uniform standard shall be
 350 effective unless two-thirds of the members vote in favor of such
 351 action.

352 (c) The commission shall, by a majority of the members,
 353 prescribe bylaws to govern its conduct as may be necessary or
 354 appropriate to carry out the purposes and exercise the powers of
 355 the compact, including, but not limited to:

356 1. Establishing the fiscal year of the commission.

357 2. Providing reasonable procedures for appointing and
 358 electing members, as well as holding meetings, of the management
 359 committee.

360 3. Providing reasonable standards and procedures:
 361 a. For the establishment and meetings of other committees.
 362 b. Governing any general or specific delegation of any
 363 authority or function of the commission.

364 4. Providing reasonable procedures for calling and
 365 conducting meetings of the commission that consist of a majority
 366 of commission members, ensuring reasonable advance notice of
 367 each such meeting, and providing for the right of citizens to
 368 attend each such meeting with enumerated exceptions designed to
 369 protect the public's interest, the privacy of individuals, and
 370 insurers' proprietary information, including, but not limited
 371 to, trade secrets. The commission may meet in camera only after
 372 a majority of the entire membership votes to close a meeting in
 373 total or in part. As soon as practicable, the commission must
 374 make public a copy of the vote to close the meeting revealing
 375 the vote of each member with no proxy votes allowed, and votes
 376 taken during such meeting.

377 5. Establishing the titles, duties, and authority and
 378 reasonable procedures for the election of the officers of the
 379 commission.

380 6. Providing reasonable standards and procedures for the
 381 establishment of the personnel policies and programs of the
 382 commission. Notwithstanding any civil service or other similar
 383 laws of any compacting state, the bylaws shall exclusively
 384 govern the personnel policies and programs of the commission.

385 7. Adopting a code of ethics to address permissible and
386 prohibited activities of commission members and employees.

387 8. Providing a mechanism for winding up the operations of
388 the commission and the equitable disposition of any surplus
389 funds that may exist after the termination of the compact after
390 the payment or reserving of all debts and obligations of the
391 commission.

392 (d) The commission shall publish its bylaws in a
393 convenient form and file a copy of such bylaws and a copy of any
394 amendment to such bylaws, with the appropriate agency or officer
395 in each of the compacting States.

396 (2) Management committee, officers, and personnel.--

397 (a) A management committee comprising no more than 14
398 members shall be established as follows:

399 1. One member from each of the 6 compacting states with
400 the largest premium volume for individual and group annuities,
401 life, disability income, and long-term care insurance products,
402 determined from the records of the National Association of
403 Insurance Commissioners for the prior year.

404 2. Four members from those compacting states with at least
405 2 percent of the market based on the premium volume described
406 above, other than the 6 compacting states with the largest
407 premium volume, selected on a rotating basis as provided in the
408 bylaws.

409 3. Four members from those compacting states with less
410 than 2 percent of the market, based on the premium volume
411 described above, with 1 selected from each of the 4 zone regions

412 of the National Association of Insurance Commissioners as
 413 provided in the bylaws.

414 (b) The management committee shall have such authority and
 415 duties as may be set forth in the bylaws, including, but not
 416 limited to:

417 1. Managing the affairs of the commission in a manner
 418 consistent with the bylaws and purposes of the commission.

419 2. Establishing and overseeing an organizational structure
 420 within, and appropriate procedures for, the commission to
 421 provide for the creation of uniform standards and other rules,
 422 receipt and review of product filings, administrative and
 423 technical support functions, review of decisions regarding the
 424 disapproval of a product filing, and the review of elections
 425 made by a compacting state to opt out of a uniform standard;
 426 provided a uniform standard shall not be submitted to the
 427 compacting states for adoption unless approved by two-thirds of
 428 the members of the management committee.

429 3. Overseeing the offices of the commission.

430 4. Planning, implementing, and coordinating communications
 431 and activities with other state, federal, and local government
 432 organizations in order to advance the goals of the commission.

433 (c) The commission shall elect annually officers from the
 434 management committee, with each having such authority and duties
 435 as may be specified in the bylaws.

