

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; authorizing the Commissioner of Insurance
16 to designate a person to represent the state on the
17 commission; providing for a management committee,
18 officers, and personnel of the commission; providing
19 authority of the management committee; providing for
20 legislative and advisory committees; providing for
21 qualified immunity, defense, and indemnification of
22 members, officers, employees, and representatives of
23 the commission; providing for meetings and acts of the
24 commission; providing rules and operating procedures;
25 providing rulemaking functions of the commission;
26 providing for opting out of uniform standards;
27 providing procedures and requirements; providing for
28 commission records and enforcement; authorizing the

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

57 involving long-term care insurance products; adopting
58 all other existing uniform standards that have been
59 adopted by the commission; providing a procedure for
60 adoption of any new uniform standards or amendments to
61 existing uniform standards of the commission;
62 requiring the office to notify the Legislature of any
63 new uniform standards or amendments to existing
64 uniform standards of the commission; providing that
65 any new uniform standards or amendments to existing
66 uniform standards of the commission may only be
67 adopted via legislation; providing for applicability
68 with respect to taxation of the commission; providing
69 for applicability and process with respect to certain
70 requests for inspection and copying of information,
71 data, or records; authorizing the Financial Services
72 Commission to adopt rules to implement this act and
73 opt out of certain uniform standards; providing an
74 effective date.

75
76 Be It Enacted by the Legislature of the State of Florida:

77
78 Section 1. Legislative findings; intent.—

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

85 firms.

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

89 (3) The Legislature further finds that the Interstate
90 Insurance Product Regulation Compact Model adopted by the
91 National Association of Insurance Commissioners and endorsed by
92 the National Conference of Insurance Legislators and the
93 National Conference of State Legislatures is designed to address
94 these market changes by providing a uniform set of product
95 standards and a single source for filing of new products.

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

113 may designate a person to represent this state on the
 114 commission, as necessary, to fulfill the duties of being a
 115 member of the commission.

116 Section 2. Interstate Insurance Product Regulation
 117 Compact.—The Interstate Insurance Product Regulation Compact is
 118 hereby enacted into law and entered into by this state with all
 119 states legally joining therein in the form substantially as
 120 follows:

122 Interstate Insurance Product Regulation Compact

124 Preamble

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

134 Article I

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

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

141 (2) Develop uniform standards for insurance products
142 covered under the compact.

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

148 (4) Give appropriate regulatory approval to those product
149 filings and advertisements satisfying the applicable uniform
150 standard.

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

155 (6) Create the Interstate Insurance Product Regulation
156 Commission.

157 (7) Perform these and such other related functions as may
158 be consistent with the state regulation of the business of
159 insurance.

161 Article II

162
163 DEFINITIONS.—For purposes of this compact:

164 (1) "Advertisement" means any material designed to create
165 public interest in a product, or induce the public to purchase,
166 increase, modify, reinstate, borrow on, surrender, replace, or
167 retain a policy, as more specifically defined in the rules and
168 operating procedures of the commission adopted as of March 1,

169 2013, and subsequent amendments thereto if the methodology
 170 remains substantially consistent.

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

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

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

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

186 (6) "Domiciliary state" means the state in which an
 187 insurer is incorporated or organized or, in the case of an alien
 188 insurer, its state of entry.

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

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

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

196 (10) "Office" means the Office of Insurance Regulation of

197 the Financial Services Commission.

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

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

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

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

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

222 (16) "Uniform standard" means a standard adopted by the
223 commission as of March 1, 2013, and subsequent amendments
224 thereto if the methodology remains substantially consistent, for

225 a product line pursuant to Article VII of this compact and shall
226 include all of the product requirements in aggregate; provided,
227 each uniform standard shall be construed, whether express or
228 implied, to prohibit the use of any inconsistent, misleading, or
229 ambiguous provisions in a product and the form of the product
230 made available to the public shall not be unfair, inequitable,
231 or against public policy as determined by the commission.

