

1 A bill to be entitled
 2 An act relating to interstate insurance product
 3 regulation; creating s. 626.712, F.S.; enacting the
 4 Interstate Insurance Product Regulation Compact; providing
 5 purposes; providing definitions; providing for
 6 establishment of a commission and venue; providing powers
 7 of the commission; providing for organization of the
 8 commission; providing for meetings and acts of the
 9 commission; providing for rules and operating procedures
 10 of the commission; providing for rulemaking functions of
 11 the commission and opting out of uniform standards;
 12 providing for commission records and enforcement;
 13 providing for dispute resolution; providing for product
 14 filing and approval; providing for review of commission
 15 filing decisions; providing for commission finances;
 16 providing for eligibility of compacting states and
 17 effective date and amendments to the compact; providing
 18 for withdrawal, default, and termination of compacting
 19 states from the compact; providing severability and
 20 construction; providing for a binding effect of compact
 21 and other laws; providing an effective date.

22
 23 Be It Enacted by the Legislature of the State of Florida:

24
 25 Section 1. Section 626.712, Florida Statutes, is created
 26 to read:

27 626.712 Interstate Insurance Product Regulation
 28 Compact.--The Interstate Insurance Product Regulation Compact is

29 enacted into law and entered into by this state with any other
 30 states legally joining therein in the form substantially as
 31 follows:

32
 33 INTERSTATE INSURANCE PRODUCT REGULATION COMPACT

34
 35 ARTICLE I

36
 37 PURPOSES.--The purposes of this compact are, through means of
 38 joint and cooperative action among the compacting states:

39 (1) To promote and protect the interest of consumers of
 40 individual and group annuity, life insurance, disability income,
 41 and long-term care insurance products.

42 (2) To develop uniform standards for insurance products
 43 covered under the compact.

44 (3) To establish a central clearinghouse to receive and
 45 provide prompt review of insurance products covered under the
 46 compact and, in certain cases, advertisements related thereto,
 47 submitted by insurers authorized to do business in one or more
 48 compacting states.

49 (4) To give appropriate regulatory approval to those
 50 product filings and advertisements satisfying the applicable
 51 uniform standard.

52 (5) To improve coordination of regulatory resources and
 53 expertise between state insurance departments regarding the
 54 setting of uniform standards and review of insurance products
 55 covered under the compact.

83 (6) "Domiciliary state" means the state in which an
84 insurer is incorporated or organized or, in the case of an alien
85 insurer, its state of entry.

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

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

91 (9) "Noncompacting state" means any state that is not at
92 the time a compacting state.

93 (10) "Operating procedures" mean procedures adopted by the
94 commission implementing a rule or uniform standard or a
95 provision of this compact.

96 (11) "Product" means the form of a policy or contract,
97 including any application, endorsement, or related form attached
98 to and made part of the policy or contract, and any evidence of
99 coverage or certificate, for an individual or group annuity,
100 life insurance, disability income, or long-term care insurance
101 product that an insurer is authorized to issue.

102 (12) "Rule" means a statement of general or particular
103 applicability and future effect adopted by the commission,
104 including a uniform standard developed pursuant to Article VII
105 designed to implement, interpret, or prescribe law or policy or
106 describing the organization, procedure, or practice requirements
107 of the commission, which shall have the force and effect of law
108 in the compacting states.

109 (13) "State" means any state, district or territory of the
110 United States of America.

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111 (14) "Third-party filer" means an entity that submits a
112 product filing to the commission on behalf of an insurer.

113 (15) "Uniform standard" means a standard adopted by the
114 commission for a product line, pursuant to Article VII, and
115 shall include all of the product requirements in aggregate;
116 provided that each uniform standard shall be construed, whether
117 express or implied, to prohibit the use of any inconsistent,
118 misleading, or ambiguous provisions in a product, and the form
119 of the product made available to the public shall not be unfair,
120 inequitable, or against public policy as determined by the
121 commission.

