

By Senator Ring

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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; defining terms; creating
5 the Interstate Insurance Product Regulation
6 Commission; providing responsibilities of the
7 commission; specifying the commission as an
8 instrumentality of the compact states; providing for
9 venue; specifying the powers of the commission;
10 providing for organization of the commission;
11 providing for membership, voting, and bylaws;
12 designating the Commissioner of the Office of
13 Insurance Regulation as the representative of Florida
14 on the commission; requiring the commission to draft
15 bylaws; specifying matters to be addressed in the
16 bylaws; requiring the commissioners to adopt a code of
17 ethics; providing for a management committee,
18 officers, and personnel of the commission; providing
19 authority of the management committee; providing for
20 legislative and advisory committees; providing for
21 qualified immunity, defense, and indemnification of
22 members, officers, employees, and representatives of
23 the commission; providing for meetings and acts of the
24 commission; providing rules and operating procedures;
25 providing rulemaking functions of the commission;
26 providing for opting out of the uniform standards;
27 providing procedures and requirements for opting out;
28 providing for commission records and enforcement;
29 authorizing the commission to adopt rules; providing

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30 for disclosure of certain information; requiring the
31 commission to monitor compact states for compliance;
32 providing for dispute resolution; providing for
33 product filing and approval; requiring the commission
34 to establish filing and review processes and
35 procedures; providing for review of commission
36 decisions regarding filings; providing for the
37 financing of commission activities; providing for
38 payment of expenses; authorizing the commission to
39 collect filing fees for certain purposes; providing
40 for approval of a commission budget; exempting the
41 commission from all taxation; prohibiting the
42 commission from pledging the credit of any compact
43 states without authority; requiring that the
44 commission keep complete accurate accounts, provide
45 for audits, and make annual reports to the Governors
46 and Legislatures of compact states; providing for
47 effective date and amendment of the compact; providing
48 for withdrawal from the compact, default by compact
49 states, and dissolution of the compact; providing for
50 severability and construction; providing for the
51 binding effect of the compact and other laws;
52 providing a contingent effective date.

53
54 Be It Enacted by the Legislature of the State of Florida:

55
56 Section 1. Legislative findings; intent.—

57 (1) The Legislature finds that the financial services
58 marketplace has changed significantly in recent years and that

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59 asset-based insurance products, which include life insurance,
60 annuities, disability income insurance, and long-term care
61 insurance, now compete directly with other retirement and estate
62 planning instruments that are sold by banks and securities
63 firms.

64 (2) The Legislature further finds that the increased
65 mobility of the population and the risks borne by these asset-
66 based products are no longer local in nature.

67 (3) The Legislature also finds that the Interstate
68 Insurance Product Regulation Compact Model adopted by the
69 National Association of Insurance Commissioners and endorsed by
70 the National Conference of Insurance Legislators and the
71 National Conference of State Legislatures is designed to address
72 these market changes by providing a uniform set of product
73 standards and a single source for the filing of new products.

74 (4) The Legislature further finds that the product
75 standards that have been developed provide a high level of
76 consumer protection.

77 (5) (a) The Legislature further finds that the Interstate
78 Insurance Product Regulation Compact includes a mechanism for
79 opting out of all uniform standards involving long-term care
80 insurance products. The Legislature hereby purposefully opts out
81 and excludes long-term care insurance products from this state's
82 agreement to abide by the decisions of the compact, thereby
83 leaving the authority over long-term care insurance products
84 with the state. The state relies on that understanding in
85 adopting this legislation.

86 (b) The state, pursuant to the terms and conditions of this
87 compact, intends to join with other states to establish the

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88 Interstate Insurance Product Regulation Compact, and thus become
 89 a member of the Interstate Insurance Product Regulation
 90 Commission. The Commissioner of Insurance Regulation is hereby
 91 designated to serve as the representative of this state on the
 92 commission.

93 Section 2. Interstate Insurance Product Regulation
 94 Compact.—The Interstate Insurance Product Regulation Compact is
 95 hereby enacted into law and entered into by this state with all
 96 states legally joining therein in the form substantially as
 97 follows:

98
 99 THE INTERSTATE INSURANCE PRODUCT REGULATION COMPACT

100 PREAMBLE

101
 102 This compact is intended to help states join together to
 103 establish an interstate compact to regulate designated insurance
 104 products. Pursuant to the terms and conditions of this compact,
 105 this state intends to join with other states to establish the
 106 Interstate Insurance Product Regulation Compact and thus become
 107 a member of the Interstate Insurance Product Regulation
 108 Commission.

