

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; 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
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; exercising the
52 | state's right in accordance with the compact to
53 | prospectively opt out of all uniform standards in the
54 | compact involving long-term care insurance products;
55 | providing application; authorizing the Office of
56 | Insurance Regulation to adopt rules to implement this

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57 | act and opt out of certain uniform standards;
58 | providing an effective date.

59 |
60 | Be It Enacted by the Legislature of the State of Florida:

61 |
62 | Section 1. Legislative findings; intent.-

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

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

73 | (3) The Legislature further finds that the Interstate
74 | Insurance Product Regulation Compact Model adopted by the
75 | National Association of Insurance Commissioners and endorsed by
76 | the National Conference of Insurance Legislators and the
77 | National Conference of State Legislatures is designed to address
78 | these market changes by providing a uniform set of product
79 | standards and a single source for filing of new products.

80 | (4) The Legislature further finds that the product
81 | standards that have been developed provide a high level of
82 | consumer protection. Further, it is noted that the Interstate
83 | Insurance Product Regulation Compact Model includes a mechanism
84 | for opting out of any product standard that the state determines

85 would not reasonably protect its citizens. With respect to long-
 86 term care insurance, the Legislature understands that the
 87 compact does not intend to develop a uniform standard for rate
 88 increase filings, thereby leaving the authority over long-term
 89 care rate increases with the state. The state relies on that
 90 understanding in adopting this legislation. The state, pursuant
 91 to the terms and conditions of this act, seeks to join with
 92 other states and establish the Interstate Insurance Product
 93 Regulation Compact, and thus become a member of the Interstate
 94 Insurance Product Regulation Commission. The Commissioner of
 95 Insurance Regulation is hereby designated to serve as the
 96 representative of this state on the commission.

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

102
 103 Interstate Insurance Product Regulation Compact

104
 105 Preamble

106
 107 This compact is intended to help states join together to
 108 establish an interstate compact to regulate designated insurance
 109 products. Pursuant to the terms and conditions of this compact,
 110 this state seeks to join with other states and establish the
 111 Interstate Insurance Product Regulation Compact and thus become
 112 a member of the Interstate Insurance Product Regulation

113 Commission.

115 Article I

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

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

122 (2) Develop uniform standards for insurance products
123 covered under the compact.

124 (3) Establish a central clearinghouse to receive and
125 provide prompt review of insurance products covered under the
126 compact and, in certain cases, advertisements related thereto,
127 submitted by insurers authorized to do business in one or more
128 compacting states.

129 (4) Give appropriate regulatory approval to those product
130 filings and advertisements satisfying the applicable uniform
131 standard.

132 (5) Improve coordination of regulatory resources and
133 expertise between state insurance departments regarding the
134 setting of uniform standards and review of insurance products
135 covered under the compact.

136 (6) Create the Interstate Insurance Product Regulation
137 Commission.

138 (7) Perform these and such other related functions as may
139 be consistent with the state regulation of the business of
140 insurance.

141
142 Article II
143

144 DEFINITIONS.—For purposes of this compact:

145 (1) "Advertisement" means any material designed to create
146 public interest in a product, or induce the public to purchase,
147 increase, modify, reinstate, borrow on, surrender, replace, or
148 retain a policy, as more specifically defined in the rules and
149 operating procedures of the commission adopted as of December
150 31, 2011, and subsequent amendments thereto if the methodology
151 remains substantially consistent.

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

155 (3) "Compacting state" means any state which has enacted
156 this compact legislation and has not withdrawn pursuant to
157 subsection (1) of Article XIV of this compact or been terminated
158 pursuant to subsection (2) of Article XIV of this compact.

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

161 (5) "Commissioner" means the chief insurance regulatory
162 official of a state, including, but not limited to, the
163 commissioner, superintendent, director, or administrator. For
164 purposes of this compact, the Commissioner of Insurance
165 Regulation is the chief insurance regulatory official of this
166 state.

167 (6) "Domiciliary state" means the state in which an
168 insurer is incorporated or organized or, in the case of an alien

169 | insurer, its state of entry.

170 | (7) "Insurer" means any entity licensed by a state to
 171 | issue contracts of insurance for any of the lines of insurance
 172 | covered by this compact.

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

175 | (9) "Noncompacting state" means any state which is not at
 176 | the time a compacting state.

177 | (10) "Office" means the Office of Insurance Regulation of
 178 | the Department of Financial Services.