122
123 ARTICLE III

124
125 ESTABLISHMENT OF THE COMMISSION AND VENUE.--

126 (1) The compacting states hereby create and establish a
127 joint public agency known as the Interstate Insurance Product
128 Regulation Commission. Pursuant to Article IV, the commission
129 shall have the power to develop uniform standards for product
130 lines, receive and provide prompt review of products filed
131 therewith, and give approval to those product filings satisfying
132 applicable uniform standards; provided it is not intended for
133 the commission to be the exclusive entity for receipt and review
134 of insurance product filings. Nothing in this compact shall
135 prohibit any insurer from filing its product in any state in
136 which the insurer is licensed to conduct the business of
137 insurance, and any such filing shall be subject to the laws of
138 the state where filed.

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167 the commission for long-term care insurance products may provide
168 the same or greater protections for consumers as, but shall not
169 provide less than, those protections set forth in the National
170 Association of Insurance Commissioners' Long-Term Care Insurance
171 Model Act and Long-Term Care Insurance Model Regulation,
172 respectively, adopted as of 2001. The commission shall consider
173 whether any subsequent amendments to the National Association of
174 Insurance Commissioners' Long-Term Care Insurance Model Act or
175 Long-Term Care Insurance Model Regulation adopted by the
176 National Association of Insurance Commissioners require amending
177 of the uniform standards established by the commission for long-
178 term care insurance products.

179 (3) Receive and review in an expeditious manner products
180 filed with the commission and rate filings for disability income
181 and long-term care insurance products and give approval of those
182 products and rate filings that satisfy the applicable uniform
183 standard, where such approval shall have the force and effect of
184 law and be binding on the compacting states to the extent and in
185 the manner provided in this compact.

186 (4) Receive and review in an expeditious manner
187 advertisements relating to long-term care insurance products for
188 which uniform standards have been adopted by the commission and
189 give approval to all advertisements that satisfy the applicable
190 uniform standard. For any product covered under this compact,
191 other than long-term care insurance products, the commission may
192 require an insurer to submit all or any part of its
193 advertisement with respect to that product for review or
194 approval prior to use if the commission determines that the

195 nature of the product is such that an advertisement of the
196 product could have the capacity or tendency to mislead the
197 public. The actions of commission as provided in this section
198 shall have the force and effect of law and shall be binding in
199 the compacting states to the extent and in the manner provided
200 in the compact.

201 (5) Exercise its rulemaking authority and designate
202 products and advertisements that may be subject to a self-
203 certification process without the need for prior approval by the
204 commission.

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

208 (7) Bring and prosecute legal proceedings or actions in
209 its name as the commission; provided, that the standing of any
210 state insurance department to sue or be sued under applicable
211 law shall not be affected.

212 (8) Issue subpoenas requiring the attendance and testimony
213 of witnesses and the production of evidence.

214 (9) Establish and maintain offices.

215 (10) Purchase and maintain insurance and bonds.

216 (11) Borrow, accept, or contract for services of
217 personnel, including, but not limited to, employees of a
218 compacting state.

219 (12) Hire employees, professionals, or specialists; elect
220 or appoint officers, fix their compensation, define their
221 duties, give them appropriate authority to carry out the
222 purposes of the compact, and determine their qualifications; and

223 establish the commission's personnel policies and programs
 224 relating to, among other things, conflicts of interest, rates of
 225 compensation, and qualifications of personnel.

226 (13) Accept any and all appropriate donations and grants
 227 of money, equipment, supplies, materials and services and to
 228 receive, use, and dispose of the same; provided that at all
 229 times the commission shall strive to avoid any appearance of
 230 impropriety.

231 (14) Lease, purchase, or accept appropriate gifts or
 232 donations of, or otherwise to own, hold, improve, or use, any
 233 property, real, personal, or mixed; provided that at all times
 234 the commission shall strive to avoid any appearance of
 235 impropriety.

236 (15) Sell, convey, mortgage, pledge, lease, exchange,
 237 abandon, or otherwise dispose of any property, real, personal,
 238 or mixed.

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

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

243 (18) Provide for dispute resolution among compacting
 244 states.

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

248 (20) Provide advice and training to those personnel in
 249 state insurance departments responsible for product review and
 250 to be a resource for state insurance departments.