436 (d) The management committee may, subject to the approval
 437 of the commission, appoint or retain an executive director for
 438 such period, upon such terms and conditions, and for such
 439 compensation as the commission may deem appropriate. The

440 executive director shall serve as secretary to the commission
441 but shall not be a member of the commission. The executive
442 director shall hire and supervise such other staff as may be
443 authorized by the commission.

444 (3) Legislative and advisory committees.--

445 (a) A legislative committee comprised of state legislators
446 or their designees shall be established to monitor the
447 operations of and make recommendations to the commission,
448 including the management committee; provided the manner of
449 selection and term of any legislative committee member shall be
450 as set forth in the bylaws. Prior to the adoption by the
451 commission of any uniform standard, revision to the bylaws,
452 annual budget, or other significant matter as may be provided in
453 the bylaws, the management committee shall consult with and
454 report to the legislative committee.

455 (b) The commission shall establish two advisory
456 committees, one comprising consumer representatives independent
457 of the insurance industry and the other comprising insurance
458 industry representatives.

459 (c) The commission may establish additional advisory
460 committees as the bylaws may provide for the carrying out of
461 commission functions.

462 (4) Corporate records of the commission.--The commission
463 shall maintain its corporate books and records in accordance
464 with the bylaws.

465 (5) Qualified immunity, defense and indemnification.--

466 (a) The members, officers, executive director, employees,
467 and representatives of the commission shall be immune from suit

468 and liability, either personally or in their official capacity,
 469 for any claim for damage to or loss of property or personal
 470 injury or other civil liability caused by or arising out of any
 471 actual or alleged act, error, or omission that occurred, or that
 472 the person against whom the claim is made had a reasonable basis
 473 for believing occurred within the scope of commission
 474 employment, duties, or responsibilities; provided nothing in
 475 this paragraph shall be construed to protect any such person
 476 from suit or liability for any damage, loss, injury, or
 477 liability caused by the intentional or willful and wanton
 478 misconduct of that person.

479 (b) The commission shall defend any member, officer,
 480 executive director, employee, or representative of the
 481 commission in any civil action seeking to impose liability
 482 arising out of any actual or alleged act, error, or omission
 483 that occurred within the scope of commission employment, duties,
 484 or responsibilities, or that the person against whom the claim
 485 is made had a reasonable basis for believing occurred within the
 486 scope of commission employment, duties, or responsibilities;
 487 provided nothing in this article shall be construed to prohibit
 488 that person from retaining his or her own counsel and the actual
 489 or alleged act, error, or omission did not result from that
 490 person's intentional or willful and wanton misconduct.

491 (c) The commission shall indemnify and hold harmless any
 492 member, officer, executive director, employee, or representative
 493 of the commission for the amount of any settlement or judgment
 494 obtained against that person arising out of any actual or
 495 alleged act, error, or omission that occurred within the scope

496 of commission employment, duties, or responsibilities, or that
 497 such person had a reasonable basis for believing occurred within
 498 the scope of commission employment, duties, or responsibilities;
 499 provided the actual or alleged act, error, or omission did not
 500 result from the intentional or willful and wanton misconduct of
 501 that person.

502
 503 Article VI

504
 505 MEETINGS; ACTS.--

506 (1) The commission shall meet and take such actions as are
 507 consistent with the provisions of this compact and the bylaws.

508 (2) Each member of the commission shall have the right and
 509 power to cast a vote to which that compacting state is entitled
 510 and to participate in the business and affairs of the
 511 commission. A member shall vote in person or by such other means
 512 as provided in the bylaws. The bylaws may provide for members'
 513 participation in meetings by telephone or other means of
 514 communication.

515 (3) The commission shall meet at least once during each
 516 calendar year. Additional meetings shall be held as set forth in
 517 the bylaws.