232
233 Article III

234
235 COMMISSION; ESTABLISHMENT; VENUE.—

236 (1) The compacting states hereby create and establish a
237 joint public agency known as the Interstate Insurance Product
238 Regulation Commission. Pursuant to Article IV of this compact,
239 the commission has the power to develop uniform standards for
240 product lines, receive and provide prompt review of products
241 filed with the commission, and give approval to those product
242 filings satisfying applicable uniform standards; provided, it is
243 not intended for the commission to be the exclusive entity for
244 receipt and review of insurance product filings. Nothing in this
245 article shall prohibit any insurer from filing its product in
246 any state in which the insurer is licensed to conduct the
247 business of insurance and any such filing shall be subject to
248 the laws of the state where filed.

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

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

253 compact.

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

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

260

261 Article IV

262

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

264 (1) Adopt rules, pursuant to Article VII, which shall have
265 the force and effect of law and shall be binding in the
266 compacting states to the extent and in the manner provided in
267 this compact.

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

281 Model Regulation, respectively, adopted as of 2001. The
282 commission shall consider whether any subsequent amendments to
283 the National Association of Insurance Commissioners' Long-Term
284 Care Insurance Model Act or Long-Term Care Insurance Model
285 Regulation adopted by the National Association of Insurance
286 Commissioners require amending of the uniform standards
287 established by the commission for long-term care insurance
288 products.

289 (3) Receive and review in an expeditious manner products
290 filed with the commission and rate filings for disability income
291 and long-term care insurance products and give approval of those
292 products and rate filings that satisfy the applicable uniform
293 standard, and such approval shall have the force and effect of
294 law and be binding on the compacting states to the extent and in
295 the manner provided in the compact.

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

309 binding in the compacting states to the extent and in the manner
310 provided in the compact.

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

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

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

322 (8) Issue subpoenas requiring the attendance and testimony
323 of witnesses and the production of evidence.

324 (9) Establish and maintain offices.

325 (10) Purchase and maintain insurance and bonds.

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

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

337 compensation, and qualifications of personnel.

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

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

346 (15) Sell, convey, mortgage, pledge, lease, exchange,
347 abandon, or otherwise dispose of any property, real, personal,
348 or mixed.

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

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

353 (18) Provide for dispute resolution among compacting
354 states.

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

358 (20) Provide advice and training to those personnel in
359 state insurance departments responsible for product review and
360 to be a resource for state insurance departments.

361 (21) Establish a budget and make expenditures.

362 (22) Borrow money, provided that this power does not, in
363 any manner, obligate the financial resources of the State of
364 Florida.

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

370 (24) Provide and receive information from and to cooperate
 371 with law enforcement agencies.

372 (25) Adopt and use a corporate seal.

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

376
 377 Article V
 378

379 ORGANIZATION.—

380 (1) Membership; voting; bylaws.—

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

393 fulfill the duties of being a member of the commission.

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

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

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

410 1. Establishing the fiscal year of the commission.

411 2. Providing reasonable procedures for appointing and
412 electing members, as well as holding meetings, of the management
413 committee.

414 3. Providing reasonable standards and procedures:

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

416 b. Governing any general or specific delegation of any
417 authority or function of the commission.

418 4. Providing reasonable procedures for calling and
419 conducting meetings of the commission that consist of a majority
420 of commission members, ensuring reasonable advance notice of

421 each such meeting, and providing for the right of citizens to
422 attend each such meeting with enumerated exceptions designed to
423 protect the public's interest, the privacy of individuals, and
424 insurers' proprietary information, including, but not limited
425 to, trade secrets. The commission may meet in camera only after
426 a majority of the entire membership votes to close a meeting in
427 total or in part. The commissioner of this state, or the
428 commissioner's designee, may attend, or otherwise participate
429 in, a meeting or executive session that is closed in total or
430 part to the extent such attendance or participation is
431 consistent with Florida law. As soon as practicable, the
432 commission must make public a copy of the vote to close the
433 meeting revealing the vote of each member with no proxy votes
434 allowed, and votes taken during such meeting. All notices of
435 commission meetings, including instructions for public
436 participation, provided to the office, the commissioner, or the
437 commissioner's designee shall be published in the Florida
438 Administrative Register.

439 5. Establishing the titles, duties, and authority and
440 reasonable procedures for the election of the officers of the
441 commission.