278 election or appointment and qualification of its own
 279 commissioner.

280 (b) Each member shall be entitled to one vote and shall
 281 have an opportunity to participate in the governance of the
 282 commission in accordance with the bylaws. Notwithstanding any
 283 provision in this article to the contrary, no action of the
 284 commission with respect to the adoption of a uniform standard
 285 shall be effective unless two-thirds of the members vote in
 286 favor of the action.

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

291 1. Establishing the fiscal year of the commission.

292 2. Providing reasonable procedures for appointing and
 293 electing members and holding meetings of the management
 294 committee.

295 3. Providing reasonable standards and procedures for the
 296 establishment and meetings of other committees and governing any
 297 general or specific delegation of any authority or function of
 298 the commission.

299 4. Providing reasonable procedures for calling and
 300 conducting meetings of the commission that consists of a
 301 majority of commission members, ensuring reasonable advance
 302 notice of each such meeting, and providing for the right of
 303 citizens to attend each such meeting with enumerated exceptions
 304 designed to protect the public's interest, the privacy of
 305 individuals, and insurers' proprietary information, including

306 trade secrets. The commission may meet in camera only after a
 307 majority of the entire membership votes to close a meeting en
 308 toto or in part. As soon as practicable, the commission must
 309 make public a copy of the vote to close the meeting, revealing
 310 the vote of each member with no proxy votes allowed, and votes
 311 taken during such meeting.

312 5. Establishing the titles, duties and authority, and
 313 reasonable procedures for the election of the officers of the
 314 commission.

315 6. Providing reasonable standards and procedures for the
 316 establishment of the personnel policies and programs of the
 317 commission. Notwithstanding any civil service or other similar
 318 laws of any compacting state, the bylaws shall exclusively
 319 govern the personnel policies and programs of the commission.

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

322 8. Providing a mechanism for winding up the operations of
 323 the commission and the equitable disposition of any surplus
 324 funds that may exist after the termination of the compact after
 325 the payment or reserving of all of its debts and obligations.

326 (d) The commission shall publish its bylaws in a
 327 convenient form and file a copy thereof and a copy of any
 328 amendment thereto with the appropriate agency or officer in each
 329 of the compacting states.

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

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

333 1. One member from each of the six compacting states with
334 the largest premium volume for individual and group annuities,
335 life, disability income, and long-term care insurance products,
336 determined from the records of the National Association of
337 Insurance Commissioners for the prior year.

338 2. Four members from those compacting states with at least
339 2 percent of the market based on the premium volume described in
340 subparagraph 1., other than the six compacting states with the
341 largest premium volume, selected on a rotating basis as provided
342 in the bylaws.

343 3. Four members from those compacting states with less
344 than 2 percent of the market, based on the premium volume
345 described in subparagraph 1., with one selected from each of the
346 four zone regions of the National Association of Insurance
347 Commissioners as provided in the bylaws.

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

351 1. Managing the affairs of the commission in a manner
352 consistent with the bylaws and purposes of the commission.

353 2. Establishing and overseeing an organizational structure
354 within, and appropriate procedures for, the commission to
355 provide for the creation of uniform standards and other rules,
356 receipt and review of product filings, administrative and
357 technical support functions, review of decisions regarding the
358 disapproval of a product filing, and the review of elections
359 made by a compacting state to opt out of a uniform standard;
360 provided that a uniform standard shall not be submitted to the

361 compacting states for adoption unless approved by two-thirds of
 362 the members of the management committee.

363 3. Overseeing the offices of the commission.

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

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

370 (d) The management committee may, subject to the approval
 371 of the commission, appoint or retain an executive director for
 372 such period, upon such terms and conditions and for such
 373 compensation as the commission may deem appropriate. The
 374 executive director shall serve as secretary of the commission
 375 but shall not be a member of the commission. The executive
 376 director shall hire and supervise such other staff as may be
 377 authorized by the commission.