518
 519 Article VII

520
 521 RULES AND OPERATING PROCEDURES; RULEMAKING FUNCTIONS OF THE
 522 COMMISSION; OPTING OUT OF UNIFORM STANDARDS.--

523 (1) Rulemaking authority.--The commission shall adopt
 524 reasonable rules, including uniform standards, and operating
 525 procedures in order to effectively and efficiently achieve the
 526 purposes of this compact. Notwithstanding such requirement, if
 527 the commission exercises its rulemaking authority in a manner
 528 that is beyond the scope of the purposes of this compact or the
 529 powers granted under this compact, such action by the commission
 530 shall be invalid and have no force and effect.

531 (2) Rulemaking procedure.--Rules and operating procedures
 532 shall be made pursuant to a rulemaking process that conforms to
 533 the Model State Administrative Procedure Act of 1981, as
 534 amended, as may be appropriate to the operations of the
 535 commission. Before the commission adopts a uniform standard, the
 536 commission shall give written notice to the relevant state
 537 legislative committees in each compacting state responsible for
 538 insurance issues of its intention to adopt the uniform standard.
 539 The commission in adopting a uniform standard shall consider
 540 fully all submitted materials and issue a concise explanation of
 541 its decision.

542 (3) Effective date and opt out of a uniform standard.--A
 543 uniform standard shall become effective 90 days after its
 544 adoption by the commission or such later date as the commission
 545 may determine; provided a compacting state may opt out of a
 546 uniform standard as provided in this article. The term "opt out"
 547 means any action by a compacting state to decline to adopt or
 548 participate in an adopted uniform standard. All other rules and
 549 operating procedures, and amendments thereto, shall become

550 effective as of the date specified in each rule, operating
 551 procedure, or amendment.

552 (4) Opt out procedure.--

553 (a) A compacting state may opt out of a uniform standard
 554 by legislation or regulation adopted by the Office of Insurance
 555 Regulation of the Financial Services Commission under such
 556 state's Administrative Procedure Act. For purposes of this
 557 compact and this state, the Office of Insurance Regulation of
 558 the Department of Financial Services constitutes this state's
 559 agency for purposes of this subsection. If a compacting state
 560 elects to opt out of a uniform standard by regulation, such
 561 state must:

562 1. Give written notice to the commission no later than 10
 563 business days after the uniform standard is adopted, or at the
 564 time the state becomes a compacting state.

565 2. Find that the uniform standard does not provide
 566 reasonable protections to the citizens of the state, given the
 567 conditions in the state.

568 (b) The commissioner shall make specific findings of fact
 569 and conclusions of law, based on a preponderance of the
 570 evidence, detailing the conditions in the state which warrant a
 571 departure from the uniform standard and determining that the
 572 uniform standard would not reasonably protect the citizens of
 573 the state. The commissioner must consider and balance the
 574 following factors and find that the conditions in the state and
 575 needs of the citizens of the state outweigh:

576 1. The intent of the Legislature to participate in, and
 577 the benefits of, an interstate agreement to establish national

578 uniform consumer protections for the products subject to this
 579 compact.

580 2. The presumption that a uniform standard adopted by the
 581 commission provides reasonable protections to consumers of the
 582 relevant product.

583
 584 Notwithstanding this subsection, a compacting state may, at the
 585 time of its enactment of this compact, prospectively opt out of
 586 all uniform standards involving long-term care insurance
 587 products by expressly providing for such opt out in the enacted
 588 compact, and such an opt out shall not be treated as a material
 589 variance in the offer or acceptance of any state to participate
 590 in this compact. Such an opt out shall be effective at the time
 591 of enactment of this compact by the compacting state and shall
 592 apply to all existing uniform standards involving long-term care
 593 insurance products and those subsequently adopted.

594 (5) Effect of opting out.--If a compacting state elects to
 595 opt out of a uniform standard, the uniform standard shall remain
 596 applicable in the compacting state electing to opt out until
 597 such time the opt out legislation is enacted into law or the
 598 regulation opting out becomes effective. Once the opt out of a
 599 uniform standard by a compacting state becomes effective as
 600 provided under the laws of that state, the uniform standard
 601 shall have no further force and effect in that state unless and
 602 until the legislation or regulation implementing the opt out is
 603 repealed or otherwise becomes ineffective under the laws of the
 604 state. If a compacting state opts out of a uniform standard
 605 after the uniform standard has been made effective in that

606 state, the opt out shall have the same prospective effect as
607 provided under Article XIV for withdrawals.

