

By the Committee on Banking and Insurance; and 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 the establishment of an Interstate
6 Insurance 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 the state on the
15 commission; allowing the Commissioner of Insurance to
16 designate a person to represent the state on the
17 commission, as is necessary, to fulfill the duties of
18 being a member of the commission; providing for a
19 management committee, officers, and personnel of the
20 commission; providing authority of the management
21 committee; providing for legislative and advisory
22 committees; providing for qualified immunity, defense,
23 and indemnification of members, officers, employees,
24 and representatives of the commission; providing for
25 meetings and acts of the commission; providing rules
26 and operating procedures; providing rulemaking
27 functions of the commission; providing for opting out
28 of uniform standards; providing procedures and
29 requirements; providing for commission records and

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30 enforcement; authorizing the commission to adopt
31 rules; providing for disclosure of certain
32 information; specifying that certain records, data, or
33 information of the commission, wherever received, by
34 and in possession of the Office of Insurance
35 Regulation is subject to ch. 119, F.S.; requiring the
36 commission to monitor for compliance; providing for
37 dispute resolution; providing for product filing and
38 approval; requiring the commission to establish filing
39 and review processes and procedures; providing for
40 review of commission decisions regarding filings;
41 providing for finance of commission activities;
42 providing for payment of expenses; authorizing the
43 commission to collect filing fees for certain
44 purposes; providing for approval of a commission
45 budget; exempting the commission from all taxation,
46 except as otherwise provided; prohibiting the
47 commission from pledging the credit of any compacting
48 states without authority; requiring the commission to
49 keep complete accurate accounts, provide for audits,
50 and make annual reports to the Governors and
51 Legislatures of compacting states; providing for
52 amendment of the compact; providing for withdrawal
53 from the compact, default by compacting states, and
54 dissolution of the compact; providing severability and
55 construction; providing for binding effect of this
56 compact and other laws; prospectively opting out of
57 all uniform standards adopted by the commission
58 involving long-term care insurance products; adopting

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59 all other existing uniform standards that have been
60 adopted by the commission; providing a procedure for
61 adoption of any new uniform standards or amendments to
62 existing uniform standards of the commission;
63 requiring the office to notify the Legislature of any
64 new uniform standards or amendments to existing
65 uniform standards of the commission; providing that
66 any new uniform standards or amendments to existing
67 uniform standards of the commission may only be
68 adopted via legislation; authorizing the Financial
69 Services Commission to adopt rules to implement this
70 act and opt out of certain uniform standards;
71 providing an effective date.

72
73 Be It Enacted by the Legislature of the State of Florida:

74
75 Section 1. Legislative findings; intent.—

76 (1) The Legislature finds that the financial services
77 marketplace has changed significantly in recent years and that
78 asset-based insurance products, which include life insurance,
79 annuities, disability income insurance, and long-term care
80 insurance, now compete directly with other retirement and estate
81 planning instruments that are sold by banks and securities
82 firms.

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

86 (3) The Legislature further finds that the Interstate
87 Insurance Product Regulation Compact Model adopted by the

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88 National Association of Insurance Commissioners and endorsed by
89 the National Conference of Insurance Legislators and the
90 National Conference of State Legislatures is designed to address
91 these market changes by providing a uniform set of product
92 standards and a single source for filing of new products.

93 (4) The Legislature further finds that the product
94 standards that have been developed provide a high level of
95 consumer protection. Further, it is noted that the Interstate
96 Insurance Product Regulation Compact Model includes a mechanism
97 for opting out of any product standard that the state determines
98 would not reasonably protect its citizens. With respect to long-
99 term care insurance, the Legislature understands that the
100 compact does not intend to develop a uniform standard for rate
101 increase filings, thereby leaving the authority over long-term
102 care rate increases with the state. The state relies on that
103 understanding in adopting this legislation. The state, pursuant
104 to the terms and conditions of this act, seeks to join with
105 other states and establish the Interstate Insurance Product
106 Regulation Compact, and thus become a member of the Interstate
107 Insurance Product Regulation Commission. The Commissioner of
108 Insurance Regulation is hereby designated to serve as the
109 representative of this state on the commission. The commissioner
110 may designate a person to represent this state on the
111 commission, as is necessary, in order to fulfill the duties of
112 being a member of the commission.

113 Section 2. Interstate Insurance Product Regulation
114 Compact.—The Interstate Insurance Product Regulation Compact is
115 hereby enacted into law and entered into by this state with all
116 states legally joining therein in the form substantially as

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117 follows:

118
119 Interstate Insurance Product Regulation Compact

120
121 Preamble

122
123 This compact is intended to help states join together to
124 establish an interstate compact to regulate designated insurance
125 products. Pursuant to the terms and conditions of this compact,
126 this state seeks to join with other states and establish the
127 Interstate Insurance Product Regulation Compact and thus become
128 a member of the Interstate Insurance Product Regulation
129 Commission.

130
131 Article I

132
133 PURPOSES.—The purposes of this compact are, through means
134 of joint and cooperative action among the compacting states, to:

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

138 (2) Develop uniform standards for insurance products
139 covered under the compact.

140 (3) Establish a central clearinghouse to receive and
141 provide prompt review of insurance products covered under the
142 compact and, in certain cases, advertisements related thereto,
143 submitted by insurers authorized to do business in one or more
144 compacting states.

145 (4) Give appropriate regulatory approval to those product

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146 filings and advertisements satisfying the applicable uniform
147 standard.

148 (5) Improve coordination of regulatory resources and
149 expertise between state insurance departments regarding the
150 setting of uniform standards and review of insurance products
151 covered under the compact.