179 | (11) "Operating procedures" means procedures adopted by
 180 | the commission as of December 31, 2011, and subsequent
 181 | amendments thereto if the methodology remains substantially
 182 | consistent, implementing a rule, uniform standard, or provision
 183 | of this compact.

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

190 | (13) "Rule" means a statement of general or particular
 191 | applicability and future effect adopted by the commission as of
 192 | March 1, 2013, and subsequent amendments thereto if the
 193 | methodology remains substantially consistent, including a
 194 | uniform standard developed pursuant to Article VII of this
 195 | compact, designed to implement, interpret, or prescribe law or
 196 | policy or describe the organization, procedure, or practice

197 requirements of the commission, which shall have the force and
198 effect of law in the compacting states.

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

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

203 (16) "Uniform standard" means a standard adopted by the
204 commission as of March 1, 2013, and subsequent amendments
205 thereto if the methodology remains substantially consistent, for
206 a product line pursuant to Article VII of this compact and shall
207 include all of the product requirements in aggregate; provided,
208 each uniform standard shall be construed, whether express or
209 implied, to prohibit the use of any inconsistent, misleading, or
210 ambiguous provisions in a product and the form of the product
211 made available to the public shall not be unfair, inequitable,
212 or against public policy as determined by the commission.

213
214 Article III

215
216 COMMISSION; ESTABLISHMENT; VENUE.—

217 (1) The compacting states hereby create and establish a
218 joint public agency known as the Interstate Insurance Product
219 Regulation Commission. Pursuant to Article IV of this compact,
220 the commission has the power to develop uniform standards for
221 product lines, receive and provide prompt review of products
222 filed with the commission, and give approval to those product
223 filings satisfying applicable uniform standards; provided, it is
224 not intended for the commission to be the exclusive entity for

225 receipt and review of insurance product filings. Nothing in this
226 article shall prohibit any insurer from filing its product in
227 any state in which the insurer is licensed to conduct the
228 business of insurance and any such filing shall be subject to
229 the laws of the state where filed.

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

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

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

239 (5) The commission is a not-for-profit entity, separate
240 and distinct from the individual compacting states.

241 242 Article IV

243
244 POWERS.—The commission shall have the following powers to:

245 (1) Adopt rules, pursuant to Article VII, which shall have
246 the force and effect of law and shall be binding in the
247 compacting states to the extent and in the manner provided in
248 this compact.

249 (2) Exercise its rulemaking authority and establish
250 reasonable uniform standards for products covered under the
251 compact, and advertisement related thereto, which shall have the
252 force and effect of law and shall be binding in the compacting

253 states, but only for those products filed with the commission;
 254 provided a compacting state shall have the right to opt out of
 255 such uniform standard pursuant to Article VII to the extent and
 256 in the manner provided in this compact and any uniform standard
 257 established by the commission for long-term care insurance
 258 products may provide the same or greater protections for
 259 consumers as, but shall provide at least, those protections set
 260 forth in the National Association of Insurance Commissioners'
 261 Long-Term Care Insurance Model Act and Long-Term Care Insurance
 262 Model Regulation, respectively, adopted as of 2001. The
 263 commission shall consider whether any subsequent amendments to
 264 the National Association of Insurance Commissioners' Long-Term
 265 Care Insurance Model Act or Long-Term Care Insurance Model
 266 Regulation adopted by the National Association of Insurance
 267 Commissioners require amending of the uniform standards
 268 established by the commission for long-term care insurance
 269 products.

270 (3) Receive and review in an expeditious manner products
 271 filed with the commission and rate filings for disability income
 272 and long-term care insurance products and give approval of those
 273 products and rate filings that satisfy the applicable uniform
 274 standard, and such approval shall have the force and effect of
 275 law and be binding on the compacting states to the extent and in
 276 the manner provided in the compact.

277 (4) Receive and review in an expeditious manner
 278 advertisement relating to long-term care insurance products for
 279 which uniform standards have been adopted by the commission, and
 280 give approval to all advertisement that satisfies the applicable

281 uniform standard. For any product covered under this compact,
282 other than long-term care insurance products, the commission
283 shall have the authority to require an insurer to submit all or
284 any part of its advertisement with respect to that product for
285 review or approval prior to use, if the commission determines
286 that the nature of the product is such that an advertisement of
287 the product could have the capacity or tendency to mislead the
288 public. The actions of the commission as provided in this
289 subsection shall have the force and effect of law and shall be
290 binding in the compacting states to the extent and in the manner
291 provided in the compact.