608 (6) Stay of uniform standard.--If a compacting state has
609 formally initiated the process of opting out of a uniform
610 standard by regulation, and while the regulatory opt out is
611 pending, the compacting state may petition the commission, at
612 least 15 days before the effective date of the uniform standard,
613 to stay the effectiveness of the uniform standard in that state.
614 The commission may grant a stay if the commission determines the
615 regulatory opt out is being pursued in a reasonable manner and
616 there is a likelihood of success. If a stay is granted or
617 extended by the commission, the stay or extension thereof may
618 postpone the effective date by up to 90 days, unless
619 affirmatively extended by the commission; provided a stay may
620 not be permitted to remain in effect for more than 1 year unless
621 the compacting state can show extraordinary circumstances which
622 warrant a continuance of the stay, including, but not limited
623 to, the existence of a legal challenge which prevents the
624 compacting state from opting out. A stay may be terminated by
625 the commission upon notice that the rulemaking process has been
626 terminated.

627 (7) Judicial review.--Not later than 30 days after a rule
628 or operating procedure is adopted, any person may file a
629 petition for judicial review of the rule or operating procedure;
630 provided the filing of such a petition shall not stay or
631 otherwise prevent the rule or operating procedure from becoming
632 effective unless the court finds that the petitioner has a
633 substantial likelihood of success. The court shall give

634 deference to the actions of the commission consistent with
 635 applicable law and shall not find the rule or operating
 636 procedure to be unlawful if the rule or operating procedure
 637 represents a reasonable exercise of the commission's authority.

638

639 Article VIII

640

641 COMMISSION RECORDS AND ENFORCEMENT.--

642 (1) The commission shall adopt rules establishing
 643 conditions and procedures for public inspection and copying of
 644 its information and official records, except such information
 645 and records involving the privacy of individuals and insurers'
 646 trade secrets. The commission may adopt additional rules under
 647 which the commission may make available to federal and state
 648 agencies, including law enforcement agencies, records and
 649 information otherwise exempt from disclosure and may enter into
 650 agreements with such agencies to receive or exchange information
 651 or records subject to nondisclosure and confidentiality
 652 provisions.

653 (2) Except as to privileged records, data, and
 654 information, the laws of any compacting state pertaining to
 655 confidentiality or nondisclosure shall not relieve any
 656 compacting state commissioner of the duty to disclose any
 657 relevant records, data, or information to the commission;
 658 provided disclosure to the commission shall not be deemed to
 659 waive or otherwise affect any confidentiality requirement; and
 660 further provided, except as otherwise expressly provided in this
 661 compact, the commission shall not be subject to the compacting

662 state's laws pertaining to confidentiality and nondisclosure
663 with respect to records, data, and information in its
664 possession. Confidential information of the commission shall
665 remain confidential after such information is provided to any
666 commissioner.

667 (3) The commission shall monitor compacting states for
668 compliance with duly adopted bylaws, rules, uniform standards,
669 and operating procedures. The commission shall notify any
670 noncomplying compacting state in writing of its noncompliance
671 with commission bylaws, rules, or operating procedures. If a
672 noncomplying compacting state fails to remedy its noncompliance
673 within the time specified in the notice of noncompliance, the
674 compacting state shall be deemed to be in default as set forth
675 in Article XIV.

676 (4) The commissioner of any state in which an insurer is
677 authorized to do business or is conducting the business of
678 insurance shall continue to exercise his or her authority to
679 oversee the market regulation of the activities of the insurer
680 in accordance with the provisions of the state's law. The
681 commissioner's enforcement of compliance with the compact is
682 governed by the following provisions:

683 (a) With respect to the commissioner's market regulation
684 of a product or advertisement that is approved or certified to
685 the commission, the content of the product or advertisement
686 shall not constitute a violation of the provisions, standards,
687 or requirements of the compact except upon a final order of the
688 commission, issued at the request of a commissioner after prior

689 notice to the insurer and an opportunity for hearing before the
690 commission.