152 (6) Create the Interstate Insurance Product Regulation
153 Commission.

154 (7) Perform these and such other related functions as may
155 be consistent with the state regulation of the business of
156 insurance.

158 Article II

159
160 DEFINITIONS.—For purposes of this compact, the term:

161 (1) "Advertisement" means any material designed to create
162 public interest in a product, or induce the public to purchase,
163 increase, modify, reinstate, borrow on, surrender, replace, or
164 retain a policy, as more specifically defined in the rules and
165 operating procedures of the commission adopted as of March 1,
166 2013, and subsequent amendments thereto if the methodology
167 remains substantially consistent.

168 (2) "Bylaws" means those bylaws adopted by the commission
169 as of March 1, 2013, for its governance or for directing or
170 controlling the commission's actions or conduct.

171 (3) "Compacting state" means any state which has enacted
172 this compact legislation and has not withdrawn pursuant to
173 subsection (1) of Article XIV of this compact or been terminated
174 pursuant to subsection (2) of Article XIV of this compact.

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

177 (5) "Commissioner" means the chief insurance regulatory
178 official of a state, including, but not limited to, the
179 commissioner, superintendent, director, or administrator. For
180 purposes of this compact, the Commissioner of Insurance
181 Regulation is the chief insurance regulatory official of this
182 state.

183 (6) "Domiciliary state" means the state in which an insurer
184 is incorporated or organized or, in the case of an alien
185 insurer, its state of entry.

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

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

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

193 (10) "Office" means the Office of Insurance Regulation of
194 the Financial Services Commission.

195 (11) "Operating procedures" means procedures adopted by the
196 commission as of March 1, 2013, and subsequent amendments
197 thereto if the methodology remains substantially consistent,
198 implementing a rule, uniform standard, or provision of this
199 compact.

200 (12) "Product" means the form of a policy or contract,
201 including any application, endorsement, or related form which is
202 attached to and made a part of the policy or contract, and any
203 evidence of coverage or certificate, for an individual or group

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204 annuity, life insurance, disability income, or long-term care
205 insurance product that an insurer is authorized to issue.

206 (13) "Rule" means a statement of general or particular
207 applicability and future effect adopted by the commission as of
208 March 1, 2013, and subsequent amendments thereto if the
209 methodology remains substantially consistent, including a
210 uniform standard developed pursuant to Article VII of this
211 compact, designed to implement, interpret, or prescribe law or
212 policy or describe the organization, procedure, or practice
213 requirements of the commission, which shall have the force and
214 effect of law in the compacting states.

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

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

219 (16) "Uniform standard" means a standard adopted by the
220 commission as of March 1, 2013, and subsequent amendments
221 thereto if the methodology remains substantially consistent, for
222 a product line pursuant to Article VII of this compact and shall
223 include all of the product requirements in aggregate; provided,
224 each uniform standard shall be construed, whether express or
225 implied, to prohibit the use of any inconsistent, misleading, or
226 ambiguous provisions in a product and the form of the product
227 made available to the public shall not be unfair, inequitable,
228 or against public policy as determined by the commission.

229

230 Article III

231

232 COMMISSION; ESTABLISHMENT; VENUE.—

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262 the force and effect of law and shall be binding in the
263 compacting states to the extent and in the manner provided in
264 this compact.

265 (2) Exercise its rulemaking authority and establish
266 reasonable uniform standards for products covered under the
267 compact, and advertisement related thereto, which shall have the
268 force and effect of law and shall be binding in the compacting
269 states, but only for those products filed with the commission;
270 provided a compacting state shall have the right to opt out of
271 such uniform standard pursuant to Article VII to the extent and
272 in the manner provided in this compact and any uniform standard
273 established by the commission for long-term care insurance
274 products may provide the same or greater protections for
275 consumers as, but shall provide at least, those protections set
276 forth in the National Association of Insurance Commissioners'
277 Long-Term Care Insurance Model Act and Long-Term Care Insurance
278 Model Regulation, respectively, adopted as of 2001. The
279 commission shall consider whether any subsequent amendments to
280 the National Association of Insurance Commissioners' Long-Term
281 Care Insurance Model Act or Long-Term Care Insurance Model
282 Regulation adopted by the National Association of Insurance
283 Commissioners require amending of the uniform standards
284 established by the commission for long-term care insurance
285 products.

286 (3) Receive and review in an expeditious manner products
287 filed with the commission and rate filings for disability income
288 and long-term care insurance products and give approval of those
289 products and rate filings that satisfy the applicable uniform
290 standard, and such approval shall have the force and effect of

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291 law and be binding on the compacting states to the extent and in
292 the manner provided in the compact.

293 (4) Receive and review in an expeditious manner
294 advertisement relating to long-term care insurance products for
295 which uniform standards have been adopted by the commission, and
296 give approval to all advertisement that satisfies the applicable
297 uniform standard. For any product covered under this compact,
298 other than long-term care insurance products, the commission
299 shall have the authority to require an insurer to submit all or
300 any part of its advertisement with respect to that product for
301 review or approval prior to use, if the commission determines
302 that the nature of the product is such that an advertisement of
303 the product could have the capacity or tendency to mislead the
304 public. The actions of the commission as provided in this
305 subsection shall have the force and effect of law and shall be
306 binding in the compacting states to the extent and in the manner
307 provided in the compact.

308 (5) Exercise its rulemaking authority and designate
309 products and advertisement that may be subject to a self-
310 certification process without the need for prior approval by the
311 commission.