292 (5) Exercise its rulemaking authority and designate
293 products and advertisement that may be subject to a self-
294 certification process without the need for prior approval by the
295 commission.

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

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

303 (8) Issue subpoenas requiring the attendance and testimony
304 of witnesses and the production of evidence.

305 (9) Establish and maintain offices.

306 (10) Purchase and maintain insurance and bonds.

307 (11) Borrow, accept, or contract for services of
308 personnel, including, but not limited to, employees of a

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309 compacting state.

310 (12) Hire employees, professionals, or specialists; elect
311 or appoint officers and fix their compensation, define their
312 duties, give them appropriate authority to carry out the
313 purposes of the compact, and determine their qualifications; and
314 establish the commission's personnel policies and programs
315 relating to, among other things, conflicts of interest, rates of
316 compensation, and qualifications of personnel.

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

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

325 (15) Sell, convey, mortgage, pledge, lease, exchange,
326 abandon, or otherwise dispose of any property, real, personal,
327 or mixed.

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

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

332 (18) Provide for dispute resolution among compacting
333 states.

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

337 (20) Provide advice and training to those personnel in
338 state insurance departments responsible for product review and
339 to be a resource for state insurance departments.

340 (21) Establish a budget and make expenditures.

341 (22) Borrow money.

342 (23) Appoint committees, including advisory committees,
343 comprising members, state insurance regulators, state
344 legislators or their representatives, insurance industry and
345 consumer representatives, and such other interested persons as
346 may be designated in the bylaws.

347 (24) Provide and receive information from and to cooperate
348 with law enforcement agencies.

349 (25) Adopt and use a corporate seal.

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

353

354 Article V

355

356 ORGANIZATION.—

357 (1) Membership; voting; bylaws.—

358 (a)1. Each compacting state shall have and be limited to
359 one member. Each member shall be qualified to serve in that
360 capacity pursuant to applicable law of the compacting state. Any
361 member may be removed or suspended from office as provided by
362 the law of the state from which he or she is appointed. Any
363 vacancy occurring in the commission shall be filled in
364 accordance with the laws of the compacting state in which the

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365 vacancy exists. Nothing in this article shall be construed to
366 affect the manner in which a compacting state determines the
367 election or appointment and qualification of its own
368 commissioner.

369 2. The Commissioner of Insurance Regulation is hereby
370 designated to serve as the representative of this state on the
371 commission.

372 (b) Each member shall be entitled to one vote and shall
373 have an opportunity to participate in the governance of the
374 commission in accordance with the bylaws. Notwithstanding any
375 other provision of this article, no action of the commission
376 with respect to the adoption of a uniform standard shall be
377 effective unless two-thirds of the members vote in favor of such
378 action.

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

383 1. Establishing the fiscal year of the commission.

384 2. Providing reasonable procedures for appointing and
385 electing members, as well as holding meetings, of the management
386 committee.

387 3. Providing reasonable standards and procedures:

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

389 b. Governing any general or specific delegation of any
390 authority or function of the commission.

391 4. Providing reasonable procedures for calling and
392 conducting meetings of the commission that consist of a majority

393 of commission members, ensuring reasonable advance notice of
394 each such meeting, and providing for the right of citizens to
395 attend each such meeting with enumerated exceptions designed to
396 protect the public's interest, the privacy of individuals, and
397 insurers' proprietary information, including, but not limited
398 to, trade secrets. The commission may meet in camera only after
399 a majority of the entire membership votes to close a meeting in
400 total or in part. As soon as practicable, the commission must
401 make public a copy of the vote to close the meeting revealing
402 the vote of each member with no proxy votes allowed, and votes
403 taken during such meeting. All notices of commission meetings,
404 including instructions for public participation, received by the
405 Office shall be published in the Florida Administrative
406 Register.

407 5. Establishing the titles, duties, and authority and
408 reasonable procedures for the election of the officers of the
409 commission.

410 6. Providing reasonable standards and procedures for the
411 establishment of the personnel policies and programs of the
412 commission. Notwithstanding any civil service or other similar
413 laws of any compacting state, the bylaws shall exclusively
414 govern the personnel policies and programs of the commission.

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

417 8. Providing a mechanism for winding up the operations of
418 the commission and the equitable disposition of any surplus
419 funds that may exist after the termination of the compact after
420 the payment or reserving of all debts and obligations of the

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421 commission.