109 ARTICLE I

110 PURPOSE

111
 112 The purposes of this compact are, through means of joint
 113 and cooperative action among the compact states, to:

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

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117 (2) Develop uniform standards for insurance products
118 covered under the compact.

119 (3) Establish a central clearinghouse to receive and
120 provide prompt review of insurance products covered under the
121 compact and, in certain cases, advertisements related thereto,
122 submitted by insurers authorized to do business in one or more
123 of the compact states.

124 (4) Give appropriate regulatory approval to those product
125 filings and advertisements satisfying the applicable uniform
126 standard.

127 (5) Improve coordination of regulatory resources and
128 expertise between state insurance departments regarding the
129 setting of uniform standards and review of insurance products
130 covered under the compact.

131 (6) Create the Interstate Insurance Product Regulation
132 Commission.

133 (7) Perform these and such other related functions as may
134 be consistent with the state regulation of the business of
135 insurance.

136 ARTICLE II

137 DEFINITIONS

138
139 As used in this compact, the term:

140 (1) "Advertisement" or "advertising" means any material
141 designed to create public interest in a product, or induce the
142 public to purchase, increase, modify, reinstate, borrow on,
143 surrender, replace, or retain a policy, as more specifically
144 defined in the rules and operating procedures of the commission.

145 (2) "Bylaws" mean those bylaws established by the

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146 commission for its governance, or for directing or controlling
147 the commission's actions or conduct.

148 (3) "Compact state" means any state that has enacted this
149 compact legislation and has not withdrawn from the compact
150 pursuant to subsection (1) of Article XIV or been terminated
151 from the compact pursuant to subsection (2) of Article XIV of
152 this compact.

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

155 (5) "Commissioner" means the chief insurance regulatory
156 official of a state, including, but not limited to,
157 commissioner, superintendent, director, or administrator. For
158 purposes of this compact, the Commissioner of the Office of
159 Insurance Regulation is the chief insurance regulatory official
160 of this state.

161 (6) "Domiciliary state" means the state in which an insurer
162 is incorporated or organized or, in the case of an alien
163 insurer, its state of entry.

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

167 (8) "Member" means the person chosen by a compact state as
168 its representative to the commission, or his or her designee.

169 (9) "Noncompact state" means a state that is not at the
170 time a compact state.

171 (10) "Operating procedures" mean procedures adopted by the
172 commission implementing a rule, uniform standard, or provision
173 of this compact.

174 (11) "Opt out" means any action by a compact state to

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175 decline to adopt or participate in an adopted uniform standard.

176 (12) "Product" means the form of a policy or contract,
177 including any application, endorsement, or related form, which
178 is attached to and made a part of the policy or contract, and
179 any evidence of coverage or certificate, for an individual or
180 group annuity, life insurance, disability income, or long-term
181 care insurance product that an insurer is authorized to issue.

182 (13) "Rule" means a statement of general or particular
183 applicability and future effect adopted by the commission,
184 including a uniform standard developed pursuant to Article VII
185 of this compact, designed to implement, interpret, or prescribe
186 law or policy or describing the organization, procedure, or
187 practice requirements of the commission, which shall have the
188 force and effect of law in the compact states.

189 (14) "State" means any state, district, or territory of the
190 United States.

191 (15) "Third-party filer" means an entity that submits a
192 product filing to the commission on behalf of an insurer.

193 (16) "Uniform standard" means a standard adopted by the
194 commission for a product line pursuant to Article VII of this
195 compact and includes all of the product requirements in
196 aggregate; provided, each uniform standard shall be construed,
197 whether express or implied, to prohibit the use of any
198 inconsistent, misleading, or ambiguous provisions in a product
199 and the form of the product made available to the public shall
200 not be unfair, inequitable, or against public policy as
201 determined by the commission.

202
203 ARTICLE III

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COMMISSION, ESTABLISHMENT, AND VENUE.-

(1) The compact states hereby create and establish a joint public agency known as the "Interstate Insurance Product Regulation Commission." Pursuant to Article IV of this compact, the commission has the power to develop uniform standards for product lines, receive and provide prompt review of products filed with the commission, and give approval to those product filings satisfying applicable uniform standards; provided it is not intended for the commission to be the exclusive entity for receipt and review of insurance product filings. This article does not prohibit any insurer from filing its product in any state in which the insurer is licensed to conduct the business of insurance and any such filing is subject to the laws of the state where filed.