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

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

319 (8) Issue subpoenas requiring the attendance and testimony

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320 of witnesses and the production of evidence.

321 (9) Establish and maintain offices.

322 (10) Purchase and maintain insurance and bonds.

323 (11) Borrow, accept, or contract for services of personnel,
324 including, but not limited to, employees of a compacting state.
325 Any action under this subsection concerning employees of this
326 state may only be taken upon the express written consent of the
327 state.

328 (12) Hire employees, professionals, or specialists; elect
329 or appoint officers and fix their compensation, define their
330 duties, give them appropriate authority to carry out the
331 purposes of the compact, and determine their qualifications; and
332 establish the commission's personnel policies and programs
333 relating to, among other things, conflicts of interest, rates of
334 compensation, and qualifications of personnel.

335 (13) Accept any and all appropriate donations and grants of
336 money, equipment, supplies, materials, and services and to
337 receive, use, and dispose of the same; provided at all times the
338 commission shall avoid any appearance of impropriety.

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

343 (15) Sell, convey, mortgage, pledge, lease, exchange,
344 abandon, or otherwise dispose of any property, real, personal,
345 or mixed.

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

348 (17) Enforce compliance by compacting states with rules,

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349 uniform standards, operating procedures, and bylaws.

350 (18) Provide for dispute resolution among compacting
351 states.

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

355 (20) Provide advice and training to those personnel in
356 state insurance departments responsible for product review and
357 to be a resource for state insurance departments.

358 (21) Establish a budget and make expenditures.

359 (22) Borrow money, provided that this power does not, in
360 any manner, obligate the financial resources of the State of
361 Florida.

362 (23) Appoint committees, including advisory committees,
363 comprising members, state insurance regulators, state
364 legislators or their representatives, insurance industry and
365 consumer representatives, and such other interested persons as
366 may be designated in the bylaws.

367 (24) Provide and receive information from and to cooperate
368 with law enforcement agencies.

369 (25) Adopt and use a corporate seal.

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

373

374 Article V

375

376 ORGANIZATION.—

377 (1) Membership; voting; bylaws.—

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378 (a)1. Each compacting state shall have and be limited to
379 one member. Each member shall be qualified to serve in that
380 capacity pursuant to applicable law of the compacting state. Any
381 member may be removed or suspended from office as provided by
382 the law of the state from which he or she is appointed. Any
383 vacancy occurring in the commission shall be filled in
384 accordance with the laws of the compacting state in which the
385 vacancy exists. Nothing in this article shall be construed to
386 affect the manner in which a compacting state determines the
387 election or appointment and qualification of its own
388 commissioner. However, the commissioner may designate a person
389 to represent this state on the commission, as is necessary, in
390 order to fulfill the duties of being a member of the commission.

391 2. The Commissioner of Insurance Regulation is hereby
392 designated to serve as the representative of this state on the
393 commission. However, the commissioner may designate a person to
394 represent this state on the commission, as is necessary, in
395 order to fulfill the duties of being a member of the commission.

396 (b) Each member shall be entitled to one vote and shall
397 have an opportunity to participate in the governance of the
398 commission in accordance with the bylaws. Notwithstanding any
399 other provision of this article, no action of the commission
400 with respect to the adoption of a uniform standard shall be
401 effective unless two-thirds of the members vote in favor of such
402 action.

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

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- 407 1. Establishing the fiscal year of the commission.
- 408 2. Providing reasonable procedures for appointing and
409 electing members, as well as holding meetings, of the management
410 committee.
- 411 3. Providing reasonable standards and procedures:
- 412 a. For the establishment and meetings of other committees.
- 413 b. Governing any general or specific delegation of any
414 authority or function of the commission.
- 415 4. Providing reasonable procedures for calling and
416 conducting meetings of the commission that consist of a majority
417 of commission members, ensuring reasonable advance notice of
418 each such meeting, and providing for the right of citizens to
419 attend each such meeting with enumerated exceptions designed to
420 protect the public's interest, the privacy of individuals, and
421 insurers' proprietary information, including, but not limited
422 to, trade secrets. The commission may meet in camera only after
423 a majority of the entire membership votes to close a meeting in
424 total or in part. The commissioner of this state, or the
425 commissioner's designee, may attend, or otherwise participate
426 in, a meeting or executive session that is closed in total or
427 part to the extent such attendance or participation is
428 consistent with Florida law. As soon as practicable, the
429 commission must make public a copy of the vote to close the
430 meeting revealing the vote of each member with no proxy votes
431 allowed, and votes taken during such meeting. All notices of
432 commission meetings, including instructions for public
433 participation, provided to the office, the commissioner, or the
434 commissioner's designee shall be published in the Florida
435 Administrative Register.

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436 5. Establishing the titles, duties, and authority and
437 reasonable procedures for the election of the officers of the
438 commission.

439 6. Providing reasonable standards and procedures for the
440 establishment of the personnel policies and programs of the
441 commission. Notwithstanding any civil service or other similar
442 laws of any compacting state, the bylaws shall exclusively
443 govern the personnel policies and programs of the commission.

444 7. Adopting a code of ethics to address permissible and
445 prohibited activities of commission members and employees. This
446 code does not supersede or otherwise limit the obligations and
447 duties of this state's commissioner or the commissioner's
448 designee under ethics laws or rules of the State of Florida. To
449 the extent there is any inconsistency between the standards
450 imposed by this code and the standards imposed under this
451 state's ethics laws or rules, the commissioner or the
452 commissioner's designee must adhere to the stricter standard of
453 conduct.