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

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

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

429 1. One member from each of the six compacting states with
430 the largest premium volume for individual and group annuities,
431 life, disability income, and long-term care insurance products,
432 determined from the records of the National Association of
433 Insurance Commissioners for the prior year.

434 2. Four members from those compacting states with at least
435 2 percent of the market based on the premium volume described
436 above, other than the six compacting states with the largest
437 premium volume, selected on a rotating basis as provided in the
438 bylaws.

439 3. Four members from those compacting states with less
440 than 2 percent of the market, based on the premium volume
441 described above, with one selected from each of the four zone
442 regions of the National Association of Insurance Commissioners
443 as provided in the bylaws.

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

447 1. Managing the affairs of the commission in a manner
448 consistent with the bylaws and purposes of the commission.

449 2. Establishing and overseeing an organizational structure
450 within, and appropriate procedures for, the commission to
451 provide for the creation of uniform standards and other rules,
452 receipt and review of product filings, administrative and
453 technical support functions, review of decisions regarding the
454 disapproval of a product filing, and the review of elections
455 made by a compacting state to opt out of a uniform standard;
456 provided a uniform standard shall not be submitted to the
457 compacting states for adoption unless approved by two-thirds of
458 the members of the management committee.

459 3. Overseeing the offices of the commission.

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

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

466 (d) The management committee may, subject to the approval
467 of the commission, appoint or retain an executive director for
468 such period, upon such terms and conditions, and for such
469 compensation as the commission may deem appropriate. The
470 executive director shall serve as secretary to the commission
471 but shall not be a member of the commission. The executive
472 director shall hire and supervise such other staff as may be
473 authorized by the commission.

474 (3) Legislative and advisory committees.-

475 (a) A legislative committee comprised of state legislators
476 or their designees shall be established to monitor the

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477 operations of and make recommendations to the commission,
478 including the management committee; provided the manner of
479 selection and term of any legislative committee member shall be
480 as set forth in the bylaws. Prior to the adoption by the
481 commission of any uniform standard, revision to the bylaws,
482 annual budget, or other significant matter as may be provided in
483 the bylaws, the management committee shall consult with and
484 report to the legislative committee.

485 (b) The commission shall establish two advisory
486 committees, one comprising consumer representatives independent
487 of the insurance industry and the other comprising insurance
488 industry representatives.

489 (c) The commission may establish additional advisory
490 committees as the bylaws may provide for the carrying out of
491 commission functions.

492 (4) Corporate records of the commission.—The commission
493 shall maintain its corporate books and records in accordance
494 with the bylaws.

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

496 (a) The members, officers, executive director, employees,
497 and representatives of the commission shall be immune from suit
498 and liability, either personally or in their official capacity,
499 for any claim for damage to or loss of property or personal
500 injury or other civil liability caused by or arising out of any
501 actual or alleged act, error, or omission that occurred, or that
502 the person against whom the claim is made had a reasonable basis
503 for believing occurred within the scope of commission
504 employment, duties, or responsibilities; provided nothing in

505 this paragraph shall be construed to protect any such person
506 from suit or liability for any damage, loss, injury, or
507 liability caused by the intentional or willful and wanton
508 misconduct of that person.

509 (b) The commission shall defend any member, officer,
510 executive director, employee, or representative of the
511 commission in any civil action seeking to impose liability
512 arising out of any actual or alleged act, error, or omission
513 that occurred within the scope of commission employment, duties,
514 or responsibilities, or that the person against whom the claim
515 is made had a reasonable basis for believing occurred within the
516 scope of commission employment, duties, or responsibilities;
517 provided nothing in this article shall be construed to prohibit
518 that person from retaining his or her own counsel and the actual
519 or alleged act, error, or omission did not result from that
520 person's intentional or willful and wanton misconduct.

521 (c) The commission shall indemnify and hold harmless any
522 member, officer, executive director, employee, or representative
523 of the commission for the amount of any settlement or judgment
524 obtained against that person arising out of any actual or
525 alleged act, error, or omission that occurred within the scope
526 of commission employment, duties, or responsibilities, or that
527 such person had a reasonable basis for believing occurred within
528 the scope of commission employment, duties, or responsibilities;
529 provided the actual or alleged act, error, or omission did not
530 result from the intentional or willful and wanton misconduct of
531 that person.