691 (b) Before a commissioner may bring an action for
692 violation of any provision, standard, or requirement of the
693 compact relating to the content of an advertisement not approved
694 or certified to the commission, the commission, or an authorized
695 commission officer or employee, must authorize the action.
696 However, authorization pursuant to this paragraph does not
697 require notice to the insurer, opportunity for hearing, or
698 disclosure of requests for authorization or records of the
699 commission's action on such requests.

700
701 Article IX

702
703 DISPUTE RESOLUTION.--The commission shall attempt, upon the
704 request of a member, to resolve any disputes or other issues
705 that are subject to this compact and which may arise between two
706 or more compacting states, or between compacting states and
707 noncompacting states, and the commission shall adopt an
708 operating procedure providing for resolution of such disputes.

709
710 Article X

711
712 PRODUCT FILING AND APPROVAL.--

713 (1) Insurers and third-party filers seeking to have a
714 product approved by the commission shall file the product with
715 and pay applicable filing fees to the commission. Nothing in
716 this compact shall be construed to restrict or otherwise prevent

717 an insurer from filing its product with the insurance department
718 in any state in which the insurer is licensed to conduct the
719 business of insurance and such filing shall be subject to the
720 laws of the states where filed.

721 (2) The commission shall establish appropriate filing and
722 review processes and procedures pursuant to commission rules and
723 operating procedures. Notwithstanding any provision of this
724 article, the commission shall adopt rules to establish
725 conditions and procedures under which the commission will
726 provide public access to product filing information. In
727 establishing such rules, the commission shall consider the
728 interests of the public in having access to such information, as
729 well as protection of personal medical and financial information
730 and trade secrets, that may be contained in a product filing or
731 supporting information.

732 (3) Any product approved by the commission may be sold or
733 otherwise issued in those compacting states for which the
734 insurer is legally authorized to do business.

736 Article XI

738 REVIEW OF COMMISSION DECISIONS REGARDING FILINGS.--

739 (1) Not later than 30 days after the commission has given
740 notice of a disapproved product or advertisement filed with the
741 commission, the insurer or third-party filer whose filing was
742 disapproved may appeal the determination to a review panel
743 appointed by the commission. The commission shall adopt rules to
744 establish procedures for appointing such review panels and

745 provide for notice and hearing. An allegation that the
746 commission, in disapproving a product or advertisement filed
747 with the commission, acted arbitrarily, capriciously, or in a
748 manner that is an abuse of discretion or otherwise not in
749 accordance with the law, is subject to judicial review in
750 accordance with subsection (4) of Article III.

751 (2) The commission shall have authority to monitor,
752 review, and reconsider products and advertisement subsequent to
753 their filing or approval upon a finding that the product does
754 not meet the relevant uniform standard. Where appropriate, the
755 commission may withdraw or modify its approval after proper
756 notice and hearing, subject to the appeal process in subsection
757 (1).

758
759 Article XII

760
761 FINANCE.--

762 (1) The commission shall pay or provide for the payment of
763 the reasonable expenses of the commission's establishment and
764 organization. To fund the cost of the commission's initial
765 operations, the commission may accept contributions and other
766 forms of funding from the National Association of Insurance
767 Commissioners, compacting states, and other sources.
768 Contributions and other forms of funding from other sources
769 shall be of such a nature that the independence of the
770 commission concerning the performance of commission duties shall
771 not be compromised.

772 (2) The commission shall collect a filing fee from each
773 insurer and third-party filer filing a product with the
774 commission to cover the cost of the operations and activities of
775 the commission and its staff in a total amount sufficient to
776 cover the commission's annual budget.

777 (3) The commission's budget for a fiscal year shall not be
778 approved until the budget has been subject to notice and comment
779 as set forth in Article VII.

780 (4) The commission shall be exempt from all taxation in
781 and by the compacting states.

782 (5) The commission shall not pledge the credit of any
783 compacting state, except by and with the appropriate legal
784 authority of that compacting state.

