

By Senator Hukill

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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; providing definitions;
5 providing for establishment of an Interstate Insurance
6 Product Regulation Commission; providing
7 responsibilities of the commission; specifying the
8 commission as an instrumentality of the compacting
9 states; providing for venue; specifying the commission
10 as a separate, not-for-profit entity; providing powers
11 of the commission; providing for organization of the
12 commission; providing for membership, voting, and
13 bylaws; designating the Commissioner of Insurance
14 Regulation as the representative of this state on the
15 commission; providing for a management committee,
16 officers, and personnel of the commission; providing
17 authority of the management committee; providing for
18 legislative and advisory committees; providing for
19 qualified immunity, defense, and indemnification of
20 members, officers, employees, and representatives of
21 the commission; providing for meetings and acts of the
22 commission; providing rules and operating procedures;
23 providing rulemaking functions of the commission;
24 providing for opting out of uniform standards;
25 providing procedures and requirements; providing for
26 commission records and enforcement; authorizing the
27 commission to adopt rules; providing for disclosure of
28 certain information; specifying that certain records,
29 data, or information of the commission in possession

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30 of the Office of Insurance Regulation is subject to
31 ch. 119, F.S.; requiring the commission to monitor for
32 compliance; providing for dispute resolution;
33 providing for product filing and approval; requiring
34 the commission to establish filing and review
35 processes and procedures; providing for review of
36 commission decisions regarding filings; providing for
37 finance 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 compacting
43 states without authority; requiring the commission to
44 keep complete accurate accounts, provide for audits,
45 and make annual reports to the Governors and
46 Legislatures of compacting states; providing for
47 effective date and amendment of the compact; providing
48 for withdrawal from the compact, default by compacting
49 states, and dissolution of the compact; providing
50 severability and construction; providing for binding
51 effect of compact and other laws; authorizing the
52 office to exercise the state's right to prospectively
53 opt out of all uniform standards in the compact
54 involving long-term care insurance products; providing
55 an effective date.

56
57 Be It Enacted by the Legislature of the State of Florida:
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59 Section 1. Legislative findings; intent.—

60 (1) The Legislature finds that:

61 (a) The financial services marketplace has changed
62 significantly in recent years and that asset-based insurance
63 products, which include life insurance, annuities, disability
64 income insurance, and long-term care insurance, now compete
65 directly with other retirement and estate planning instruments
66 that are sold by banks and securities firms.

67 (b) The increased mobility of the population and the risks
68 borne by these asset-based products are not local in nature.

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

76 (d) The product standards that have been developed provide
77 a high level of consumer protection. It is noted that the
78 Interstate Insurance Product Regulation Compact Model includes a
79 mechanism for opting out of any product standard that the state
80 determines would not reasonably protect its residents. With
81 respect to long-term care insurance, the Legislature understands
82 that the compact does not intend to develop a uniform standard
83 for rate increase filings, thereby leaving the authority over
84 long-term care rate increases with the state. The state relies
85 on that understanding in adopting this legislation.

86 (2) Therefore, the state, pursuant to the terms and
87 conditions of this act, seeks to join with other states and

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88 establish the Interstate Insurance Product Regulation Compact,
89 and thus become a member of the Interstate Insurance Product
90 Regulation Commission.

91 Section 2. Interstate Insurance Product Regulation
92 Compact.—The Interstate Insurance Product Regulation Compact is
93 hereby enacted into law and entered into by this state together
94 with all other states legally joining in substantially the
95 following form:

96
97 Interstate Insurance Product Regulation Compact

98
99 Preamble

100
101 This compact is intended to help states join together to
102 establish an interstate compact to regulate designated insurance
103 products. Pursuant to the terms and conditions of this compact,
104 this state seeks to join with other states and establish the
105 Interstate Insurance Product Regulation Compact and thus become
106 a member of the Interstate Insurance Product Regulation
107 Commission.

108
109 Article I

110
111 PURPOSES.—Through joint and cooperative action among
112 compacting states, the purposes of this compact are to:

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

116 (2) Develop uniform standards for insurance products

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117 covered under the compact.