532

Article VIMEETINGS; ACTS.—

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

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

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

Article VIIRULES AND OPERATING PROCEDURES; RULEMAKING FUNCTIONS OF THE COMMISSION; OPTING OUT OF UNIFORM STANDARDS.—

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

561 (2) Rulemaking procedure.—Rules and operating procedures
562 shall be made pursuant to a rulemaking process that conforms to
563 the Model State Administrative Procedure Act of 1981, as
564 amended, as may be appropriate to the operations of the
565 commission. Before the commission adopts a uniform standard, the
566 commission shall give written notice to the relevant state
567 legislative committees in each compacting state responsible for
568 insurance issues of its intention to adopt the uniform standard.
569 The commission in adopting a uniform standard shall consider
570 fully all submitted materials and issue a concise explanation of
571 its decision.

572 (3) Effective date and opt out of a uniform standard.—A
573 uniform standard shall become effective 90 days after its
574 adoption by the commission or such later date as the commission
575 may determine; provided a compacting state may opt out of a
576 uniform standard as provided in this article. The term "opt out"
577 means any action by a compacting state to decline to adopt or
578 participate in an adopted uniform standard. All other rules and
579 operating procedures, and amendments thereto, shall become
580 effective as of the date specified in each rule, operating
581 procedure, or amendment.

582 (4) Opt out procedure.—

583 (a) A compacting state may opt out of a uniform standard
584 by legislation or regulation adopted by the office under such
585 state's Administrative Procedure Act. For purposes of this
586 compact and this state, the Office of the Department of
587 Financial Services constitutes this state's agency for purposes
588 of this subsection. If a compacting state elects to opt out of a

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589 uniform standard by regulation, such state must:

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

593 2. Find that the uniform standard does not provide
594 reasonable protections to the citizens of the state, given the
595 conditions in the state.

596 (b) The commissioner shall make specific findings of fact
597 and conclusions of law, based on a preponderance of the
598 evidence, detailing the conditions in the state which warrant a
599 departure from the uniform standard and determining that the
600 uniform standard would not reasonably protect the citizens of
601 the state. The commissioner must consider and balance the
602 following factors and find that the conditions in the state and
603 needs of the citizens of the state outweigh:

604 1. The intent of the Legislature to participate in, and
605 the benefits of, an interstate agreement to establish national
606 uniform consumer protections for the products subject to this
607 compact.

608 2. The presumption that a uniform standard adopted by the
609 commission provides reasonable protections to consumers of the
610 relevant product.

611
612 Notwithstanding this subsection, a compacting state may, at the
613 time of its enactment of this compact, prospectively opt out of
614 all uniform standards involving long-term care insurance
615 products by expressly providing for such opt out in the enacted
616 compact, and such an opt out shall not be treated as a material

617 variance in the offer or acceptance of any state to participate
618 in this compact. Such an opt out shall be effective at the time
619 of enactment of this compact by the compacting state and shall
620 apply to all existing uniform standards involving long-term care
621 insurance products and those subsequently adopted.

622 (5) Effect of opting out.—If a compacting state elects to
623 opt out of a uniform standard, the uniform standard shall remain
624 applicable in the compacting state electing to opt out until
625 such time the opt out legislation is enacted into law or the
626 regulation opting out becomes effective. Once the opt out of a
627 uniform standard by a compacting state becomes effective as
628 provided under the laws of that state, the uniform standard
629 shall have no further force and effect in that state unless and
630 until the legislation or regulation implementing the opt out is
631 repealed or otherwise becomes ineffective under the laws of the
632 state. If a compacting state opts out of a uniform standard
633 after the uniform standard has been made effective in that
634 state, the opt out shall have the same prospective effect as
635 provided under Article XIV for withdrawals.

636 (6) Stay of uniform standard.—If a compacting state has
637 formally initiated the process of opting out of a uniform
638 standard by regulation, and while the regulatory opt out is
639 pending, the compacting state may petition the commission, at
640 least 15 days before the effective date of the uniform standard,
641 to stay the effectiveness of the uniform standard in that state.
642 The commission may grant a stay if the commission determines the
643 regulatory opt out is being pursued in a reasonable manner and
644 there is a likelihood of success. If a stay is granted or

645 extended by the commission, the stay or extension thereof may
 646 postpone the effective date by up to 90 days, unless
 647 affirmatively extended by the commission; provided a stay may
 648 not be permitted to remain in effect for more than 1 year unless
 649 the compacting state can show extraordinary circumstances which
 650 warrant a continuance of the stay, including, but not limited
 651 to, the existence of a legal challenge which prevents the
 652 compacting state from opting out. A stay may be terminated by
 653 the commission upon notice that the rulemaking process has been
 654 terminated.