454 8. Providing a mechanism for winding up the operations of
455 the commission and the equitable disposition of any surplus
456 funds that may exist after the termination of the compact after
457 the payment or reserving of all debts and obligations of the
458 commission.

459 (d) The commission shall publish its bylaws in a convenient
460 form and file a copy of such bylaws and a copy of any amendment
461 to such bylaws, with the appropriate agency or officer in each
462 of the compacting states.

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

464 (a) A management committee comprising no more than 14

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465 members shall be established as follows:

466 1. One member from each of the six compacting states with
467 the largest premium volume for individual and group annuities,
468 life, disability income, and long-term care insurance products,
469 determined from the records of the National Association of
470 Insurance Commissioners for the prior year.

471 2. Four members from those compacting states with at least
472 2 percent of the market based on the premium volume described
473 above, other than the six compacting states with the largest
474 premium volume, selected on a rotating basis as provided in the
475 bylaws.

476 3. Four members from those compacting states with less than
477 2 percent of the market, based on the premium volume described
478 above, with one selected from each of the four zone regions of
479 the National Association of Insurance Commissioners as provided
480 in the bylaws.

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

484 1. Managing the affairs of the commission in a manner
485 consistent with the bylaws and purposes of the commission.

486 2. Establishing and overseeing an organizational structure
487 within, and appropriate procedures for, the commission to
488 provide for the creation of uniform standards and other rules,
489 receipt and review of product filings, administrative and
490 technical support functions, review of decisions regarding the
491 disapproval of a product filing, and the review of elections
492 made by a compacting state to opt out of a uniform standard;
493 provided a uniform standard shall not be submitted to the

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

496 3. Overseeing the offices of the commission.

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

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

503 (d) The management committee may, subject to the approval
504 of the commission, appoint or retain an executive director for
505 such period, upon such terms and conditions, and for such
506 compensation as the commission may deem appropriate. The
507 executive director shall serve as secretary to the commission
508 but shall not be a member of the commission. The executive
509 director shall hire and supervise such other staff as may be
510 authorized by the commission.

511 (3) Legislative and advisory committees.—

512 (a) A legislative committee comprised of state legislators
513 or their designees shall be established to monitor the
514 operations of and make recommendations to the commission,
515 including the management committee; provided the manner of
516 selection and term of any legislative committee member shall be
517 as set forth in the bylaws. Prior to the adoption by the
518 commission of any uniform standard, revision to the bylaws,
519 annual budget, or other significant matter as may be provided in
520 the bylaws, the management committee shall consult with and
521 report to the legislative committee.

522 (b) The commission shall establish two advisory committees,

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523 one comprising consumer representatives independent of the
524 insurance industry and the other comprising insurance industry
525 representatives.

526 (c) The commission may establish additional advisory
527 committees as the bylaws may provide for the carrying out of
528 commission functions.

529 (4) Corporate records of the commission.—The commission
530 shall maintain its corporate books and records in accordance
531 with the bylaws.

532 (5) Qualified immunity, defense and indemnification.—

533 (a) The members, officers, executive director, employees,
534 and representatives of the commission shall be immune from suit
535 and liability, either personally or in their official capacity,
536 for any claim for damage to or loss of property or personal
537 injury or other civil liability caused by or arising out of any
538 actual or alleged act, error, or omission that occurred, or that
539 the person against whom the claim is made had a reasonable basis
540 for believing occurred within the scope of commission
541 employment, duties, or responsibilities; provided nothing in
542 this paragraph shall be construed to protect any such person
543 from suit or liability for any damage, loss, injury, or
544 liability caused by the intentional or willful and wanton
545 misconduct of that person.

546 (b) The liability of the members, officers, executive
547 director, employees, and representatives of the commission
548 acting within the scope of such persons' employment or duties,
549 for acts, errors, or omissions occurring within this state, may
550 not exceed the limits of liability set forth under the
551 constitution and laws of this state for state officials,

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552 employees, and agents. The commission is an instrumentality of
553 the state for the purposes of any such action. This subsection
554 does not protect such persons from suit or liability for damage,
555 loss, injury, or liability caused by a criminal act or the
556 intentional or willful and wanton misconduct of such person.

557 (c) The commission shall defend any member, officer,
558 executive director, employee, or representative of the
559 commission in any civil action seeking to impose liability
560 arising out of any actual or alleged act, error, or omission
561 that occurred within the scope of commission employment, duties,
562 or responsibilities, or where the person against whom the claim
563 is made has a reasonable basis for believing occurred within the
564 scope of commission employment, duties, or responsibilities if
565 the actual or alleged act, error, or omission did not result
566 from that person's intentional or willful and wanton misconduct.
567 This article does not prohibit that person from retaining his or
568 her own counsel.

569 (d) The commission shall indemnify and hold harmless any
570 member, officer, executive director, employee, or representative
571 of the commission for the amount of any settlement or judgment
572 obtained against that person arising out of any actual or
573 alleged act, error, or omission that occurred within the scope
574 of commission employment, duties, or responsibilities, or that
575 such person had a reasonable basis for believing occurred within
576 the scope of commission employment, duties, or responsibilities;
577 provided the actual or alleged act, error, or omission did not
578 result from the intentional or willful and wanton misconduct of
579 that person.

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581 Article VI

582
583 MEETINGS; ACTS.—

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

586 (2) Each member of the commission shall have the right and
587 power to cast a vote to which that compacting state is entitled
588 and to participate in the business and affairs of the
589 commission. A member shall vote in person or by such other means
590 as provided in the bylaws. The bylaws may provide for members'
591 participation in meetings by telephone or other means of
592 communication.