(2) The commission is a body corporate and politic and an instrumentality of the compact states.

(3) The commission is solely responsible for its liabilities, except as otherwise specifically provided in this compact.

(4) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located.

ARTICLE IV

POWERS

The commission has the power to:

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233 (1) Adopt rules, pursuant to Article VII of this compact,
234 which have the force and effect of law and are binding in the
235 compact states to the extent and in the manner provided in this
236 compact.

237 (2) Exercise its rulemaking authority and establish
238 reasonable uniform standards for products covered under the
239 compact, and advertising related to it, which have the force and
240 effect of law and are binding in the compact states, but only
241 for those products filed with the commission; provided a compact
242 state has the right to opt out of such uniform standard pursuant
243 to Article VII of this compact to the extent and in the manner
244 provided in this compact and any uniform standard established by
245 the commission for long-term care insurance products may provide
246 the same or greater protections for consumers as, but shall not
247 provide less than, those protections set forth in the National
248 Association of Insurance Commissioners' Long-Term Care Insurance
249 Model Act and Long-Term Care Insurance Model Regulation,
250 respectively, adopted as of 2001. The commission shall consider
251 whether any subsequent amendments to the National Association of
252 Insurance Commissioners' Long-Term Care Insurance Model Act or
253 Long-Term Care Insurance Model Regulation adopted by the
254 National Association of Insurance Commissioners require amending
255 of the uniform standards established by the commission for long-
256 term care insurance products.

257 (3) Receive and review in an expeditious manner products
258 filed with the commission and rate filings for disability income
259 and long-term care insurance products and give approval of those
260 products and rate filings that satisfy the applicable uniform
261 standard, and such approval has the force and effect of law and

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262 is binding on the compact states to the extent and in the manner
263 provided in the compact.

264 (4) Receive and review in an expeditious manner advertising
265 relating to long-term care insurance products for which uniform
266 standards have been adopted by the commission, and give approval
267 to all advertisement that satisfies the applicable uniform
268 standard. For any product covered under this compact, other than
269 long-term care insurance products, the commission has the
270 authority to require an insurer to submit all or any part of its
271 advertising with respect to that product for review or approval
272 before its use, if the commission determines that the nature of
273 the product is such that an advertisement of the product could
274 have the capacity or tendency to mislead the public. The actions
275 of the commission as provided in this subsection have the force
276 and effect of law and are binding in the compact states to the
277 extent and in the manner provided in the compact.

278 (5) Exercise its rulemaking authority and designate
279 products and advertisement that may be subject to a self-
280 certification process without the need for prior approval by the
281 commission.

282 (6) Adopt operating procedures, pursuant to Article VII of
283 this compact, which are binding in the compact states to the
284 extent and in the manner provided in this compact.

285 (7) Bring and prosecute legal proceedings or actions in its
286 name as the commission; provided the standing of any state
287 insurance department to sue or be sued under applicable law
288 shall not be affected.

289 (8) Issue subpoenas requiring the attendance and testimony
290 of witnesses and the production of evidence.

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- 291 (9) Establish and maintain offices.
- 292 (10) Purchase and maintain insurance and bonds.
- 293 (11) Borrow, accept, or contract for services of personnel,
294 including, but not limited to, employees of a compact state.
- 295 (12) Hire employees, professionals, or specialists; elect
296 or appoint officers and fix their compensation, define their
297 duties, give them appropriate authority to carry out the
298 purposes of the compact, and determine their qualifications; and
299 establish the commission's personnel policies and programs
300 relating to, among other things, conflicts of interest, rates of
301 compensation, and qualifications of personnel.
- 302 (13) Accept any and all appropriate donations and grants of
303 money, equipment, supplies, materials, and services and to
304 receive, use, and dispose of the same; provided at all times the
305 commission shall strive to avoid any appearance of impropriety.
- 306 (14) Lease, purchase, and accept appropriate gifts or
307 donations of, or otherwise to own, hold, improve, or use, any
308 property, real, personal, or mixed; provided at all times the
309 commission shall strive to avoid any appearance of impropriety.
- 310 (15) Sell, convey, mortgage, pledge, lease, exchange,
311 abandon, or otherwise dispose of any property whether real,
312 personal, or mixed.
- 313 (16) Remit filing fees to compact states as may be set
314 forth in the bylaws, rules, or operating procedures.
- 315 (17) Enforce compliance by compact states with rules,
316 uniform standards, operating procedures, and bylaws.
- 317 (18) Provide for dispute resolution among compact states.
- 318 (19) Advise compact states on issues relating to insurers
319 domiciled or doing business in noncompact jurisdictions,

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320 consistent with the purposes of this compact.