655 (7) Judicial review.—Within 30 days after a rule or
 656 operating procedure is adopted, any person may file a petition
 657 for judicial review of the rule or operating procedure; provided
 658 the filing of such a petition shall not stay or otherwise
 659 prevent the rule or operating procedure from becoming effective
 660 unless the court finds that the petitioner has a substantial
 661 likelihood of success. The court shall give deference to the
 662 actions of the commission consistent with applicable law and
 663 shall not find the rule or operating procedure to be unlawful if
 664 the rule or operating procedure represents a reasonable exercise
 665 of the commission's authority.

666
 667 Article VIII
 668

669 COMMISSION RECORDS AND ENFORCEMENT.—

670 (1) The commission shall adopt rules establishing
 671 conditions and procedures for public inspection and copying of
 672 its information and official records, except such information

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673 and records involving the privacy of individuals and insurers'
674 trade secrets. The commission may adopt additional rules under
675 which the commission may make available to federal and state
676 agencies, including law enforcement agencies, records and
677 information otherwise exempt from disclosure and may enter into
678 agreements with such agencies to receive or exchange information
679 or records subject to nondisclosure and confidentiality
680 provisions.

681 (2) Except as to privileged records, data, and
682 information, the laws of any compacting state pertaining to
683 confidentiality or nondisclosure shall not relieve any
684 compacting state commissioner of the duty to disclose any
685 relevant records, data, or information to the commission;
686 provided disclosure to the commission shall not be deemed to
687 wave or otherwise affect any confidentiality requirement; and
688 further provided, except as otherwise expressly provided in this
689 compact, the commission shall not be subject to the compacting
690 state's laws pertaining to confidentiality and nondisclosure
691 with respect to records, data, and information in its
692 possession. Confidential information of the commission shall
693 remain confidential after such information is provided to any
694 commissioner; however, all requests from the public to inspect
695 or copy records, data, or information of the commission received
696 by and in the possession of the office shall be subject to
697 chapter 119, Florida Statutes.

698 (3) The commission shall monitor compacting states for
699 compliance with duly adopted bylaws, rules, uniform standards,
700 and operating procedures. The commission shall notify any

701 noncomplying compacting state in writing of its noncompliance
702 with commission bylaws, rules, or operating procedures. If a
703 noncomplying compacting state fails to remedy its noncompliance
704 within the time specified in the notice of noncompliance, the
705 compacting state shall be deemed to be in default as set forth
706 in Article XIV of this compact.

707 (4) The commissioner of any state in which an insurer is
708 authorized to do business or is conducting the business of
709 insurance shall continue to exercise his or her authority to
710 oversee the market regulation of the activities of the insurer
711 in accordance with the provisions of the state's law. The
712 commissioner's enforcement of compliance with the compact is
713 governed by the following provisions:

714 (a) With respect to the commissioner's market regulation
715 of a product or advertisement that is approved or certified to
716 the commission, the content of the product or advertisement
717 shall not constitute a violation of the provisions, standards,
718 or requirements of the compact except upon a final order of the
719 commission, issued at the request of a commissioner after prior
720 notice to the insurer and an opportunity for hearing before the
721 commission.

722 (b) Before a commissioner may bring an action for
723 violation of any provision, standard, or requirement of the
724 compact relating to the content of an advertisement not approved
725 or certified to the commission, the commission, or an authorized
726 commission officer or employee, must authorize the action.
727 However, authorization pursuant to this paragraph does not
728 require notice to the insurer, opportunity for hearing, or

729 disclosure of requests for authorization or records of the
 730 commission's action on such requests.

731

732 Article IX

733

734 DISPUTE RESOLUTION.—The commission shall attempt, upon the
 735 request of a member, to resolve any disputes or other issues
 736 that are subject to this compact and which may arise between two
 737 or more compacting states, or between compacting states and
 738 noncompacting states, and the commission shall adopt an
 739 operating procedure providing for resolution of such disputes.

740

741 Article X

742

743 PRODUCT FILING AND APPROVAL.—

744 (1) Insurers and third-party filers seeking to have a
 745 product approved by the commission shall file the product with
 746 and pay applicable filing fees to the commission. Nothing in
 747 this compact shall be construed to restrict or otherwise prevent
 748 an insurer from filing its product with the insurance department
 749 in any state in which the insurer is licensed to conduct the
 750 business of insurance and such filing shall be subject to the
 751 laws of the states where filed.