378 (3) Legislative and advisory committees.--

379 (a) A legislative committee comprising state legislators
 380 or their designees shall be established to monitor the
 381 operations of, and make recommendations to, the commission,
 382 including the management committee; provided that the manner of
 383 selection and term of any legislative committee member shall be
 384 as set forth in the bylaws. Prior to the adoption by the
 385 commission of any uniform standard, revision to the bylaws,
 386 annual budget, or other significant matter as may be provided in
 387 the bylaws, the management committee shall consult with and
 388 report to the legislative committee.

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389 (b) The commission shall establish two advisory
390 committees, one of which shall comprise consumer representatives
391 independent of the insurance industry and the other comprising
392 insurance industry representatives.

393 (c) The commission may establish additional advisory
394 committees as its bylaws may provide for the carrying out of its
395 functions.

396 (4) Corporate records of the commission.--The commission
397 shall maintain its corporate books and records in accordance
398 with the bylaws.

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

400 (a) The members, officers, executive director, employees,
401 and representatives of the commission shall be immune from suit
402 and liability, either personally or in their official capacity,
403 for any claim for damage to or loss of property or personal
404 injury or other civil liability caused by or arising out of any
405 actual or alleged act, error, or omission that occurred or that
406 the person against whom the claim is made had a reasonable basis
407 for believing occurred within the scope of commission
408 employment, duties, or responsibilities; provided, that nothing
409 in this paragraph shall be construed to protect any such person
410 from suit or liability for any damage, loss, injury, or
411 liability caused by the intentional or willful and wanton
412 misconduct of that person.

413 (b) The commission shall defend any member, officer,
414 executive director, employee, or representative of the
415 commission in any civil action seeking to impose liability
416 arising out of any actual or alleged act, error, or omission

417 that occurred within the scope of commission employment, duties,
 418 or responsibilities, or that the person against whom the claim
 419 is made had a reasonable basis for believing occurred within the
 420 scope of commission employment, duties, or responsibilities;
 421 provided, that nothing in this paragraph shall be construed to
 422 prohibit that person from retaining his or her own counsel; and
 423 provided further, that the actual or alleged act, error, or
 424 omission did not result from that person's intentional or
 425 willful and wanton misconduct.

426 (c) The commission shall indemnify and hold harmless any
 427 member, officer, executive director, employee, or representative
 428 of the commission for the amount of any settlement or judgment
 429 obtained against that person arising out of any actual or
 430 alleged act, error, or omission that occurred within the scope
 431 of commission employment, duties, or responsibilities, or that
 432 such person had a reasonable basis for believing occurred within
 433 the scope of commission employment, duties, or responsibilities;
 434 provided, that the actual or alleged act, error, or omission did
 435 not result from the intentional or willful and wanton misconduct
 436 of that person.

438 ARTICLE VI

439
 440 MEETINGS AND ACTS OF THE COMMISSION.--

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

443 (2) Each member of the commission shall have the right and
 444 power to cast a vote to which that compacting state is entitled

445 and to participate in the business and affairs of the
 446 commission. A member shall vote in person or by such other means
 447 as provided in the bylaws. The bylaws may provide for members'
 448 participation in meetings by telephone or other means of
 449 communication.

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

454 ARTICLE VII

456 RULES & OPERATING PROCEDURES: RULEMAKING FUNCTIONS OF THE
 457 COMMISSION AND OPTING OUT OF UNIFORM STANDARDS.--

458 (1) Rulemaking authority.--The commission shall adopt
 459 reasonable rules, including uniform standards and operating
 460 procedures, in order to effectively and efficiently achieve the
 461 purposes of this compact. Notwithstanding such requirement, if
 462 the commission exercises its rulemaking authority in a manner
 463 that is beyond the scope of the purposes of this compact or the
 464 powers granted under this compact, such an action by the
 465 commission shall be invalid and have no force and effect.

466 (2) Rulemaking procedure.--Rules and operating procedures
 467 shall be made pursuant to a rulemaking process that conforms to
 468 the Model State Administrative Procedures Act of 1981, as
 469 amended, as may be appropriate to the operations of the
 470 commission. Before the commission adopts a uniform standard, the
 471 commission shall give written notice to the relevant state
 472 legislative committees in each compacting state responsible for

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473 insurance issues of its intention to adopt the uniform standard.
474 The commission, in adopting a uniform standard, shall consider
475 fully all submitted materials and issue a concise explanation of
476 its decision.