321 (20) Provide advice and training to those personnel in
322 state insurance departments responsible for product review and
323 be a resource for state insurance departments.

324 (21) Establish a budget and make expenditures.

325 (22) Borrow money.

326 (23) Appoint committees, including advisory committees,
327 comprising members, state insurance regulators, state
328 legislators or their representatives, insurance industry and
329 consumer representatives, and such other interested persons as
330 may be designated in the bylaws.

331 (24) Provide and receive information from and to cooperate
332 with law enforcement agencies.

333 (25) Adopt and use a corporate seal.

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

337
338 ARTICLE V

339 ORGANIZATION

340
341 (1) MEMBERSHIP, VOTING, AND BYLAWS.—

342 (a)1. Each compact state shall have and be limited to one
343 member. Each member must be qualified to serve in that capacity
344 pursuant to applicable law of the compact state. Any member may
345 be removed or suspended from office as provided by the law of
346 the state from which he or she is appointed. Any vacancy
347 occurring in the commission shall be filled in accordance with
348 the laws of the compact state in which the vacancy exists. This

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349 article does not affect the manner in which a compact state
350 determines the election or appointment and qualification of its
351 own commissioner.

352 2. The Commissioner of the Office of Insurance Regulation
353 is hereby designated to serve as the representative of this
354 state on the commission.

355 (b) Each member is entitled to one vote and shall have an
356 opportunity to participate in the governance of the commission
357 in accordance with the bylaws. Notwithstanding any other
358 provision of this article, the commission shall take no action
359 with respect to the adoption of a uniform standard unless two-
360 thirds of the members vote in favor of such action.

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

365 1. Establishing the fiscal year of the commission.

366 2. Providing reasonable procedures for appointing and
367 electing members, as well as holding meetings, of the management
368 committee.

369 3. Providing reasonable standards and procedures:

370 a. For the establishment and meetings of other committees.

371 b. Governing any general or specific delegation of any
372 authority or function of the commission.

373 4. Providing reasonable procedures for calling and
374 conducting meetings of the commission which consist of a
375 majority of commission members, ensuring reasonable advance
376 notice of each such meeting, and providing for the right of
377 citizens to attend each such meeting with enumerated exceptions

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378 designed to protect the public's interest, the privacy of
379 individuals, and insurers' proprietary information, including,
380 but not limited to, trade secrets. The commission may meet in
381 camera only after a majority of the entire membership votes to
382 close a meeting in total or in part. As soon as practicable, the
383 commission must make public a copy of the vote to close the
384 meeting revealing the vote of each member, with no proxy votes
385 allowed, and votes taken during such meeting.

386 5. Establishing the titles, duties, and authority and
387 reasonable procedures for the election of the officers of the
388 commission.

389 6. Providing reasonable standards and procedures for the
390 establishment of the personnel policies and programs of the
391 commission. Notwithstanding any civil service or other similar
392 law of any compact state, the bylaws of the commission shall
393 exclusively govern the personnel policies and programs of the
394 commission.

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

397 8. Providing a mechanism for winding up the operations of
398 the commission and the equitable disposition of any surplus
399 funds that may exist after the termination of the compact after
400 the payment or reserving of all debts and obligations of the
401 commission.

402 (d) The commission shall publish its bylaws in a convenient
403 form and file a copy of such bylaws, and a copy of any amendment
404 to such bylaws, with the appropriate agency or officer in each
405 of the compact States.

406 (2) MANAGEMENT COMMITTEE, OFFICERS, AND PERSONNEL.-

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

409 1. One member from each of the six compact states having
410 the largest premium volume for individual and group annuities,
411 life, disability income, and long-term care insurance products,
412 determined from the records of the National Association of
413 Insurance Commissioners for the prior year.