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

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

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

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

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

135
136 Article II
137

138 DEFINITIONS.—For purposes of this compact:

139 (1) "Advertisement" means any material designed to create
140 public interest in a product, or induce the public to purchase,
141 increase, modify, reinstate, borrow on, surrender, replace, or
142 retain a policy, as more specifically defined in the rules and
143 operating procedures of the commission adopted as of December
144 31, 2011, and subsequent amendments if the methodology remains
145 substantially consistent.

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146 (2) "Bylaws" means those bylaws adopted by the commission
147 as of March 1, 2013, and subsequent amendments if the
148 methodology remains substantially consistent, for its governance
149 or for directing or controlling the commission's actions or
150 conduct.

151 (3) "Commission" means the "Interstate Insurance Product
152 Regulation Commission" established by this compact.

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

159 (5) "Compacting state" means any state that has enacted
160 this compact legislation and has not withdrawn pursuant to
161 section (1) of Article XIV or been terminated pursuant to
162 section (2) of Article XIV.

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

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

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

171 (9) "Noncompacting state" means any state that is not a
172 compacting state at this time.

173 (10) "Office" means the Office of Insurance Regulation of
174 the Department of Financial Services.

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175 (11) "Operating procedures" means procedures adopted by the
176 commission as of December 31, 2011, and subsequent amendments if
177 the methodology remains substantially consistent, implementing a
178 rule, uniform standard, or provision of this compact.

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

185 (13) "Rule" means a statement of general or particular
186 applicability and future effect adopted by the commission as of
187 March 1, 2013, and subsequent amendments if the methodology
188 remains substantially consistent, including a uniform standard
189 developed pursuant to Article VII, designed to implement,
190 interpret, or prescribe law or policy or describing the
191 organization, procedure, or practice requirements of the
192 commission, which have the force and effect of law in the
193 compacting states.

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

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

198 (16) "Uniform standard" means a standard adopted by the
199 commission as of March 1, 2013, and subsequent amendments if the
200 methodology remains substantially consistent, for a product line
201 pursuant to Article VII and includes all of the product
202 requirements in aggregate; provided, each uniform standard is
203 construed, whether express or implied, to prohibit the use of

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204 any inconsistent, misleading, or ambiguous provisions in a
205 product and the form of the product made available to the public
206 is not unfair, inequitable, or against public policy as
207 determined by the commission.

208
209 Article III

210
211 COMMISSION; ESTABLISHMENT; VENUE.-

212 (1) The compacting states hereby create and establish a
213 joint public agency known as the Interstate Insurance Product
214 Regulation Commission. Pursuant to Article IV, the commission
215 may develop uniform standards for product lines, receive and
216 provide prompt review of products filed with the commission, and
217 give approval to those product filings satisfying applicable
218 uniform standards. However, it is not intended that the
219 commission be the exclusive entity for receipt and review of
220 insurance product filings. This article does not prohibit any
221 insurer from filing its product in any state in which the
222 insurer is licensed to conduct the business of insurance and
223 such filing is subject to the laws of that state.

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

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

229 (4) Venue is proper and judicial proceedings by or against
230 the commission must be brought in a court where the principal
231 office of the commission is located.

232 (5) The commission is a not-for-profit entity, separate and

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233 distinct from the individual compacting states.

234
235 Article IV

236
237 POWERS.—The commission may:

238 (1) Adopt rules, pursuant to Article VII, which have the
239 force and effect of law and are binding in the compacting states
240 to the extent and in the manner provided in this compact.

241 (2) Exercise its rulemaking authority and establish
242 reasonable uniform standards for products covered under the
243 compact, and related advertisements, which have the force and
244 effect of law and are binding in the compacting states, but only
245 for those products filed with the commission. However, a
246 compacting state may opt out of a uniform standard pursuant to
247 Article VII, and any uniform standard established by the
248 commission for long-term care insurance products must provide to
249 consumers, at the minimum, the same protections as those
250 specified in the National Association of Insurance
251 Commissioners' Long-Term Care Insurance Model Act and Long-Term
252 Care Insurance Model Regulation, respectively, adopted as of
253 2001. The commission shall consider whether any subsequent
254 amendments to the model act or model regulation require amending
255 the uniform standards established by the commission for long-
256 term care insurance products.