477 (3) Effective date and opt out of a uniform standard.--A
478 uniform standard shall become effective 90 days after its
479 adoption by the commission or such later date as the commission
480 may determine; provided, that a compacting state may opt out of
481 a uniform standard as provided in this article. The term "opt
482 out" means any action by a compacting state to decline to adopt
483 or participate in an adopted uniform standard. All other rules
484 and operating procedures, and amendments thereto, shall become
485 effective as of the date specified in each rule, operating
486 procedure, or amendment.

487 (4) Opt out procedure.--

488 (a) A compacting state may opt out of a uniform standard
489 by legislation or regulation duly adopted by the insurance
490 department under the compacting state's Administrative Procedure
491 Act. If a compacting state elects to opt out of a uniform
492 standard by regulation, the state must give written notice to
493 the commission no later than 10 business days after the uniform
494 standard is adopted or at the time the state becomes a
495 compacting state and find that the uniform standard does not
496 provide reasonable protections to the citizens of the state
497 given the conditions in the state. The commissioner shall make
498 specific findings of fact and conclusions of law, based upon a
499 preponderance of the evidence, detailing the conditions in the
500 state that warrant a departure from the uniform standard and

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501 determining that the uniform standard would not reasonably
502 protect the citizens of the state. The commissioner must
503 consider and balance the following factors and find that the
504 conditions in the state and needs of the citizens of the state
505 outweigh the intent of the Legislature to participate in, and
506 the benefits of, an interstate agreement to establish national
507 uniform consumer protections for the products subject to this
508 compact and the presumption that a uniform standard adopted by
509 the commission provides reasonable protections to consumers of
510 the relevant product.

511 (b) Notwithstanding paragraph (a), a compacting state may,
512 at the time of its enactment of this compact, prospectively opt
513 out of all uniform standards involving long-term care insurance
514 products by expressly providing for such opt out in the enacted
515 compact, and such an opt out shall not be treated as a material
516 variance in the offer or acceptance of any state to participate
517 in this compact. Such an opt out shall be effective at the time
518 of enactment of this compact by the compacting state and shall
519 apply to all existing uniform standards involving long-term care
520 insurance products and those subsequently adopted.

521 (5) Effect of opt out.--

522 (a) If a compacting state elects to opt out of a uniform
523 standard, the uniform standard shall remain applicable in the
524 compacting state electing to opt out until such time the opt out
525 legislation is enacted into law or the regulation opting out
526 becomes effective.

527 (b) Once the opt out of a uniform standard by a compacting
528 state becomes effective as provided under the laws of that

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529 state, the uniform standard shall have no further force and
530 effect in that state unless and until the legislation or
531 regulation implementing the opt out is repealed or otherwise
532 becomes ineffective under the laws of the state. If a compacting
533 state opts out of a uniform standard after the uniform standard
534 has been made effective in that state, the opt out shall have
535 the same prospective effect as provided under Article XIV for
536 withdrawals.

537 (6) Stay of uniform standard.--If a compacting state has
538 formally initiated the process of opting out of a uniform
539 standard by regulation, and while the regulatory opt out is
540 pending, the compacting state may petition the commission, at
541 least 15 days before the effective date of the uniform standard,
542 to stay the effectiveness of the uniform standard in that state.
543 The commission may grant a stay if the commission determines the
544 regulatory opt out is being pursued in a reasonable manner and
545 that there is a likelihood of success. If a stay is granted or
546 extended by the commission, the stay or extension thereof may
547 postpone the effective date by up to 90 days unless
548 affirmatively extended by the commission; provided, a stay may
549 not be permitted to remain in effect for more than 1 year unless
550 the compacting state can show extraordinary circumstances that
551 warrant a continuance of the stay, including, but not limited
552 to, the existence of a legal challenge that prevents the
553 compacting state from opting out. A stay may be terminated by
554 the commission upon notice that the rulemaking process has been
555 terminated.