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

447 7. Adopting a code of ethics to address permissible and
448 prohibited activities of commission members and employees. This

449 code does not supersede or otherwise limit the obligations and
450 duties of this state's commissioner or the commissioner's
451 designee under ethics laws or rules of the State of Florida. To
452 the extent there is any inconsistency between the standards
453 imposed by this code and the standards imposed under this
454 state's ethics laws or rules, the commissioner or the
455 commissioner's designee must adhere to the stricter standard of
456 conduct.

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

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

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

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

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

474 2. Four members from those compacting states with at least
475 2 percent of the market based on the premium volume described
476 above, other than the six compacting states with the largest

477 premium volume, selected on a rotating basis as provided in the
478 bylaws.

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

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

487 1. Managing the affairs of the commission in a manner
488 consistent with the bylaws and purposes of the commission.

489 2. Establishing and overseeing an organizational structure
490 within, and appropriate procedures for, the commission to
491 provide for the creation of uniform standards and other rules,
492 receipt and review of product filings, administrative and
493 technical support functions, review of decisions regarding the
494 disapproval of a product filing, and the review of elections
495 made by a compacting state to opt out of a uniform standard;
496 provided a uniform standard shall not be submitted to the
497 compacting states for adoption unless approved by two-thirds of
498 the members of the management committee.

499 3. Overseeing the offices of the commission.

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

503 (c) The commission shall elect annually officers from the
504 management committee, with each having such authority and duties

505 as may be specified in the bylaws.

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

514 (3) Legislative and advisory committees.-

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

525 (b) The commission shall establish two advisory
526 committees, one comprising consumer representatives independent
527 of the insurance industry and the other comprising insurance
528 industry representatives.

529 (c) The commission may establish additional advisory
530 committees as the bylaws may provide for the carrying out of
531 commission functions.

532 (4) Corporate records of the commission.-The commission

533 shall maintain its corporate books and records in accordance
534 with the bylaws.

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

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

549 (b) The commission shall defend any member, officer,
550 executive director, employee, or representative of the
551 commission in any civil action seeking to impose liability
552 arising out of any actual or alleged act, error, or omission
553 that occurred within the scope of commission employment, duties,
554 or responsibilities, or that the person against whom the claim
555 is made had a reasonable basis for believing occurred within the
556 scope of commission employment, duties, or responsibilities;
557 provided nothing in this article shall be construed to prohibit
558 that person from retaining his or her own counsel and the actual
559 or alleged act, error, or omission did not result from that
560 person's intentional or willful and wanton misconduct.

561 (c) The commission shall indemnify and hold harmless any
562 member, officer, executive director, employee, or representative
563 of the commission for the amount of any settlement or judgment
564 obtained against that person arising out of any actual or
565 alleged act, error, or omission that occurred within the scope
566 of commission employment, duties, or responsibilities, or that
567 such person had a reasonable basis for believing occurred within
568 the scope of commission employment, duties, or responsibilities;
569 provided the actual or alleged act, error, or omission did not
570 result from the intentional or willful and wanton misconduct of
571 that person.

572
573 Article VI

574
575 MEETINGS; ACTS.—

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

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

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

588

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.

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

(3) Effective date and opt out of a uniform standard.—A uniform standard shall become effective 90 days after its adoption by the commission or such later date as the commission may determine; provided a compacting state may opt out of a uniform standard as provided in this act. The term "opt out"

617 means any action by a compacting state to decline to adopt or
 618 participate in an adopted uniform standard. All other rules and
 619 operating procedures, and amendments thereto, shall become
 620 effective as of the date specified in each rule, operating
 621 procedure, or amendment.

622 (4) Opt out procedure.—

623 (a) A compacting state may opt out of a uniform standard
 624 by legislation or regulation adopted by the compacting state
 625 under such state's Administrative Procedure Act. If a compacting
 626 state elects to opt out of a uniform standard by regulation,
 627 such state must:

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

631 2. Find that the uniform standard does not provide
 632 reasonable protections to the citizens of the state, given the
 633 conditions in the state.

634 (b) The commissioner of a compacting state other than this
 635 state shall make specific findings of fact and conclusions of
 636 law, based on a preponderance of the evidence, detailing the
 637 conditions in the state which warrant a departure from the
 638 uniform standard and determining that the uniform standard would
 639 not reasonably protect the citizens of the state. The
 640 commissioner must consider and balance the following factors and
 641 find that the conditions in the state and needs of the citizens
 642 of the state outweigh:

643 1. The intent of the Legislature to participate in, and
 644 the benefits of, an interstate agreement to establish national

645 uniform consumer protections for the products subject to this
646 compact.