785 (6) The commission shall keep complete and accurate
786 accounts of all its internal receipts, including grants and
787 donations, and disbursements of all funds under its control. The
788 internal financial accounts of the commission shall be subject
789 to the accounting procedures established under its bylaws. The
790 financial accounts and reports including the system of internal
791 controls and procedures of the commission shall be audited
792 annually by an independent certified public accountant. Upon the
793 determination of the commission, but no less frequently than
794 every 3 years, the review of the independent auditor shall
795 include a management and performance audit of the commission.
796 The commission shall make an annual report to the Governor and
797 the presiding officers of the Legislature of the compacting
798 states, which shall include a report of the independent audit.
799 The commission's internal accounts shall not be confidential and

800 such materials may be shared with the commissioner of any
 801 compacting state upon request; provided any work papers related
 802 to any internal or independent audit and any information
 803 regarding the privacy of individuals and insurers' proprietary
 804 information, including trade secrets, shall remain confidential.

805 (7) No compacting state shall have any claim to or
 806 ownership of any property held by or vested in the commission or
 807 to any commission funds held pursuant to the provisions of this
 808 compact.

810 Article XIII

812 COMPACTING STATES, EFFECTIVE DATE, AMENDMENT.--

813 (1) Any state is eligible to become a compacting state.

814 (2) The compact shall become effective and binding upon
 815 legislative enactment of the compact into law by two compacting
 816 states; provided the commission shall become effective for
 817 purposes of adopting uniform standards for, reviewing, and
 818 giving approval or disapproval of, products filed with the
 819 commission that satisfy applicable uniform standards only after
 820 26 states are compacting states or, alternatively, by states
 821 representing greater than 40 percent of the premium volume for
 822 life insurance, annuity, disability income, and long-term care
 823 insurance products, based on records of the National Association
 824 of Insurance Commissioners for the prior year. Thereafter, the
 825 compact shall become effective and binding as to any other
 826 compacting state upon enactment of the compact into law by that
 827 state.

828 (3) Amendments to the compact may be proposed by the
829 commission for enactment by the compacting states. No amendment
830 shall become effective and binding upon the commission and the
831 compacting states unless and until all compacting states enact
832 the amendment into law.

833
834 Article XIV

835
836 WITHDRAWAL; DEFAULT; DISSOLUTION.--

837 (1) Withdrawal.--

838 (a) Once effective, the compact shall continue in force
839 and remain binding upon each and every compacting state;
840 provided a compacting state may withdraw from the compact by
841 enacting a law specifically repealing the law which enacted the
842 compact into law.

843 (b) The effective date of withdrawal is the effective date
844 of the repealing law. However, the withdrawal shall not apply to
845 any product filings approved or self-certified, or any
846 advertisement of such products, on the date the repealing law
847 becomes effective, except by mutual agreement of the commission
848 and the withdrawing state unless the approval is rescinded by
849 the withdrawing state as provided in paragraph (e).

850 (c) The commissioner of the withdrawing state shall
851 immediately notify the management committee in writing upon the
852 introduction of legislation repealing this compact in the
853 withdrawing state.

854 (d) The commission shall notify the other compacting
 855 states of the introduction of such legislation within 10 days
 856 after the commission's receipt of notice of such legislation.

857 (e) The withdrawing state is responsible for all
 858 obligations, duties, and liabilities incurred through the
 859 effective date of withdrawal, including any obligations, the
 860 performance of which extend beyond the effective date of
 861 withdrawal, except to the extent those obligations may have been
 862 released or relinquished by mutual agreement of the commission
 863 and the withdrawing state. The commission's approval of products
 864 and advertisement prior to the effective date of withdrawal
 865 shall continue to be effective and be given full force and
 866 effect in the withdrawing state unless formally rescinded by the
 867 withdrawing state in the same manner as provided by the laws of
 868 the withdrawing state for the prospective disapproval of
 869 products or advertisement previously approved under state law.

870 (f) Reinstatement following withdrawal of any compacting
 871 state shall occur upon the effective date of the withdrawing
 872 state reenacting the compact.