414 2. Four members from those compact states having at least 2
415 percent of the market, based on the premium volume described
416 above, other than the six compact states having the largest
417 premium volume, selected on a rotating basis as provided in the
418 bylaws.

419 3. Four members from those compact states having less than
420 2 percent of the market, based on the premium volume described
421 above, with one member selected from each of the four zone
422 regions of the National Association of Insurance Commissioners
423 as provided in the bylaws.

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

427 1. Managing the affairs of the commission in a manner
428 consistent with the bylaws and purposes of the commission.

429 2. Establishing and overseeing an organizational structure
430 within, and appropriate procedures for, the commission to
431 provide for the creation of uniform standards and other rules,
432 receipt and review of product filings, administrative and
433 technical support functions, review of decisions regarding the
434 disapproval of a product filing, and the review of elections
435 made by a compact state to opt out of a uniform standard;

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436 provided a uniform standard shall not be submitted to the
437 compact states for adoption unless approved by two-thirds of the
438 members of the management committee.

439 3. Overseeing the offices of the commission.

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

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

446 (d) The management committee may, subject to the approval
447 of the commission, appoint or retain an executive director for
448 such period, upon such terms and conditions, and for such
449 compensation as the commission may deem appropriate. The
450 executive director shall serve as secretary to the commission
451 but is not a member of the commission. The executive director
452 shall hire and supervise such other staff as may be authorized
453 by the commission.

454 (3) LEGISLATIVE AND ADVISORY COMMITTEES.—

455 (a) A legislative committee comprised of state legislators
456 or their designees shall be established to monitor the
457 operations of and make recommendations to the commission,
458 including the management committee; provided the manner of
459 selection and term of any legislative committee member shall be
460 as set forth in the bylaws. Prior to the adoption by the
461 commission of any uniform standard, revision to the bylaws,
462 annual budget, or other significant matter as may be provided in
463 the bylaws, the management committee shall consult with and
464 report to the legislative committee.

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465 (b) The commission shall establish two advisory committees,
466 one comprising consumer representatives independent of the
467 insurance industry and the other comprising insurance industry
468 representatives.

469 (c) The commission may establish additional advisory
470 committees as the bylaws may provide for the carrying out of
471 commission functions.

472 (4) CORPORATE RECORDS OF THE COMMISSION.—The commission
473 shall maintain its corporate books and records in accordance
474 with the bylaws.

475 (5) QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION.—

476 (a) The members, officers, executive director, employees,
477 and representatives of the commission shall be immune from suit
478 and liability, either personally or in their official capacity,
479 for any claim for damage to or loss of property or personal
480 injury or other civil liability caused by or arising out of any
481 actual or alleged act, error, or omission that occurred, or that
482 the person against whom the claim is made had a reasonable basis
483 for believing occurred within the scope of commission
484 employment, duties, or responsibilities; provided nothing in
485 this paragraph shall be construed to protect any such person
486 from suit or liability for any damage, loss, injury, or
487 liability caused by the intentional or willful and wanton
488 misconduct of that person.

489 (b) The commission shall defend any member, officer,
490 executive director, employee, or representative of the
491 commission in any civil action seeking to impose liability
492 arising out of any actual or alleged act, error, or omission
493 that occurred within the scope of commission employment, duties,

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494 or responsibilities, or that the person against whom the claim
495 is made had a reasonable basis for believing occurred within the
496 scope of commission employment, duties, or responsibilities;
497 provided nothing in this article shall be construed to prohibit
498 that person from retaining his or her own counsel and the actual
499 or alleged act, error, or omission did not result from that
500 person's intentional or willful and wanton misconduct.

501 (c) The commission shall indemnify and hold harmless any
502 member, officer, executive director, employee, or representative
503 of the commission for the amount of any settlement or judgment
504 obtained against that person arising out of any actual or
505 alleged act, error, or omission that occurred within the scope
506 of commission employment, duties, or responsibilities, or that
507 such person had a reasonable basis for believing occurred within
508 the scope of commission employment, duties, or responsibilities;
509 provided the actual or alleged act, error, or omission did not
510 result from the intentional or willful and wanton misconduct of
511 that person.

513 ARTICLE VI

514 MEETINGS AND ACTS

515
516 (1) The commission shall meet and take such actions as are
517 consistent with the provisions of this compact and the bylaws.