647 2. The presumption that a uniform standard adopted by the
648 commission provides reasonable protections to consumers of the
649 relevant product.

650
651 Notwithstanding this subsection, a compacting state may, at the
652 time of its enactment of this compact, prospectively opt out of
653 all uniform standards involving long-term care insurance
654 products by expressly providing for such opt out in the enacted
655 compact, and such an opt out shall not be treated as a material
656 variance in the offer or acceptance of any state to participate
657 in this compact. Such an opt out shall be effective at the time
658 of enactment of this compact by the compacting state and shall
659 apply to all existing uniform standards involving long-term care
660 insurance products and those subsequently adopted.

661 (5) Effect of opting out.—If a compacting state elects to
662 opt out of a uniform standard, the uniform standard shall remain
663 applicable in the compacting state electing to opt out until
664 such time as the opt out legislation is enacted into law or the
665 regulation opting out becomes effective. Once the opt out of a
666 uniform standard by a compacting state becomes effective as
667 provided under the laws of that state, the uniform standard
668 shall have no further force and effect in that state unless and
669 until the legislation or regulation implementing the opt out is
670 repealed or otherwise becomes ineffective under the laws of the
671 state. If a compacting state opts out of a uniform standard
672 after the uniform standard has been made effective in that

673 state, the opt out shall have the same prospective effect as
674 provided under Article XIV for withdrawals.

675 (6) Stay of uniform standard.—If a compacting state has
676 formally initiated the process of opting out of a uniform
677 standard by regulation, and while the regulatory opt out is
678 pending, the compacting state may petition the commission, at
679 least 15 days before the effective date of the uniform standard,
680 to stay the effectiveness of the uniform standard in that state.
681 The commission may grant a stay if the commission determines the
682 regulatory opt out is being pursued in a reasonable manner and
683 there is a likelihood of success. If a stay is granted or
684 extended by the commission, the stay or extension thereof may
685 postpone the effective date by up to 90 days, unless
686 affirmatively extended by the commission; provided a stay may
687 not be permitted to remain in effect for more than 1 year unless
688 the compacting state can show extraordinary circumstances which
689 warrant a continuance of the stay, including, but not limited
690 to, the existence of a legal challenge which prevents the
691 compacting state from opting out. A stay may be terminated by
692 the commission upon notice that the rulemaking process has been
693 terminated.

694 (7) Judicial review.—Within 30 days after a rule or
695 operating procedure is adopted, any person may file a petition
696 for judicial review of the rule or operating procedure; provided
697 the filing of such a petition shall not stay or otherwise
698 prevent the rule or operating procedure from becoming effective
699 unless the court finds that the petitioner has a substantial
700 likelihood of success. The court shall give deference to the

701 actions of the commission consistent with applicable law and
702 shall not find the rule or operating procedure to be unlawful if
703 the rule or operating procedure represents a reasonable exercise
704 of the commission's authority.

705
706 Article VIII

707
708 COMMISSION RECORDS AND ENFORCEMENT.—

709 (1) The commission shall adopt rules establishing
710 conditions and procedures for public inspection and copying of
711 its information and official records, except such information
712 and records involving the privacy of individuals and insurers'
713 trade secrets. The commission may adopt additional rules under
714 which the commission may make available to federal and state
715 agencies, including law enforcement agencies, records and
716 information otherwise exempt from disclosure and may enter into
717 agreements with such agencies to receive or exchange information
718 or records subject to nondisclosure and confidentiality
719 provisions.

720 (2) Except as to privileged records, data, and
721 information, the laws of any compacting state pertaining to
722 confidentiality or nondisclosure shall not relieve any
723 compacting state commissioner of the duty to disclose any
724 relevant records, data, or information to the commission;
725 provided disclosure to the commission shall not be deemed to
726 wave or otherwise affect any confidentiality requirement; and
727 further provided, except as otherwise expressly provided in this
728 compact, the commission shall not be subject to the compacting

729 state's laws pertaining to confidentiality and nondisclosure
730 with respect to records, data, and information in its
731 possession. Confidential information of the commission shall
732 remain confidential after such information is provided to any
733 commissioner; however, all requests from the public to inspect
734 or copy records, data, or information of the commission,
735 wherever received, by and in the possession of the office,
736 commissioner, or the commissioner's designee shall be subject to
737 chapter 119, Florida Statutes.