556 (7) Not later than 30 days after a rule or operating
557 procedure is adopted, any person may file a petition for
558 judicial review of the rule or operating procedure; provided,
559 that the filing of such a petition shall not stay or otherwise
560 prevent the rule or operating procedure from becoming effective
561 unless the court finds that the petitioner has a substantial
562 likelihood of success. The court shall give deference to the
563 actions of the commission consistent with applicable law and
564 shall not find the rule or operating procedure to be unlawful if
565 the rule or operating procedure represents a reasonable exercise
566 of the commission's authority.

567
568 ARTICLE VIII

569
570 COMMISSION RECORDS AND ENFORCEMENT.--

571 (1) The commission shall monitor compacting states for
572 compliance with duly adopted bylaws, rules, including uniform
573 standards, and operating procedures. The commission shall notify
574 any noncomplying compacting state in writing of its
575 noncompliance with commission bylaws, rules, or operating
576 procedures. If a noncomplying compacting state fails to remedy
577 its noncompliance within the time specified in the notice of
578 noncompliance, the compacting state shall be deemed to be in
579 default as set forth in Article XIV.

580 (2) The commissioner of any state in which an insurer is
581 authorized to do business, or is conducting the business of
582 insurance, shall continue to exercise his or her authority to
583 oversee the market regulation of the activities of the insurer

584 in accordance with the provisions of the state's law. The
585 commissioner's enforcement of compliance with the compact is
586 governed by the following provisions:

587 (a) With respect to the commissioner's market regulation
588 of a product or advertisement that is approved or certified to
589 the commission, the content of the product or advertisement
590 shall not constitute a violation of the provisions, standards,
591 or requirements of the compact except upon a final order of the
592 commission issued at the request of a commissioner after prior
593 notice to the insurer and an opportunity for hearing before the
594 commission.

595 (b) Before a commissioner may bring an action for
596 violation of any provision, standard, or requirement of the
597 compact relating to the content of an advertisement not approved
598 or certified to the commission, the commission, or an authorized
599 commission officer or employee, must authorize the action.
600 However, authorization pursuant to this paragraph does not
601 require notice to the insurer, opportunity for hearing or
602 disclosure of requests for authorization or records of the
603 commission's action on such requests.

604
605 ARTICLE IX
606

607 DISPUTE RESOLUTION.--The commission shall attempt, upon the
608 request of a member, to resolve any disputes or other issues
609 that are subject to this compact and that may arise between two
610 or among more compacting states, or between compacting states

611 and noncompacting states, and the commission shall adopt an
612 operating procedure providing for resolution of such disputes.

613

614 ARTICLE X

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616 PRODUCT FILING AND APPROVAL.--

617 (1) Insurers and third-party filers seeking to have a
618 product approved by the commission shall file the product with,
619 and pay applicable filing fees to, the commission. Nothing in
620 this compact shall be construed to restrict or otherwise prevent
621 an insurer from filing its product with the insurance department
622 in any state in which the insurer is licensed to conduct the
623 business of insurance, and such filing shall be subject to the
624 laws of the states where filed.

625 (2) The commission shall establish appropriate filing and
626 review processes and procedures pursuant to commission rules and
627 operating procedures. Notwithstanding any provision in this
628 article, the commission shall adopt rules to establish
629 conditions and procedures under which the commission will
630 provide public access to product filing information. In
631 establishing such rules, the commission shall consider the
632 interests of the public in having access to such information as
633 well as protection of personal medical and financial information
634 and trade secrets that may be contained in a product filing or
635 supporting information.

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

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ARTICLE XI

REVIEW OF COMMISSION DECISIONS REGARDING FILINGS.--

(1) Not later than 30 days after the commission has given notice of a disapproved product or advertisement filed with the commission, the insurer or third-party filer whose filing was disapproved may appeal the determination to a review panel appointed by the commission. The commission shall adopt rules to establish procedures for appointing such review panels and provide for notice and hearing. An allegation that the commission, in disapproving a product or advertisement filed with the commission, acted arbitrarily, capriciously, or in a manner that is an abuse of discretion or otherwise not in accordance with the law, is subject to judicial review in accordance with Article III, section 5.