257 (3) Expeditiously receive and review products filed with
258 the commission and rate filings for disability income and long-
259 term care insurance products and approve those products and rate
260 filings that satisfy the applicable uniform standard, and such
261 approval has the force and effect of law and is binding on the

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262 compacting states to the extent and in the manner provided in
263 the compact.

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

285 (7) Bring and prosecute legal proceedings or actions in its
286 name as the commission if the standing of any state insurance
287 department to sue or be sued under applicable law is not
288 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 compacting 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 all appropriate donations and grants of money,
303 equipment, supplies, materials, and services and receive, use,
304 and dispose of the same. The commission shall strive at all
305 times to avoid any appearance of impropriety.
- 306 (14) Lease, purchase, and accept appropriate gifts or
307 donations of, or otherwise own, hold, improve, or use, any
308 property, real, personal, or mixed. The commission shall strive
309 at all times to avoid any appearance of impropriety.
- 310 (15) Sell, convey, mortgage, pledge, lease, exchange,
311 abandon, or otherwise dispose of property, real, personal, or
312 mixed.
- 313 (16) Remit filing fees to compacting states as may be
314 specified in the bylaws, rules, or operating procedures.
- 315 (17) Enforce compliance by compacting states with rules,
316 uniform standards, operating procedures, and bylaws.
- 317 (18) Provide for dispute resolution among compacting
318 states.
- 319 (19) Advise compacting states on issues relating to

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320 insurers domiciled or doing business in noncompacting
321 jurisdictions, consistent with the purposes of this compact.

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

325 (21) Establish a budget and make expenditures.

326 (22) Borrow money.

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

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

334 (25) Adopt and use a corporate seal.

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

338

339 Article V

340

341 ORGANIZATION.—

342 (1) Membership; voting; bylaws.—

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

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349 accordance with the laws of the compacting state in which the
350 vacancy exists. This article does not affect the manner in which
351 a compacting state determines the election or appointment and
352 qualification of its own commissioner. The Commissioner of
353 Insurance Regulation is hereby designated to serve as the
354 representative of this state on the commission.

355 (b) Each member is entitled to one vote and may participate
356 in the governance of the commission in accordance with the
357 bylaws. Notwithstanding any other provision of this article, an
358 action of the commission with respect to the adoption of a
359 uniform standard is not effective unless two-thirds of the
360 members vote in favor of such action.

361 (c) The commission shall, by a majority of the members,
362 prescribe bylaws to govern its conduct as may be necessary or
363 appropriate to carry out the purposes and exercise the powers of
364 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 commission meetings that consist of a majority of
375 commission members, ensuring reasonable advance notice of each
376 meeting, and providing for the right of citizens to attend each
377 meeting with enumerated exceptions designed to protect the

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378 public's interest, the privacy of individuals, and insurers'
379 proprietary information, including, but not limited to, trade
380 secrets. The commission may meet in camera only after a majority
381 of the entire membership votes to close a meeting in total or in
382 part. As soon as practicable, the commission must make public a
383 copy of the vote to close the meeting revealing the vote of each
384 member with no proxy votes allowed, and votes taken during such
385 meeting. Notice of commission meetings, including instructions
386 for public participation, received by the office must be
387 published in the Florida Administrative Weekly.

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

391 6. Providing reasonable standards and procedures for the
392 establishment of the personnel policies and programs of the
393 commission. Notwithstanding any civil service or other similar
394 laws of any compacting state, the bylaws exclusively govern the
395 personnel policies and programs of the commission.