738 (3) The commission shall monitor compacting states for
739 compliance with duly adopted bylaws, rules, uniform standards,
740 and operating procedures. The commission shall notify any
741 noncomplying compacting state in writing of its noncompliance
742 with commission bylaws, rules, or operating procedures. If a
743 noncomplying compacting state fails to remedy its noncompliance
744 within the time specified in the notice of noncompliance, the
745 compacting state shall be deemed to be in default as set forth
746 in Article XIV of this compact.

747 (4) The commissioner of any state in which an insurer is
748 authorized to do business or is conducting the business of
749 insurance shall continue to exercise his or her authority to
750 oversee the market regulation of the activities of the insurer
751 in accordance with the provisions of the state's law. The
752 commissioner's enforcement of compliance with the compact is
753 governed by the following provisions:

754 (a) With respect to the commissioner's market regulation
755 of a product or advertisement that is approved or certified to
756 the commission, the content of the product or advertisement

757 shall not constitute a violation of the provisions, standards,
758 or requirements of the compact except upon a final order of the
759 commission, issued at the request of a commissioner after prior
760 notice to the insurer and an opportunity for hearing before the
761 commission.

762 (b) Before a commissioner may bring an action for
763 violation of any provision, standard, or requirement of the
764 compact relating to the content of an advertisement not approved
765 or certified to the commission, the commission, or an authorized
766 commission officer or employee, must authorize the action.
767 However, authorization pursuant to this paragraph does not
768 require notice to the insurer, opportunity for hearing, or
769 disclosure of requests for authorization or records of the
770 commission's action on such requests.

771
772 Article IX

773
774 DISPUTE RESOLUTION.—The commission shall attempt, upon the
775 request of a member, to resolve any disputes or other issues
776 that are subject to this compact and which may arise between two
777 or more compacting states, or between compacting states and
778 noncompacting states, and the commission shall adopt an
779 operating procedure providing for resolution of such disputes.

780
781 Article X

782
783 PRODUCT FILING AND APPROVAL.—

784 (1) Insurers and third-party filers seeking to have a

785 product approved by the commission shall file the product with
786 and pay applicable filing fees to the commission. Nothing in
787 this compact shall be construed to restrict or otherwise prevent
788 an insurer from filing its product with the insurance department
789 in any state in which the insurer is licensed to conduct the
790 business of insurance and such filing shall be subject to the
791 laws of the states where filed.

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

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

807 Article XI

809 REVIEW OF COMMISSION DECISIONS REGARDING FILINGS.—

810 (1) Within 30 days after the commission has given notice
811 of a disapproved product or advertisement filed with the
812 commission, the insurer or third-party filer whose filing was

813 disapproved may appeal the determination to a review panel
814 appointed by the commission. The commission shall adopt rules to
815 establish procedures for appointing such review panels and
816 provide for notice and hearing. An allegation that the
817 commission, in disapproving a product or advertisement filed
818 with the commission, acted arbitrarily, capriciously, or in a
819 manner that is an abuse of discretion or otherwise not in
820 accordance with the law, is subject to judicial review in
821 accordance with subsection (4) of Article III.

822 (2) The commission shall have authority to monitor,
823 review, and reconsider products and advertisement subsequent to
824 their filing or approval upon a finding that the product does
825 not meet the relevant uniform standard. Where appropriate, the
826 commission may withdraw or modify its approval after proper
827 notice and hearing, subject to the appeal process in subsection
828 (1).

830 Article XII

832 FINANCE.—

833 (1) The commission shall pay or provide for the payment of
834 the reasonable expenses of the commission's establishment and
835 organization. To fund the cost of the commission's initial
836 operations, the commission may accept contributions and other
837 forms of funding from the National Association of Insurance
838 Commissioners, compacting states, and other sources.
839 Contributions and other forms of funding from other sources
840 shall be of such a nature that the independence of the

841 commission concerning the performance of commission duties shall
842 not be compromised.