(2) The commission may monitor, review, and reconsider products and advertisements subsequent to their filing or approval upon a finding that the product does not meet the relevant uniform standard. Where appropriate, the commission may withdraw or modify its approval after proper notice and hearing, subject to the appeal process in subsection (1).

ARTICLE XII

FINANCE.--

(1) The commission shall pay or provide for the payment of the reasonable expenses of its establishment and organization.

667 To fund the cost of its initial operations, the commission may
668 accept contributions and other forms of funding from the
669 National Association of Insurance Commissioners, compacting
670 states, and other sources. Contributions and other forms of
671 funding from other sources shall be of such a nature that the
672 independence of the commission concerning the performance of its
673 duties shall not be compromised.

674 (2) The commission shall collect a filing fee from each
675 insurer and third-party filer filing a product with the
676 commission to cover the cost of the operations and activities of
677 the commission and its staff in a total amount sufficient to
678 cover the commission's annual budget.

679 (3) The commission's budget for a fiscal year shall not be
680 approved until it has been subject to notice and comment as set
681 forth in Article VII.

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

684 (5) The commission shall not pledge the credit of any
685 compacting state except by and with the appropriate legal
686 authority of that compacting state.

687 (6) The commission shall keep complete and accurate
688 accounts of all its internal receipts, including grants and
689 donations, and disbursements of all funds under its control. The
690 internal financial accounts of the commission shall be subject
691 to the accounting procedures established under its bylaws. The
692 financial accounts and reports including the system of internal
693 controls and procedures of the commission shall be audited
694 annually by an independent certified public accountant. Upon the

695 determination of the commission, but no less frequently than
 696 every 3 years, the review of the independent auditor shall
 697 include a management and performance audit of the commission.
 698 The commission shall make an annual report to the Governor and
 699 the Legislature of the compacting states, which shall include a
 700 report of the independent audit. The commission's internal
 701 accounts shall not be confidential, and such materials may be
 702 shared with the commissioner of any compacting state upon
 703 request, provided, however, that any work papers related to any
 704 internal or independent audit and any information regarding the
 705 privacy of individuals and insurers' proprietary information,
 706 including trade secrets, shall remain confidential.

707 (7) No compacting state shall have any claim to or
 708 ownership of any property held by or vested in the commission or
 709 to any commission funds held pursuant to the provisions of this
 710 compact.

711
 712 ARTICLE XIII
 713

714 COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT.--

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

716 (2) The compact shall become effective and binding upon
 717 legislative enactment of the compact into law by two compacting
 718 states; provided, the commission shall become effective for
 719 purposes of adopting uniform standards for, reviewing, and
 720 giving approval or disapproval of products filed with the
 721 commission that satisfy applicable uniform standards only after
 722 26 states become compacting states or, alternatively, by states

723 representing greater than 40 percent of the premium volume for
724 life insurance, annuity, disability income, and long-term care
725 insurance products, based on records of the National Association
726 of Insurance Commissioners for the prior year. Thereafter, it
727 shall become effective and binding as to any other compacting
728 state upon enactment of the compact into law by that state.

729 (3) Amendments to the compact may be proposed by the
730 commission for enactment by the compacting states. No amendment
731 shall become effective and binding upon the commission and the
732 compacting states unless and until all compacting states enact
733 the amendment into law.

734
735 ARTICLE XIV

736
737 WITHDRAWAL, DEFAULT, AND TERMINATION.--

738 (1) Withdrawal.--

739 (a) Once effective, the compact shall continue in force
740 and remain binding upon each and every compacting state;
741 provided, that a compacting state may withdraw from the compact
742 as a withdrawing state by enacting a law specifically repealing
743 the law which enacted the compact into law.

744 (b) The effective date of withdrawal is the effective date
745 of the repealing law. However, the withdrawal shall not apply to
746 any product filings approved or self-certified, or any
747 advertisement of such products, on the date the repealing law
748 becomes effective, except by mutual agreement of the commission
749 and the withdrawing state unless the approval is rescinded by
750 the withdrawing state as provided in paragraph (e).