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

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

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

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407 (2) Management committee, officers, and personnel.—

408 (a) A management committee comprised of up to 14 members
409 shall be established as follows:

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

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

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

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

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

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

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436 made by a compacting state to opt out of a uniform standard. A
437 uniform standard may not be submitted to the compacting states
438 for adoption unless approved by two-thirds of the members of the
439 management committee.

440 3. Overseeing the offices of the commission.

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

444 (c) The commission shall annually elect officers from the
445 management committee, who have such authority and duties as may
446 be specified in the bylaws.

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

455 (3) Legislative and advisory committees.—

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

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465 legislative committee.

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

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

473 (4) Corporate records of the commission.—The commission
474 shall maintain its corporate books and records in accordance
475 with the bylaws.

476 (5) Qualified immunity; defense; indemnification.—

477 (a) The members, officers, executive director, employees,
478 and representatives of the commission are immune from suit and
479 liability, personally or in their official capacity, for any
480 claim for damage to or loss of property or personal injury or
481 other civil liability caused by or arising out of any actual or
482 alleged act, error, or omission that occurred, or that the
483 person against whom the claim is made had a reasonable basis for
484 believing occurred within the scope of commission employment,
485 duties, or responsibilities. This subsection does not protect
486 any such person from suit or liability for any damage, loss,
487 injury, or liability caused by that person's intentional or
488 willful and wanton misconduct.

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 if
497 the actual or alleged act, error, or omission did not result
498 from that person's intentional or willful and wanton misconduct.
499 However, such person is not prohibited from retaining his or her
500 own counsel.

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 if the actual or alleged act, error, or omission did not result
510 from the person's intentional or willful and wanton misconduct.

512 Article VI

514 MEETINGS; ACTS.—

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

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

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

526
527 Article VII

528
529 RULES AND OPERATING PROCEDURES; RULEMAKING FUNCTIONS OF THE
530 COMMISSION; OPTING OUT OF UNIFORM STANDARDS.—

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

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

550 (3) Effective date and opt out of a uniform standard.—A
551 uniform standard is effective 90 days after its adoption by the

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552 commission, or such later date as the commission may determine.
553 However, a compacting state may opt out of a uniform standard as
554 provided in this article. The term "opt out" means any action by
555 a compacting state to decline to adopt or participate in an
556 adopted uniform standard. All other rules and operating
557 procedures, and amendments, become effective on the date
558 specified in each rule, operating procedure, or amendment.

559 (4) Opt-out procedure.-

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

567 1. Give written notice to the commission within 10 business
568 days after the uniform standard is adopted, or at the time the
569 state becomes a compacting state.

570 2. Find that the uniform standard does not provide
571 reasonable protections to the residents of that 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 that 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 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 section, a compacting 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 opt out may not be treated as a material
594 variance in the offer or acceptance of any state to participate
595 in this compact. Such opt out is effective at the time of
596 enactment of this compact by the compacting state and applies to
597 all existing uniform standards involving long-term care
598 insurance products and those subsequently adopted.

599 (5) Effect of opting out.—If a compacting state elects to
600 opt out of a uniform standard, the uniform standard remains
601 applicable in the compacting state electing to opt out until the
602 opt out legislation is enacted into law or the regulation opting
603 out becomes effective. Once the opt out of a uniform standard
604 becomes effective as provided under the laws of that state, the
605 uniform standard has no further force and effect in that state
606 unless the legislation or regulation implementing the opt out is
607 repealed or otherwise becomes ineffective under the laws of the
608 state. If a compacting state opts out of a uniform standard
609 after the uniform standard has been made effective in that

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610 state, the opt out has the same prospective effect as provided
611 under Article XIV for withdrawals.

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

630 (7) Judicial review.—Within 30 days after a rule or
631 operating procedure is adopted, any person may file a petition
632 for judicial review of the rule or operating procedure. However,
633 the filing of such a petition does not stay or otherwise prevent
634 the rule or operating procedure from becoming effective unless
635 the court finds that the petitioner has a substantial likelihood
636 of success. The court shall give deference to the actions of the
637 commission consistent with applicable law and may not find the
638 rule or operating procedure to be unlawful if the rule or

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639 operating procedure represents a reasonable exercise of the
640 commission's authority.