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

596
597 Article VII

598
599 RULES AND OPERATING PROCEDURES; RULEMAKING FUNCTIONS OF THE
600 COMMISSION; OPTING OUT OF UNIFORM STANDARDS.—

601 (1) Rulemaking authority.—The commission shall adopt
602 reasonable rules, including uniform standards, and operating
603 procedures in order to effectively and efficiently achieve the
604 purposes of this compact. Notwithstanding such requirement, if
605 the commission exercises its rulemaking authority in a manner
606 that is beyond the scope of the purposes of this compact or the
607 powers granted under this compact, such action by the commission
608 shall be invalid and have no force and effect.

609 (2) Rulemaking procedure.—Rules and operating procedures

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610 shall be made pursuant to a rulemaking process that conforms to
611 the Model State Administrative Procedure Act of 1981, as
612 amended, as may be appropriate to the operations of the
613 commission. Before the commission adopts a uniform standard, the
614 commission shall give written notice to the relevant state
615 legislative committees in each compacting state responsible for
616 insurance issues of its intention to adopt the uniform standard.
617 The commission in adopting a uniform standard shall consider
618 fully all submitted materials and issue a concise explanation of
619 its decision.

620 (3) Effective date and opt out of a uniform standard.—A
621 uniform standard shall become effective 90 days after its
622 adoption by the commission or such later date as the commission
623 may determine; provided a compacting state may opt out of a
624 uniform standard as provided in this act. The term “opt out”
625 means any action by a compacting state to decline to adopt or
626 participate in an adopted uniform standard. All other rules and
627 operating procedures, and amendments thereto, shall become
628 effective as of the date specified in each rule, operating
629 procedure, or amendment.

630 (4) Opt out procedure.—

631 (a) A compacting state may opt out of a uniform standard by
632 legislation or regulation adopted by the compacting state under
633 such state’s Administrative Procedure Act. If a compacting state
634 elects to opt out of a uniform standard by regulation, such
635 state must:

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

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639 2. Find that the uniform standard does not provide
640 reasonable protections to the citizens of the state, given the
641 conditions in the state.

642 (b) The commissioner of a compacting state other than this
643 state shall make specific findings of fact and conclusions of
644 law, based on a preponderance of the evidence, detailing the
645 conditions in the state which warrant a departure from the
646 uniform standard and determining that the uniform standard would
647 not reasonably protect the citizens of the state. The
648 commissioner must consider and balance the following factors and
649 find that the conditions in the state and needs of the citizens
650 of the state outweigh:

651 1. The intent of the Legislature to participate in, and the
652 benefits of, an interstate agreement to establish national
653 uniform consumer protections for the products subject to this
654 compact.

655 2. The presumption that a uniform standard adopted by the
656 commission provides reasonable protections to consumers of the
657 relevant product.

658
659 Notwithstanding this subsection, a compacting state may, at the
660 time of its enactment of this compact, prospectively opt out of
661 all uniform standards involving long-term care insurance
662 products by expressly providing for such opt out in the enacted
663 compact, and such an opt out shall not be treated as a material
664 variance in the offer or acceptance of any state to participate
665 in this compact. Such an opt out shall be effective at the time
666 of enactment of this compact by the compacting state and shall
667 apply to all existing uniform standards involving long-term care

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668 insurance products and those subsequently adopted.

669 (5) Effect of opting out.—If a compacting state elects to
670 opt out of a uniform standard, the uniform standard shall remain
671 applicable in the compacting state electing to opt out until
672 such time as the opt out legislation is enacted into law or the
673 regulation opting out becomes effective. Once the opt out of a
674 uniform standard by a compacting state becomes effective as
675 provided under the laws of that state, the uniform standard
676 shall have no further force and effect in that state unless and
677 until the legislation or regulation implementing the opt out is
678 repealed or otherwise becomes ineffective under the laws of the
679 state. If a compacting state opts out of a uniform standard
680 after the uniform standard has been made effective in that
681 state, the opt out shall have the same prospective effect as
682 provided under Article XIV for withdrawals.

683 (6) Stay of uniform standard.—If a compacting state has
684 formally initiated the process of opting out of a uniform
685 standard by regulation, and while the regulatory opt out is
686 pending, the compacting state may petition the commission, at
687 least 15 days before the effective date of the uniform standard,
688 to stay the effectiveness of the uniform standard in that state.
689 The commission may grant a stay if the commission determines the
690 regulatory opt out is being pursued in a reasonable manner and
691 there is a likelihood of success. If a stay is granted or
692 extended by the commission, the stay or extension thereof may
693 postpone the effective date by up to 90 days, unless
694 affirmatively extended by the commission; provided a stay may
695 not be permitted to remain in effect for more than 1 year unless
696 the compacting state can show extraordinary circumstances which

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697 warrant a continuance of the stay, including, but not limited
698 to, the existence of a legal challenge which prevents the
699 compacting state from opting out. A stay may be terminated by
700 the commission upon notice that the rulemaking process has been
701 terminated.

702 (7) Judicial review.—Within 30 days after a rule or
703 operating procedure is adopted, any person may file a petition
704 for judicial review of the rule or operating procedure; provided
705 the filing of such a petition shall not stay or otherwise
706 prevent the rule or operating procedure from becoming effective
707 unless the court finds that the petitioner has a substantial
708 likelihood of success. The court shall give deference to the
709 actions of the commission consistent with applicable law and
710 shall not find the rule or operating procedure to be unlawful if
711 the rule or operating procedure represents a reasonable exercise
712 of the commission's authority.