518 (2) Each member of the commission shall have the right and
519 power to cast a vote to which that compact state is entitled and
520 to participate in the business and affairs of the commission. A
521 member shall vote in person or by such other means as provided
522 in the bylaws. The bylaws may provide for members' participation

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523 in meetings by telephone or other means of communication.

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

527
528 ARTICLE VII

529 RULEMAKING FUNCTIONS OF THE COMMISSION; RULES AND OPERATING
530 PROCEDURES; AND OPTING OUT OF UNIFORM STANDARDS

531
532 (1) RULEMAKING AUTHORITY.—The commission shall adopt
533 reasonable rules, including uniform standards, and operating
534 procedures in order to effectively and efficiently achieve the
535 purposes of this compact. Notwithstanding such requirement, if
536 the commission exercises its rulemaking authority in a manner
537 that is beyond the scope of the purposes of this compact or the
538 powers granted under this compact, such action by the commission
539 shall be invalid and have no force and effect.

540 (2) RULEMAKING PROCEDURE.—Rules and operating procedures
541 shall be made pursuant to a rulemaking process that conforms to
542 the Model State Administrative Procedure Act of 1981, as
543 amended, as may be appropriate to the operations of the
544 commission. Before the commission adopts a uniform standard, the
545 commission shall give written notice to the relevant state
546 legislative committees in each compact state responsible for
547 insurance issues of its intention to adopt the uniform standard.
548 The commission, in adopting a uniform standard, shall consider
549 fully all submitted materials and issue a concise explanation of
550 its decision.

551 (3) EFFECTIVE DATE AND OPT OUT OF A UNIFORM STANDARD.—A

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552 uniform standard shall become effective 90 days after its
553 adoption by the commission or such later date as the commission
554 may determine; provided a compact state may opt out of a uniform
555 standard as provided in this article. All other rules and
556 operating procedures, and amendments thereto, shall become
557 effective as of the date specified in each rule, operating
558 procedure, or amendment.

559 (4) OPT-OUT PROCEDURE.-

560 (a) A compact state may opt out of a uniform standard by
561 legislation or regulation adopted by the Office of Insurance
562 Regulation under such state's Administrative Procedure Act. For
563 purposes of this compact and this state, the Office of Insurance
564 Regulation constitutes this state's agency for purposes of this
565 subsection. If a compact state elects to opt out of a uniform
566 standard by regulation, the state must:

567 1. Give written notice to the commission no later than 10
568 business days after the uniform standard is adopted, or at the
569 time the state becomes a compact state.

570 2. Find that the uniform standard does not provide
571 reasonable protections to the residents of the state, given the
572 conditions in the state.

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

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581 1. The intent of the Legislature to participate in, and the
582 benefits of, an interstate agreement to establish national
583 uniform consumer protections for the products subject to this
584 compact.

585 2. The presumption that a uniform standard adopted by the
586 commission provides reasonable protections to consumers of the
587 relevant product.

588

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

599 (5) EFFECT OF OPTING OUT.—If a compact state elects to opt
600 out of a uniform standard, the uniform standard shall remain
601 applicable in the compact state electing to opt out until such
602 time the opt-out legislation is enacted into law or the
603 regulation opting out becomes effective. Once the opt out of a
604 uniform standard by a compact state becomes effective as
605 provided under the laws of that state, the uniform standard
606 shall have no further force and effect in that state unless and
607 until the legislation or regulation implementing the opt out is
608 repealed or otherwise becomes ineffective under the laws of the
609 state. If a compact state opts out of a uniform standard after

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610 the uniform standard has been made effective in that state, the
611 opt out shall have the same prospective effect as provided under
612 Article XIV of this compact for withdrawals.

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

632 (7) JUDICIAL REVIEW.—Not later than 30 days after a rule or
633 operating procedure is adopted, any person may file a petition
634 for judicial review of the rule or operating procedure; provided
635 the filing of such a petition shall not stay or otherwise
636 prevent the rule or operating procedure from becoming effective
637 unless the court finds that the petitioner has a substantial
638 likelihood of success. The court shall give deference to the

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639 actions of the commission consistent with applicable law and
640 shall not find the rule or operating procedure to be unlawful if
641 the rule or operating procedure represents a reasonable exercise
642 of the commission's authority.