843 (2) The commission shall collect a filing fee from each
844 insurer and third-party filer filing a product with the
845 commission to cover the cost of the operations and activities of
846 the commission and its staff in a total amount sufficient to
847 cover the commission's annual budget.

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

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

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

856 (6) The commission shall keep complete and accurate
857 accounts of all its internal receipts, including grants and
858 donations, and disbursements of all funds under its control. The
859 internal financial accounts of the commission shall be subject
860 to the accounting procedures established under its bylaws. The
861 financial accounts and reports including the system of internal
862 controls and procedures of the commission shall be audited
863 annually by an independent certified public accountant. Upon the
864 determination of the commission, but no less frequently than
865 every 3 years, the review of the independent auditor shall
866 include a management and performance audit of the commission.
867 The commission shall make an annual report to the Governor and
868 the presiding officers of the Legislature of the compacting

869 states, which shall include a report of the independent audit.
870 The commission's internal accounts shall not be confidential and
871 such materials may be shared with the commissioner of any
872 compacting state upon request; provided any work papers related
873 to any internal or independent audit and any information
874 regarding the privacy of individuals and insurers' proprietary
875 information, including trade secrets, shall remain confidential.

876 (7) No compacting state shall have any claim to or
877 ownership of any property held by or vested in the commission or
878 to any commission funds held pursuant to the provisions of this
879 compact.

880
881 Article XIII

882
883 COMPACTING STATES, EFFECTIVE DATE, AMENDMENT.—

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

885 (2) The compact shall become effective and binding upon
886 legislative enactment of the compact into law by two compacting
887 states; provided the commission shall become effective for
888 purposes of adopting uniform standards for, reviewing, and
889 giving approval or disapproval of, products filed with the
890 commission that satisfy applicable uniform standards only after
891 26 states are compacting states or, alternatively, by states
892 representing greater than 40 percent of the premium volume for
893 life insurance, annuity, disability income, and long-term care
894 insurance products, based on records of the National Association
895 of Insurance Commissioners for the prior year. Thereafter, the
896 compact shall become effective and binding as to any other

897 compacting state upon enactment of the compact into law by that
 898 state.

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

904
 905 Article XIV

906
 907 WITHDRAWAL; DEFAULT; DISSOLUTION.—

908 (1) Withdrawal.—

909 (a) Once effective, the compact shall continue in force
 910 and remain binding upon each and every compacting state;
 911 provided a compacting state may withdraw from the compact by
 912 enacting a law specifically repealing the law which enacted the
 913 compact into law.

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

921 (c) The commissioner of the withdrawing state shall
 922 immediately notify the management committee in writing upon the
 923 introduction of legislation repealing this compact in the
 924 withdrawing state.

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

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

941 (f) Reinstatement following withdrawal of any compacting
942 state shall occur upon the effective date of the withdrawing
943 state reenacting the compact.

944 (2) Default.—

945 (a) If the commission determines that any compacting state
946 has at any time defaulted in the performance of any of its
947 obligations or responsibilities under this compact, the bylaws,
948 or duly adopted rules or operating procedures, after notice and
949 hearing as set forth in the bylaws, all rights, privileges, and
950 benefits conferred by this compact on the defaulting state shall
951 be suspended from the effective date of default as fixed by the
952 commission. The grounds for default include, but are not limited

953 to, failure of a compacting state to perform its obligations or
954 responsibilities, and any other grounds designated in commission
955 rules. The commission shall immediately notify the defaulting
956 state in writing of the defaulting state's suspension pending a
957 cure of the default. The commission shall stipulate the
958 conditions and the time period within which the defaulting state
959 must cure its default. If the defaulting state fails to cure the
960 default within the time period specified by the commission, the
961 defaulting state shall be terminated from the compact and all
962 rights, privileges, and benefits conferred by this compact shall
963 be terminated from the effective date of termination.

964 (b) Product approvals by the commission or product self-
965 certifications, or any advertisement in connection with such
966 product that are in force on the effective date of termination
967 shall remain in force in the defaulting state in the same manner
968 as if the defaulting state had withdrawn voluntarily pursuant to
969 subsection (1).

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

972 (3) Dissolution of compact.—

973 (a) The compact dissolves effective upon the date of the
974 withdrawal or default of the compacting state which reduces
975 membership in the compact to a single compacting state.