873 (2) Default.--

874 (a) If the commission determines that any compacting state
 875 has at any time defaulted in the performance of any of its
 876 obligations or responsibilities under this compact, the bylaws,
 877 or duly adopted rules or operating procedures, after notice and
 878 hearing as set forth in the bylaws, all rights, privileges, and
 879 benefits conferred by this compact on the defaulting state shall
 880 be suspended from the effective date of default as fixed by the
 881 commission. The grounds for default include, but are not limited

882 to, failure of a compacting state to perform its obligations or
883 responsibilities, and any other grounds designated in commission
884 rules. The commission shall immediately notify the defaulting
885 state in writing of the defaulting state's suspension pending a
886 cure of the default. The commission shall stipulate the
887 conditions and the time period within which the defaulting state
888 must cure its default. If the defaulting state fails to cure the
889 default within the time period specified by the commission, the
890 defaulting state shall be terminated from the compact and all
891 rights, privileges, and benefits conferred by this compact shall
892 be terminated from the effective date of termination.

893 (b) Product approvals by the commission or product self-
894 certifications, or any advertisement in connection with such
895 product that are in force on the effective date of termination
896 shall remain in force in the defaulting state in the same manner
897 as if the defaulting state had withdrawn voluntarily pursuant to
898 subsection (1).

899 (c) Reinstatement following termination of any compacting
900 state requires a reenactment of the compact.

901 (3) Dissolution of compact.--

902 (a) The compact dissolves effective upon the date of the
903 withdrawal or default of the compacting state which reduces
904 membership in the compact to a single compacting state.

905 (b) Upon the dissolution of this compact, the compact
906 becomes null and void and shall be of no further force or effect
907 and the business and affairs of the commission shall be
908 concluded and any surplus funds shall be distributed in
909 accordance with the bylaws.

Article XV

SEVERABILITY; CONSTRUCTION.--

(1) The provisions of this compact are severable and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(2) The provisions of this compact shall be liberally construed to effectuate its purposes.

Article XVI

BINDING EFFECT OF COMPACT AND OTHER LAWS.--

(1) Binding effect of this compact.--

(a) All lawful actions of the commission, including all rules and operating procedures adopted by the commission, are binding upon the compacting states.

(b) All agreements between the commission and the compacting states are binding in accordance with their terms.

(c) Upon the request of a party to a conflict over the meaning or interpretation of commission actions, and upon a majority vote of the compacting states, the commission may issue advisory opinions regarding the meaning or interpretation in dispute.

(d) If any provision of this compact exceeds the constitutional limits imposed on the Legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by that provision upon the

938 commission shall be ineffective as to that compacting state and
 939 those obligations, duties, powers, or jurisdiction shall remain
 940 in the compacting state and shall be exercised by the agency of
 941 such state to which those obligations, duties, powers, or
 942 jurisdiction are delegated by law in effect at the time this
 943 compact becomes effective.

944 (2) Other laws.--

945 (a) Nothing in this compact prevents the enforcement of
 946 any other law of a compacting state, except as provided in
 947 paragraph (b).

948 (b) For any product approved or certified to the
 949 commission, the rules, uniform standards, and any other
 950 requirements of the commission shall constitute the exclusive
 951 provisions applicable to the content, approval, and
 952 certification of such products. For advertisement that is
 953 subject to the commission's authority, any rule, uniform
 954 standard, or other requirement of the commission which governs
 955 the content of the advertisement shall constitute the exclusive
 956 provision that a commissioner may apply to the content of the
 957 advertisement. Notwithstanding this paragraph, no action taken
 958 by the commission shall abrogate or restrict:

959 1. The access of any person to state courts;

960 2. Remedies available under state law related to breach of
 961 contract, tort, or other laws not specifically directed to the
 962 content of the product;

963 3. State law relating to the construction of insurance
 964 contracts; or

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965 4. The authority of the attorney general of the state,
966 including, but not limited to, maintaining any actions or
967 proceedings, as authorized by law.

968 (c) All insurance products filed with individual states
969 shall be subject to the laws of those states.

970 Section 3. This act shall take effect July 1, 2005.