644 ARTICLE VIII

645 COMMISSION RECORDS AND ENFORCEMENT.-

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

658 (2) Except as to privileged records, data, and information,
659 the laws of any compact state pertaining to confidentiality or
660 nondisclosure shall not relieve any compact state commissioner
661 of the duty to disclose any relevant records, data, or
662 information to the commission; provided disclosure to the
663 commission shall not be deemed to waive or otherwise affect any
664 confidentiality requirement; and further provided, except as
665 otherwise expressly provided in this compact, the commission
666 shall not be subject to the compact state's laws pertaining to
667 confidentiality and nondisclosure with respect to records, data,

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668 and information in its possession. Confidential information of
669 the commission shall remain confidential after such information
670 is provided to any commissioner.

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

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

687 (a) With respect to the commissioner's market regulation of
688 a product or advertisement that is approved or certified to the
689 commission, the content of the product or advertisement shall
690 not constitute a violation of the provisions, standards, or
691 requirements of the compact except upon a final order of the
692 commission, issued at the request of a commissioner after prior
693 notice to the insurer and an opportunity for hearing before the
694 commission.

695 (b) Before a commissioner may bring an action for violation
696 of any provision, standard, or requirement of the compact

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697 relating to the content of an advertisement not approved or
698 certified to the commission, the commission, or an authorized
699 commission officer or employee, must authorize the action.
700 However, authorization pursuant to this paragraph does not
701 require notice to the insurer, opportunity for hearing, or
702 disclosure of requests for authorization or records of the
703 commission's action on such requests.

704
705 ARTICLE IX

706 DISPUTE RESOLUTION

707
708 The commission shall attempt, upon the request of a member,
709 to resolve any disputes or other issues that are subject to this
710 compact and that may arise between two or more compact states,
711 or between compact states and noncompact states, and the
712 commission shall adopt an operating procedure providing for
713 resolution of such disputes.

714
715 ARTICLE X

716 PRODUCT FILING AND APPROVAL

717
718 (1) Insurers and third-party filers seeking to have a
719 product approved by the commission shall file the product with
720 and pay applicable filing fees to the commission. This compact
721 does not restrict or otherwise prevent an insurer from filing
722 its product with the insurance department in any state in which
723 the insurer is licensed to conduct the business of insurance and
724 such filing shall be subject to the laws of the states where
725 filed.

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

737 (3) Any product approved by the commission may be sold or
738 otherwise issued in those compact states for which the insurer
739 is legally authorized to do business.

741 ARTICLE XI

742 REVIEW OF COMMISSION DECISIONS REGARDING FILINGS

743
744 (1) No later than 30 days after the commission has given
745 notice of a disapproved product or advertisement filed with the
746 commission, the insurer or third-party filer whose filing was
747 disapproved may appeal the determination to a review panel
748 appointed by the commission. The commission shall adopt rules to
749 establish procedures for appointing such review panels and
750 provide for notice and hearing. An allegation that the
751 commission, in disapproving a product or advertisement filed
752 with the commission, acted arbitrarily, capriciously, or in a
753 manner that is an abuse of discretion or otherwise not in
754 accordance with the bylaw, is subject to judicial review in

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755 accordance with subsection (4) of Article III of this compact.

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

762
763 ARTICLE XII

764 FINANCE

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

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

780 (3) The commission's budget for a fiscal year shall not be
781 approved until the budget has been subject to notice and comment
782 as set forth in Article VII of this compact.

783 (4) The commission shall be exempt from all taxation in and

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784 by the compact states.

785 (5) The commission shall not pledge the credit of any
786 compact state, except by and with the appropriate legal
787 authority of that compact state.

788 (6) The commission shall keep complete and accurate
789 accounts of all its internal receipts, including grants and
790 donations, and disbursements of all funds under its control. The
791 internal financial accounts of the commission shall be subject
792 to the accounting procedures established under its bylaws. The
793 financial accounts and reports, including the system of internal
794 controls and procedures of the commission, shall be audited
795 annually by an independent certified public accountant. Upon the
796 determination of the commission, but no less frequently than
797 every 3 years, the review of the independent auditor shall
798 include a management and performance audit of the commission.
799 The commission shall make an annual report to the Governor and
800 the presiding officers of the Legislature of the compact states,
801 which shall include a report of the independent audit. The
802 commission's internal accounts shall not be confidential and
803 such materials may be shared with the commissioner of any
804 compact state upon request; provided insurers' trade secrets
805 shall remain confidential.

806 (7) A compact state does not have any claim to or ownership
807 of any property held by or vested in the commission or to any
808 commission funds held pursuant to the provisions of this
809 compact.