713 Article VIII

714 COMMISSION RECORDS AND ENFORCEMENT.—

715
716
717 (1) The commission shall adopt rules establishing
718 conditions and procedures for public inspection and copying of
719 its information and official records, except such information
720 and records involving the privacy of individuals and insurers'
721 trade secrets. The commission may adopt additional rules under
722 which the commission may make available to federal and state
723 agencies, including law enforcement agencies, records and
724 information otherwise exempt from disclosure and may enter into
725 agreements with such agencies to receive or exchange information

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726 or records subject to nondisclosure and confidentiality
727 provisions.

728 (2) Except as to privileged records, data, and information,
729 the laws of any compacting state pertaining to confidentiality
730 or nondisclosure shall not relieve any compacting state
731 commissioner of the duty to disclose any relevant records, data,
732 or information to the commission; provided disclosure to the
733 commission shall not be deemed to waive or otherwise affect any
734 confidentiality requirement; and further provided, except as
735 otherwise expressly provided in this compact, the commission
736 shall not be subject to the compacting state's laws pertaining
737 to confidentiality and nondisclosure with respect to records,
738 data, and information in its possession. Confidential
739 information of the commission shall remain confidential after
740 such information is provided to any commissioner; however, all
741 requests from the public to inspect or copy records, data, or
742 information of the commission, wherever received, by and in the
743 possession of the office, commissioner, or the commissioner's
744 designee shall be subject to chapter 119, Florida Statutes.

745 (3) The commission shall monitor compacting states for
746 compliance with duly adopted bylaws, rules, uniform standards,
747 and operating procedures. The commission shall notify any
748 noncomplying compacting state in writing of its noncompliance
749 with commission bylaws, rules, or operating procedures. If a
750 noncomplying compacting state fails to remedy its noncompliance
751 within the time specified in the notice of noncompliance, the
752 compacting state shall be deemed to be in default as set forth
753 in Article XIV of this compact.

754 (4) The commissioner of any state in which an insurer is

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755 authorized to do business or is conducting the business of
756 insurance shall continue to exercise his or her authority to
757 oversee the market regulation of the activities of the insurer
758 in accordance with the provisions of the state's law. The
759 commissioner's enforcement of compliance with the compact is
760 governed by the following provisions:

761 (a) With respect to the commissioner's market regulation of
762 a product or advertisement that is approved or certified to the
763 commission, the content of the product or advertisement shall
764 not constitute a violation of the provisions, standards, or
765 requirements of the compact except upon a final order of the
766 commission, issued at the request of a commissioner after prior
767 notice to the insurer and an opportunity for hearing before the
768 commission.

769 (b) Before a commissioner may bring an action for violation
770 of any provision, standard, or requirement of the compact
771 relating to the content of an advertisement not approved or
772 certified to the commission, the commission, or an authorized
773 commission officer or employee, must authorize the action.
774 However, authorization pursuant to this paragraph does not
775 require notice to the insurer, opportunity for hearing, or
776 disclosure of requests for authorization or records of the
777 commission's action on such requests.

779 Article IX

780
781 DISPUTE RESOLUTION.—The commission shall attempt, upon the
782 request of a member, to resolve any disputes or other issues
783 that are subject to this compact and which may arise between two

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784 or more compacting states, or between compacting states and
785 noncompacting states, and the commission shall adopt an
786 operating procedure providing for resolution of such disputes.

787
788 Article X

789
790 PRODUCT FILING AND APPROVAL.-

791 (1) Insurers and third-party filers seeking to have a
792 product approved by the commission shall file the product with
793 and pay applicable filing fees to the commission. Nothing in
794 this compact shall be construed to restrict or otherwise prevent
795 an insurer from filing its product with the insurance department
796 in any state in which the insurer is licensed to conduct the
797 business of insurance and such filing shall be subject to the
798 laws of the states where filed.

799 (2) The commission shall establish appropriate filing and
800 review processes and procedures pursuant to commission rules and
801 operating procedures. Notwithstanding any provision of this
802 article, the commission shall adopt rules to establish
803 conditions and procedures under which the commission will
804 provide public access to product filing information. In
805 establishing such rules, the commission shall consider the
806 interests of the public in having access to such information, as
807 well as protection of personal medical and financial information
808 and trade secrets, that may be contained in a product filing or
809 supporting information.

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

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Article XI

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REVIEW OF COMMISSION DECISIONS REGARDING FILINGS.—

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Article XII

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FINANCE.—

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(1) The commission shall pay or provide for the payment of the reasonable expenses of the commission's establishment and organization. To fund the cost of the commission's initial

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842 operations, the commission may accept contributions and other
843 forms of funding from the National Association of Insurance
844 Commissioners, compacting states, and other sources.
845 Contributions and other forms of funding from other sources
846 shall be of such a nature that the independence of the
847 commission concerning the performance of commission duties shall
848 not be compromised.

849 (2) The commission shall collect a filing fee from each
850 insurer and third-party filer filing a product with the
851 commission to cover the cost of the operations and activities of
852 the commission and its staff in a total amount sufficient to
853 cover the commission's annual budget.