641
642 Article VIII

643
644 COMMISSION RECORDS AND ENFORCEMENT.—

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

655 (2) Except for privileged records, data, and information,
656 the laws of any compacting state pertaining to confidentiality
657 or nondisclosure do not relieve a compacting state commissioner
658 of the duty to disclose any relevant records, data, or
659 information to the commission if disclosure is not deemed to
660 wave or otherwise affect any confidentiality requirement, and,
661 except as otherwise expressly provided in this compact, the
662 commission is not subject to the compacting state's laws
663 pertaining to confidentiality and nondisclosure with respect to
664 records, data, and information in its possession. Confidential
665 information of the commission remains confidential after such
666 information is provided to any commissioner. However, all
667 requests from the public to inspect or copy records, data, or

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668 information of the commission received by and in the possession
669 of the office are subject to chapter 119, Florida Statutes.

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

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

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

693 (b) Before a commissioner may bring an action for violation
694 of any provision, standard, or requirement of the compact
695 relating to the content of an advertisement not approved or
696 certified to the commission, the commission, or an authorized

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697 commission officer or employee, must authorize the action.
698 However, such authorization does not require notice to the
699 insurer, opportunity for hearing, or disclosure of requests for
700 authorization or records of the commission's action on such
701 requests.

703 Article IX

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

712 Article X

714 PRODUCT FILING AND APPROVAL.—

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

722 (2) The commission shall establish appropriate filing and
723 review processes and procedures pursuant to commission rules and
724 operating procedures. Notwithstanding any provision of this
725 article, the commission shall adopt rules to establish

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726 conditions and procedures under which the commission provides
727 public access to product filing information. In establishing
728 such rules, the commission shall consider the interests of the
729 public in having access to such information, as well as the
730 protection of personal medical and financial information and
731 trade secrets, which may be contained in a product filing or
732 supporting information.

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

737 Article XI

739 REVIEW OF COMMISSION DECISIONS REGARDING FILINGS.—

740 (1) Within 30 days after the commission has given notice of
741 a disapproved product or advertisement filed with the
742 commission, the insurer or third-party filer whose filing was
743 disapproved may appeal the determination to a review panel
744 appointed by the commission. The commission shall adopt rules to
745 establish procedures for appointing such review panels and
746 provide for notice and hearing. An allegation that the
747 commission, in disapproving a product or advertisement filed
748 with the commission, acted arbitrarily, capriciously, or in a
749 manner that is an abuse of discretion or otherwise not in
750 accordance with the law, is subject to judicial review in
751 accordance with section (4) of Article III.

752 (2) The commission may monitor, review, and reconsider
753 products and advertisement subsequent to their filing or
754 approval upon a finding that the product does not meet the

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755 relevant uniform standard. If appropriate, the commission may
756 withdraw or modify its approval after proper notice and hearing,
757 subject to the appeal process in section (1).

758
759 Article XII

760
761 FINANCE.—

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

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

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

779 (4) The commission is exempt from all taxation in and by
780 the compacting states.

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

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784 (6) The commission shall keep complete and accurate
785 accounts of all its internal receipts, including grants and
786 donations, and disbursements of all funds under its control. The
787 internal financial accounts of the commission are subject to the
788 accounting procedures established under its bylaws. The
789 financial accounts and reports, including the system of internal
790 controls and procedures of the commission, shall be audited
791 annually by an independent certified public accountant. Upon the
792 determination of the commission, but at least every 3 years, the
793 review of the independent auditor must include a management and
794 performance audit of the commission. The commission shall make
795 an annual report to the Governor and the presiding officers of
796 the Legislature of the compacting states, which includes the
797 report of the independent audit. The commission's internal
798 accounts are not confidential, and such materials may be shared
799 with the commissioner of any compacting state upon request.
800 However, any work papers related to any internal or independent
801 audit and any information regarding the privacy of individuals
802 and insurers' proprietary information, including trade secrets,
803 remain confidential.