811 ARTICLE XIII

812 COMPACT STATES, EFFECTIVE DATE, AND AMENDMENTS

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813

814 (1) Any state is eligible to become a compact state.

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

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

834

835 ARTICLE XIV

836 WITHDRAWAL, DEFAULT, AND DISSOLUTION

837

838 (1) WITHDRAWAL.—

839 (a) Once effective, the compact shall continue in force and
840 remain binding upon each and every compact state; provided a
841 compact state may withdraw from the compact by enacting a law

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842 specifically repealing the law that enacted the compact into
843 law.

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

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

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

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

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

874 (2) DEFAULT.—

875 (a) If the commission determines that any compact state has
876 at any time defaulted in the performance of any of its
877 obligations or responsibilities under this compact, the bylaws,
878 or duly adopted rules or operating procedures, after notice and
879 hearing as set forth in the bylaws, all rights, privileges, and
880 benefits conferred by this compact on the defaulting state shall
881 be suspended from the effective date of default as fixed by the
882 commission. The grounds for default include, but are not limited
883 to, failure of a compact state to perform its obligations or
884 responsibilities, and any other grounds designated in commission
885 rules. The commission shall immediately notify the defaulting
886 state in writing of the defaulting state's suspension pending a
887 cure of the default. The commission shall stipulate the
888 conditions and the time period within which the defaulting state
889 must cure its default. If the defaulting state fails to cure the
890 default within the time period specified by the commission, the
891 defaulting state shall be terminated from the compact and all
892 rights, privileges, and benefits conferred by this compact shall
893 be terminated from the effective date of termination.

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

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

902 (3) DISSOLUTION OF THE COMPACT.-

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

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

911
912 ARTICLE XV

913 SEVERABILITY AND CONSTRUCTION

914
915 (1) If any provision of this act or its application to any
916 person or circumstance is held invalid, the invalidity does not
917 affect other provisions or applications of this act which can be
918 given effect without the invalid provision or application, and
919 to this end the provisions of this act are severable.

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

922
923 Article XVI

924 BINDING EFFECT OF COMPACT AND OTHER LAWS

925
926 (1) BINDING EFFECT OF THIS COMPACT.-

927 (a) All lawful actions of the commission, including all
928 rules and operating procedures adopted by the commission, are

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929 binding upon the compact states.

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

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

937 (d) If any provision of this compact exceeds the
938 constitutional limits imposed on the Legislature of any compact
939 state, the obligations, duties, powers, or jurisdiction sought
940 to be conferred by that provision upon the commission shall be
941 ineffective as to that compact state and those obligations,
942 duties, powers, or jurisdiction shall remain in the compact
943 state and shall be exercised by the agency of such state to
944 which those obligations, duties, powers, or jurisdiction are
945 delegated by law in effect at the time this compact becomes
946 effective.

947 (2) OTHER LAWS.—

948 (a) This compact does not prevent the enforcement of any
949 other law of a compact state, except as provided in paragraph

950 (b) .

951 (b) For any product approved or certified to the
952 commission, the rules, uniform standards, and any other
953 requirements of the commission shall constitute the exclusive
954 provisions applicable to the content, approval, and
955 certification of such products. For advertising that is subject
956 to the commission's authority, any rule, uniform standard, or
957 other requirement of the commission which governs the content of

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958 the advertisement shall constitute the exclusive provision that
959 a commissioner may apply to the content of the advertisement.

960 Notwithstanding this paragraph, an action taken by the
961 commission does not abrogate or restrict:

962 1. The access of any person to a court of this state;

963 2. Remedies available under the laws of this state related
964 to breach of contract, tort, or other laws not specifically
965 directed to the content of the product;

966 3. State law relating to the construction of insurance
967 contracts; or

968 4. The authority of the Attorney General, including, but
969 not limited to, maintaining any action or proceeding, as
970 authorized by law.

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

973 Section 3. (1) This act shall take effect on the date upon
974 which the operational procedures and adopted rules of the
975 Interstate Insurance Product Regulation Commission comply with
976 the public-records laws of this state.

977 (2) If this act takes effect pursuant to subsection (1),
978 this act becomes void on the date upon which the operational
979 procedures and adopted rules of the Interstate Insurance Product
980 Regulation Commission no longer comply with the provisions of
981 the public-records laws of this state.