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

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

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

862 (6) The commission shall keep complete and accurate
863 accounts of all its internal receipts, including grants and
864 donations, and disbursements of all funds under its control. The
865 internal financial accounts of the commission shall be subject
866 to the accounting procedures established under its bylaws. The
867 financial accounts and reports including the system of internal
868 controls and procedures of the commission shall be audited
869 annually by an independent certified public accountant. Upon the
870 determination of the commission, but no less frequently than

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871 every 3 years, the review of the independent auditor shall
872 include a management and performance audit of the commission.
873 The commission shall make an annual report to the Governor and
874 the presiding officers of the Legislature of the compacting
875 states, which shall include a report of the independent audit.
876 The commission's internal accounts shall not be confidential and
877 such materials may be shared with the commissioner of any
878 compacting state upon request; provided any work papers related
879 to any internal or independent audit and any information
880 regarding the privacy of individuals and insurers' proprietary
881 information, including trade secrets, shall remain confidential.

882 (7) No compacting state shall have any claim to or
883 ownership of any property held by or vested in the commission or
884 to any commission funds held pursuant to the provisions of this
885 compact.

886 Article XIII

887 COMPACTING STATES, EFFECTIVE DATE, AMENDMENT.—

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

889 (2) The compact shall become effective and binding upon
892 legislative enactment of the compact into law by two compacting
893 states; provided the commission shall become effective for
894 purposes of adopting uniform standards for, reviewing, and
895 giving approval or disapproval of, products filed with the
896 commission that satisfy applicable uniform standards only after
897 26 states are compacting states or, alternatively, by states
898 representing greater than 40 percent of the premium volume for
899 life insurance, annuity, disability income, and long-term care

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900 insurance products, based on records of the National Association
901 of Insurance Commissioners for the prior year. Thereafter, the
902 compact shall become effective and binding as to any other
903 compacting state upon enactment of the compact into law by that
904 state.

905 (3) Amendments to the compact may be proposed by the
906 commission for enactment by the compacting states. No amendment
907 shall become effective and binding upon the commission and the
908 compacting states unless and until all compacting states enact
909 the amendment into law.

910
911 Article XIV

912
913 WITHDRAWAL; DEFAULT; DISSOLUTION.—

914 (1) Withdrawal.—

915 (a) Once effective, the compact shall continue in force and
916 remain binding upon each and every compacting state; provided a
917 compacting state may withdraw from the compact by enacting a law
918 specifically repealing the law which enacted the compact into
919 law.

920 (b) The effective date of withdrawal is the effective date
921 of the repealing law. However, the withdrawal shall not apply to
922 any product filings approved or self-certified, or any
923 advertisement of such products, on the date the repealing law
924 becomes effective, except by mutual agreement of the commission
925 and the withdrawing state unless the approval is rescinded by
926 the withdrawing state as provided in paragraph (e).

927 (c) The commissioner of the withdrawing state shall
928 immediately notify the management committee in writing upon the

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929 introduction of legislation repealing this compact in the
930 withdrawing state.

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

934 (e) The withdrawing state is responsible for all
935 obligations, duties, and liabilities incurred through the
936 effective date of withdrawal, including any obligations, the
937 performance of which extend beyond the effective date of
938 withdrawal, except to the extent those obligations may have been
939 released or relinquished by mutual agreement of the commission
940 and the withdrawing state. The commission's approval of products
941 and advertisement prior to the effective date of withdrawal
942 shall continue to be effective and be given full force and
943 effect in the withdrawing state unless formally rescinded by the
944 withdrawing state in the same manner as provided by the laws of
945 the withdrawing state for the prospective disapproval of
946 products or advertisement previously approved under state law.

947 (f) Reinstatement following withdrawal of any compacting
948 state shall occur upon the effective date of the withdrawing
949 state reenacting the compact.

950 (2) Default.-

951 (a) If the commission determines that any compacting state
952 has at any time defaulted in the performance of any of its
953 obligations or responsibilities under this compact, the bylaws,
954 or duly adopted rules or operating procedures, after notice and
955 hearing as set forth in the bylaws, all rights, privileges, and
956 benefits conferred by this compact on the defaulting state shall
957 be suspended from the effective date of default as fixed by the

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958 commission. The grounds for default include, but are not limited
959 to, failure of a compacting state to perform its obligations or
960 responsibilities, and any other grounds designated in commission
961 rules. The commission shall immediately notify the defaulting
962 state in writing of the defaulting state's suspension pending a
963 cure of the default. The commission shall stipulate the
964 conditions and the time period within which the defaulting state
965 must cure its default. If the defaulting state fails to cure the
966 default within the time period specified by the commission, the
967 defaulting state shall be terminated from the compact and all
968 rights, privileges, and benefits conferred by this compact shall
969 be terminated from the effective date of termination.

970 (b) Product approvals by the commission or product self-
971 certifications, or any advertisement in connection with such
972 product that are in force on the effective date of termination
973 shall remain in force in the defaulting state in the same manner
974 as if the defaulting state had withdrawn voluntarily pursuant to
975 subsection (1).

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

978 (3) Dissolution of compact.-

979 (a) The compact dissolves effective upon the date of the
980 withdrawal or default of the compacting state which reduces
981 membership in the compact to a single compacting state.

982 (b) Upon the dissolution of this compact, the compact
983 becomes null and void and shall be of no further force or effect
984 and the business and affairs of the commission shall be
985 concluded and any surplus funds shall be distributed in
986 accordance with the bylaws.

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Article XV

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990

SEVERABILITY; CONSTRUCTION.—

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993

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

994

995

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

996

997

Article XVI

998

999

BINDING EFFECT OF COMPACT AND OTHER LAWS.—

1000

(1) Binding effect of this compact.—

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1002

1003

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

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

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

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

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1016 those obligations, duties, powers, or jurisdiction shall remain
1017 in the compacting state and shall be exercised by the agency of
1018 such state to which those obligations, duties, powers, or
1019 jurisdiction are delegated by law in effect at the time this
1020 compact becomes effective.