804 (7) A compacting state does not have any claim to or
805 ownership of any property held by or vested in the commission or
806 to any commission funds held pursuant to this compact.

807

808 Article XIII

809

810 COMPACTING STATES; EFFECTIVE DATE; AMENDMENT.—

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

812 (2) The compact becomes effective and binding upon the

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

825 (3) Amendments to the compact may be proposed by the
826 commission for enactment by the compacting states. An amendment
827 is not effective and binding upon the commission and the
828 compacting states until all compacting states enact the
829 amendment into law.

830

831 Article XIV

832

833 WITHDRAWAL; DEFAULT; DISSOLUTION.—

834 (1) Withdrawal.—

835 (a) Once effective, the compact continues in force and
836 remains binding upon each compacting state. However, a
837 compacting state may withdraw from the compact by enacting a law
838 specifically repealing the law that enacted the compact into
839 law.

840 (b) The effective date of withdrawal is the effective date
841 of the repealing law. However, the withdrawal does not apply to

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842 any product filings approved or self-certified, or any
843 advertisement of such products, on the date the repealing law
844 becomes effective, except by mutual agreement of the commission
845 and the withdrawing state unless the approval is rescinded by
846 the withdrawing state as provided in subsection (e).

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

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

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

867 (f) Reinstatement following withdrawal of any compacting
868 state occurs upon the effective date of the withdrawing state
869 reenacting the compact.

870 (2) Default.-

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

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

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

898 (3) Dissolution of compact.-

899 (a) The compact dissolves effective upon the date that the

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900 withdrawal or default of a compacting state reduces membership
901 in the compact to a single compacting state.

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

906
907 Article XV

908
909 SEVERABILITY; CONSTRUCTION.—

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

913 (2) The provisions of this compact shall be liberally
914 construed to carry out its purposes.

915
916 Article XVI

917
918 BINDING EFFECT OF COMPACT AND OTHER LAWS.—

919 (1) Binding effect of this compact.—

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

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

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

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929 dispute.

930 (d) If any provision of this compact exceeds the
931 constitutional limits imposed on the Legislature of any
932 compacting state, the obligations, duties, powers, or
933 jurisdiction sought to be conferred upon the commission is
934 ineffective as to that compacting state, and those obligations,
935 duties, powers, or jurisdiction remains in the compacting state
936 and shall be exercised by the agency of such state to which
937 those obligations, duties, powers, or jurisdiction is delegated
938 by law in effect at the time this compact becomes effective.

939 (2) Other laws.—

940 (a) This compact prevents the enforcement of any other law
941 of a compacting state, except as provided in subsection (b).

942 (b) For any product approved or certified to the
943 commission, the rules, uniform standards, and other requirements
944 of the commission constitute the exclusive provisions applicable
945 to the content, approval, and certification of such products.
946 For advertisement that is subject to the commission's authority,
947 any rule, uniform standard, or other requirement of the
948 commission which governs the content of the advertisement
949 constitutes the exclusive provision that a commissioner may
950 apply to the content of the advertisement. Notwithstanding this
951 subsection, actions taken by the commission may not abrogate or
952 restrict:

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

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

957 3. State law relating to the construction of insurance

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958 contracts; or

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

962 (c) All insurance products filed with individual states are
963 subject to the laws of those states.

964 Section 3. Pursuant to Article VII of the compact,
965 authorized under this act, the State of Florida elects to
966 prospectively opt out of all uniform standards contained in the
967 compact involving long-term care insurance products, and such an
968 opt out may not be treated as a material variance in the offer
969 or acceptance of this state to participate in the compact.

970 Section 4. The Office of Insurance Regulation may adopt
971 rules to implement this act. The office may use the rulemaking
972 authority granted in this section to opt out of any new uniform
973 standards adopted after the effective date of this act, pursuant
974 to Article VII, until such standards are approved by the
975 Legislature.

976 Section 5. This act shall take effect October 1, 2013.