752 (2) The commission shall establish appropriate filing and
 753 review processes and procedures pursuant to commission rules and
 754 operating procedures. Notwithstanding any provision of this
 755 article, the commission shall adopt rules to establish
 756 conditions and procedures under which the commission will

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757 provide public access to product filing information. In
758 establishing such rules, the commission shall consider the
759 interests of the public in having access to such information, as
760 well as protection of personal medical and financial information
761 and trade secrets, that may be contained in a product filing or
762 supporting information.

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

766
767 Article XI
768

769 REVIEW OF COMMISSION DECISIONS REGARDING FILINGS.—

770 (1) Within 30 days after the commission has given notice
771 of a disapproved product or advertisement filed with the
772 commission, the insurer or third-party filer whose filing was
773 disapproved may appeal the determination to a review panel
774 appointed by the commission. The commission shall adopt rules to
775 establish procedures for appointing such review panels and
776 provide for notice and hearing. An allegation that the
777 commission, in disapproving a product or advertisement filed
778 with the commission, acted arbitrarily, capriciously, or in a
779 manner that is an abuse of discretion or otherwise not in
780 accordance with the law, is subject to judicial review in
781 accordance with subsection (4) of Article III.

782 (2) The commission shall have authority to monitor,
783 review, and reconsider products and advertisement subsequent to
784 their filing or approval upon a finding that the product does

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785 not meet the relevant uniform standard. Where appropriate, the
786 commission may withdraw or modify its approval after proper
787 notice and hearing, subject to the appeal process in subsection
788 (1).

789 Article XII

790 FINANCE.—

791
792
793 (1) The commission shall pay or provide for the payment of
794 the reasonable expenses of the commission's establishment and
795 organization. To fund the cost of the commission's initial
796 operations, the commission may accept contributions and other
797 forms of funding from the National Association of Insurance
798 Commissioners, compacting states, and other sources.
799 Contributions and other forms of funding from other sources
800 shall be of such a nature that the independence of the
801 commission concerning the performance of commission duties shall
802 not be compromised.

803 (2) The commission shall collect a filing fee from each
804 insurer and third-party filer filing a product with the
805 commission to cover the cost of the operations and activities of
806 the commission and its staff in a total amount sufficient to
807 cover the commission's annual budget.

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

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

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

816 (6) The commission shall keep complete and accurate
817 accounts of all its internal receipts, including grants and
818 donations, and disbursements of all funds under its control. The
819 internal financial accounts of the commission shall be subject
820 to the accounting procedures established under its bylaws. The
821 financial accounts and reports including the system of internal
822 controls and procedures of the commission shall be audited
823 annually by an independent certified public accountant. Upon the
824 determination of the commission, but no less frequently than
825 every 3 years, the review of the independent auditor shall
826 include a management and performance audit of the commission.
827 The commission shall make an annual report to the Governor and
828 the presiding officers of the Legislature of the compacting
829 states, which shall include a report of the independent audit.
830 The commission's internal accounts shall not be confidential and
831 such materials may be shared with the commissioner of any
832 compacting state upon request; provided any work papers related
833 to any internal or independent audit and any information
834 regarding the privacy of individuals and insurers' proprietary
835 information, including trade secrets, shall remain confidential.

836 (7) No compacting state shall have any claim to or
837 ownership of any property held by or vested in the commission or
838 to any commission funds held pursuant to the provisions of this
839 compact.

840

Article XIII

COMPACTING STATES, EFFECTIVE DATE, AMENDMENT.—

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

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

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

Article XIV

WITHDRAWAL; DEFAULT; DISSOLUTION.—

(1) Withdrawal.—

869 (a) Once effective, the compact shall continue in force
870 and remain binding upon each and every compacting state;
871 provided a compacting state may withdraw from the compact by
872 enacting a law specifically repealing the law which enacted the
873 compact into law.

874 (b) The effective date of withdrawal is the effective date
875 of the repealing law. However, the withdrawal shall not apply to
876 any product filings approved or self-certified, or any
877 advertisement of such products, on the date the repealing law
878 becomes effective, except by mutual agreement of the commission
879 and the withdrawing state unless the approval is rescinded by
880 the withdrawing state as provided in paragraph (e).

881 (c) The commissioner of the withdrawing state shall
882 immediately notify the management committee in writing upon the
883 introduction of legislation repealing this compact in the
884 withdrawing state.