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751 (c) The commissioner of the withdrawing state shall
752 immediately notify the management committee in writing upon the
753 introduction of legislation repealing this compact in the
754 withdrawing state.

755 (d) The commission shall notify the other compacting
756 states of the introduction of such legislation within 10 days
757 after its receipt of notice of such legislation.

758 (e) The withdrawing state is responsible for all
759 obligations, duties, and liabilities incurred through the
760 effective date of withdrawal, including any obligations the
761 performance of which extend beyond the effective date of
762 withdrawal, except to the extent those obligations may have been
763 released or relinquished by mutual agreement of the commission
764 and the withdrawing state. The commission's approval of products
765 and advertisements prior to the effective date of withdrawal
766 shall continue to be effective and be given full force and
767 effect in the withdrawing state, unless formally rescinded by
768 the withdrawing state in the same manner as provided by the laws
769 of the withdrawing state for the prospective disapproval of
770 products or advertisement previously approved under state law.

771 (f) Reinstatement following withdrawal of any compacting
772 state shall occur upon the effective date of the withdrawing
773 state reenacting the compact.

774 (2) Default.--

775 (a) If the commission determines that any compacting state
776 has at any time defaulted as a defaulting state in the
777 performance of any of its obligations or responsibilities under
778 this compact, the bylaws or duly adopted rules or operating

779 procedures, after notice and hearing as set forth in the bylaws,
780 all rights, privileges, and benefits conferred by this compact
781 on the defaulting state shall be suspended from the effective
782 date of default as fixed by the commission. The grounds for
783 default include, but are not limited to, failure of a compacting
784 state to perform its obligations or responsibilities and any
785 other grounds designated in commission rules. The commission
786 shall immediately notify the defaulting state in writing of the
787 defaulting state's suspension pending a cure of the default. The
788 commission shall stipulate the conditions and the time period
789 within which the defaulting state must cure its default. If the
790 defaulting state fails to cure the default within the time
791 period specified by the commission, the defaulting state shall
792 be terminated from the compact, and all rights, privileges, and
793 benefits conferred by this compact shall be terminated from the
794 effective date of termination.

795 (b) Product approvals by the commission or product self-
796 certifications, or any advertisement in connection with such
797 product, that are in force on the effective date of termination
798 shall remain in force in the defaulting state in the same manner
799 as if the defaulting state had withdrawn voluntarily pursuant to
800 subsection (1).

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

803 (3) Dissolution of compact.--

804 (a) The compact dissolves effective upon the date of the
805 withdrawal or default of the compacting state, which reduces
806 membership in the compact to one compacting state.

835 subject to the commission's authority, any rule, uniform
836 standard, or other requirement of the commission that governs
837 the content of the advertisement shall constitute the exclusive
838 provision that a commissioner may apply to the content of the
839 advertisement. Notwithstanding this paragraph, no action taken
840 by the commission shall abrogate or restrict:

- 841 1. The access of any person to state courts;
- 842 2. Remedies available under state law related to breach of
843 contract, tort, or other laws not specifically directed to the
844 content of the product;
- 845 3. State law relating to the construction of insurance
846 contracts; or
- 847 4. The authority of the Attorney General of the state,
848 including, but not limited to, maintaining any actions or
849 proceedings, as authorized by law.

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

852 (2) Binding effect of this compact.--

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

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

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

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863 (d) If any provision of this compact exceeds the
864 constitutional limits imposed on the Legislature of any
865 compacting state, the obligations, duties, powers, or
866 jurisdiction sought to be conferred by that provision upon the
867 commission shall be ineffective as to that compacting state, and
868 those obligations, duties, powers, or jurisdiction shall remain
869 in the compacting state and shall be exercised by the agency of
870 that state to which those obligations, duties, powers, or
871 jurisdiction are delegated by law in effect at the time this
872 compact becomes effective.

873 Section 2. This act shall take effect July 1, 2007.