1021 (2) Other laws.—

1022 (a) Nothing in this compact prevents the enforcement of any
1023 other law of a compacting state, except as provided in paragraph
1024 (b).

1025 (b) For any product approved or certified to the
1026 commission, the rules, uniform standards, and any other
1027 requirements of the commission shall constitute the exclusive
1028 provisions applicable to the content, approval, and
1029 certification of such products. For advertisement that is
1030 subject to the commission's authority, any rule, uniform
1031 standard, or other requirement of the commission which governs
1032 the content of the advertisement shall constitute the exclusive
1033 provision that a commissioner may apply to the content of the
1034 advertisement. Notwithstanding this paragraph, no action taken
1035 by the commission shall abrogate or restrict:

1036 1. The access of any person to state courts;

1037 2. Remedies available under state law related to breach of
1038 contract, tort, or other laws not specifically directed to the
1039 content of the product;

1040 3. State law relating to the construction of insurance
1041 contracts; or

1042 4. The authority of the attorney general of the state,
1043 including, but not limited to, maintaining any actions or
1044 proceedings, as authorized by law.

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1045 (c) All insurance products filed with individual states
1046 shall be subject to the laws of those states.

1047 Section 3. Election to opt out of all uniform standards
1048 adopted by the commission involving long-term care insurance
1049 products; adoption of existing uniform standards of the
1050 commission; procedure for adoption of new or amended uniform
1051 standards; notification of new or amended uniform standards:

1052 (1) Pursuant to Article VII of the compact, authorized in
1053 this act, the State of Florida prospectively opts out of all
1054 uniform standards adopted by the commission involving long-term
1055 care insurance products, and such opt out shall not be treated
1056 as a material variance in the offer or acceptance of this state
1057 to participate in the compact.

1058 (2) Except as provided in subsection (1), all uniform
1059 standards adopted by the commission as of March 1, 2013 are
1060 adopted by this state.

1061 (3) Notwithstanding subsections (3), (4), (5), and (6) of
1062 Article VII, as a participant in this compact, it is the policy
1063 of the State of Florida to opt out, and the office shall opt
1064 out, of any new uniform standard adopted by the commission after
1065 March 1, 2013 or amendments to existing uniform standards
1066 adopted by the commission after March 1, 2013 where such
1067 amendments substantially alter or add to existing uniform
1068 standards adopted by this state in subsection (2) until such
1069 time as this state enacts legislation to adopt or opt out of new
1070 uniform standards or such amendments to uniform standards
1071 adopted by the commission after March 1, 2013.

1072 (4) The Financial Services Commission may adopt rules to
1073 implement this act. It is the policy of the State of Florida

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1074 that this state's participation in new uniform standards or
1075 amendments to uniform standards adopted after March 1, 2013 as
1076 set out in subsection (3) that have not been legislatively
1077 approved by this state may not reasonably protect the citizens
1078 of this state based on Article XVI(1)(d) of this act. The
1079 Financial Services Commission shall use the rulemaking authority
1080 granted in this subsection to opt out of any new uniform
1081 standards or amendments to existing uniform standards where such
1082 amendments substantially alter or add to existing uniform
1083 standards adopted by the State of Florida in subsection (2)
1084 until such uniform standards are legislatively approved by this
1085 state.

1086 (5) After enactment of this section, if the commission
1087 adopts any new uniform standard or amendment to uniform
1088 standards as set out in subsection (3), the office shall
1089 immediately notify the legislature of such new uniform standard
1090 or amendment to existing uniform standard. If the office or a
1091 court of competent jurisdiction finds that the procedure set out
1092 in subsection(3) has not been followed, notice shall be given to
1093 the legislature, and reasonable and prompt measures shall be
1094 taken to opt out of a uniform standard that has not been
1095 legislatively approved by the State of Florida.

1096 Section 4. Notwithstanding subsection (4) of Article XII,
1097 the commission is subject to:

1098 (1) State unemployment or reemployment taxes imposed
1099 pursuant to chapter 443, Florida Statutes, in compliance with
1100 the Federal Unemployment Tax Act, for any persons employed by
1101 the commission who perform services for it within this state.

1102 (2) Taxation for any commission business or activity

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1103 conducted or performed in the State of Florida.

1104 Section 5. Notwithstanding subsections (1) and (2) of
1105 Article VIII, subsection (2) of Article X, and subsection (6) of
1106 Article XII of this act, a request by a resident of this state
1107 for public inspection and copying of information, data, or
1108 official records that includes:

1109 (1) Insurer's trade secrets shall be referred to the
1110 commissioner who shall respond to the request, with the
1111 cooperation and assistance of the commission, in accordance with
1112 section 624.4213, Florida Statutes; or

1113 (2) Matters of privacy of individuals shall be referred to
1114 the commissioner who shall respond to the request, with the
1115 cooperation and assistance of the commission, in accordance with
1116 section 119.071, Florida Statutes.

1117 (3) Nothing in this act abrogates a person's right to
1118 access information consistent with the Constitution and laws of
1119 the State of Florida.

1120 Section 6. The Financial Services Commission may adopt
1121 rules to implement this act. The Financial Services Commission
1122 may use the rulemaking authority granted in this section to opt
1123 out of any new uniform standards adopted after October 1, 2013,
1124 pursuant to Article VII, until such standards are approved by
1125 the Legislature.

1126 Section 7. This act shall take effect October 1, 2013.