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

888 (e) The withdrawing state is responsible for all
889 obligations, duties, and liabilities incurred through the
890 effective date of withdrawal, including any obligations, the
891 performance of which extend beyond the effective date of
892 withdrawal, except to the extent those obligations may have been
893 released or relinquished by mutual agreement of the commission
894 and the withdrawing state. The commission's approval of products
895 and advertisement prior to the effective date of withdrawal
896 shall continue to be effective and be given full force and

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897 effect in the withdrawing state unless formally rescinded by the
898 withdrawing state in the same manner as provided by the laws of
899 the withdrawing state for the prospective disapproval of
900 products or advertisement previously approved under state law.

901 (f) Reinstatement following withdrawal of any compacting
902 state shall occur upon the effective date of the withdrawing
903 state reenacting the compact.

904 (2) Default.—

905 (a) If the commission determines that any compacting state
906 has at any time defaulted in the performance of any of its
907 obligations or responsibilities under this compact, the bylaws,
908 or duly adopted rules or operating procedures, after notice and
909 hearing as set forth in the bylaws, all rights, privileges, and
910 benefits conferred by this compact on the defaulting state shall
911 be suspended from the effective date of default as fixed by the
912 commission. The grounds for default include, but are not limited
913 to, failure of a compacting state to perform its obligations or
914 responsibilities, and any other grounds designated in commission
915 rules. The commission shall immediately notify the defaulting
916 state in writing of the defaulting state's suspension pending a
917 cure of the default. The commission shall stipulate the
918 conditions and the time period within which the defaulting state
919 must cure its default. If the defaulting state fails to cure the
920 default within the time period specified by the commission, the
921 defaulting state shall be terminated from the compact and all
922 rights, privileges, and benefits conferred by this compact shall
923 be terminated from the effective date of termination.

924 (b) Product approvals by the commission or product self-

925 certifications, or any advertisement in connection with such
 926 product that are in force on the effective date of termination
 927 shall remain in force in the defaulting state in the same manner
 928 as if the defaulting state had withdrawn voluntarily pursuant to
 929 subsection (1).

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

932 (3) Dissolution of compact.—

933 (a) The compact dissolves effective upon the date of the
 934 withdrawal or default of the compacting state which reduces
 935 membership in the compact to a single compacting state.

936 (b) Upon the dissolution of this compact, the compact
 937 becomes null and void and shall be of no further force or effect
 938 and the business and affairs of the commission shall be
 939 concluded and any surplus funds shall be distributed in
 940 accordance with the bylaws.

941
 942 Article XV

943
 944 SEVERABILITY; CONSTRUCTION.—

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

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

951
 952 Article XVI

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BINDING EFFECT OF COMPACT AND OTHER LAWS.—

(1) Binding effect of this compact.—

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

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

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

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

(2) Other laws.—

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

(b) For any product approved or certified to the

981 commission, the rules, uniform standards, and any other
 982 requirements of the commission shall constitute the exclusive
 983 provisions applicable to the content, approval, and
 984 certification of such products. For advertisement that is
 985 subject to the commission's authority, any rule, uniform
 986 standard, or other requirement of the commission which governs
 987 the content of the advertisement shall constitute the exclusive
 988 provision that a commissioner may apply to the content of the
 989 advertisement. Notwithstanding this paragraph, no action taken
 990 by the commission shall abrogate or restrict:

- 991 1. The access of any person to state courts;
- 992 2. Remedies available under state law related to breach of
 993 contract, tort, or other laws not specifically directed to the
 994 content of the product;
- 995 3. State law relating to the construction of insurance
 996 contracts; or
- 997 4. The authority of the attorney general of the state,
 998 including, but not limited to, maintaining any actions or
 999 proceedings, as authorized by law.

1000 (c) All insurance products filed with individual states
 1001 shall be subject to the laws of those states.

1002 Section 3. Pursuant to Article VII of the compact
 1003 authorized in this act, this state elects to prospectively opt
 1004 out of all uniform standards contained in the compact involving
 1005 long-term care insurance products, and such an opt out may not
 1006 be treated as a material variance in the offer or acceptance of
 1007 this state to participate in the compact.

1008 Section 4. The Office of Insurance Regulation may adopt

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1009 | rules to implement this act. The office may use the rulemaking
1010 | authority granted in this section to opt out of any new uniform
1011 | standards adopted after the effective date of this act, pursuant
1012 | to Article VII, until such standards are approved by the
1013 | Legislature.

1014 | Section 5. This act shall take effect October 1, 2013.