976 (b) Upon the dissolution of this compact, the compact
977 becomes null and void and shall be of no further force or effect
978 and the business and affairs of the commission shall be
979 concluded and any surplus funds shall be distributed in
980 accordance with the bylaws.

981
982 Article XV

983
984 SEVERABILITY; CONSTRUCTION.-

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

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

991
992 Article XVI

993
994 BINDING EFFECT OF COMPACT AND OTHER LAWS.-

995 (1) Binding effect of this compact.-

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

999 (b) All agreements between the commission and the
1000 compacting states are binding in accordance with their terms.

1001 (c) Upon the request of a party to a conflict over the
1002 meaning or interpretation of commission actions, and upon a
1003 majority vote of the compacting states, the commission may issue
1004 advisory opinions regarding the meaning or interpretation in
1005 dispute.

1006 (d) If any provision of this compact exceeds the
1007 constitutional limits imposed on the Legislature of any
1008 compacting state, the obligations, duties, powers, or

1009 jurisdiction sought to be conferred by that provision upon the
 1010 commission shall be ineffective as to that compacting state and
 1011 those obligations, duties, powers, or jurisdiction shall remain
 1012 in the compacting state and shall be exercised by the agency of
 1013 such state to which those obligations, duties, powers, or
 1014 jurisdiction are delegated by law in effect at the time this
 1015 compact becomes effective.

1016 (2) Other laws.-

1017 (a) Nothing in this compact prevents the enforcement of
 1018 any other law of a compacting state, except as provided in
 1019 paragraph (b).

1020 (b) For any product approved or certified to the
 1021 commission, the rules, uniform standards, and any other
 1022 requirements of the commission shall constitute the exclusive
 1023 provisions applicable to the content, approval, and
 1024 certification of such products. For advertisement that is
 1025 subject to the commission's authority, any rule, uniform
 1026 standard, or other requirement of the commission which governs
 1027 the content of the advertisement shall constitute the exclusive
 1028 provision that a commissioner may apply to the content of the
 1029 advertisement. Notwithstanding this paragraph, no action taken
 1030 by the commission shall abrogate or restrict:

1031 1. The access of any person to state courts;

1032 2. Remedies available under state law related to breach of
 1033 contract, tort, or other laws not specifically directed to the
 1034 content of the product;

1035 3. State law relating to the construction of insurance
 1036 contracts; or

1037 4. The authority of the attorney general of the state,
1038 including, but not limited to, maintaining any actions or
1039 proceedings, as authorized by law.

1040 (c) All insurance products filed with individual states
1041 shall be subject to the laws of those states.

1042 Section 3. Election to opt out of all uniform standards
1043 adopted by the commission involving long-term care insurance
1044 products; adoption of existing uniform standards of the
1045 commission; procedure for adoption of new or amended uniform
1046 standards; notification of new or amended uniform standards.—

1047 (1) Pursuant to Article VII of the compact authorized in
1048 this act, the State of Florida prospectively opts out of all
1049 uniform standards adopted by the commission involving long-term
1050 care insurance products, and such opt out shall not be treated
1051 as a material variance in the offer or acceptance of this state
1052 to participate in the compact.

1053 (2) Except as provided in subsection (1), all uniform
1054 standards adopted by the commission as of March 1, 2013 are
1055 adopted by this state.

1056 (3) Notwithstanding subsections (3), (4), (5), and (6) of
1057 Article VII, as a participant in this compact, it is the policy
1058 of the State of Florida to opt out, and the office shall opt out
1059 of any new uniform standard adopted by the commission after
1060 March 1, 2013, or amendments to existing uniform standards
1061 adopted by the commission after March 1, 2013, where such
1062 amendments substantially alter or add to existing uniform
1063 standards adopted by this state in subsection (2) until such
1064 time as this state enacts legislation to adopt or opt out of new

1065 uniform standards or such amendments to uniform standards
1066 adopted by the commission after March 1, 2013.

1067 (4) The Financial Services Commission may adopt rules to
1068 implement this act. It is the policy of the State of Florida
1069 that this state's participation in new uniform standards or
1070 amendments to uniform standards adopted after March 1, 2013, as
1071 set out in subsection (3) that have not been legislatively
1072 approved by this state may not reasonably protect the citizens
1073 of this state based on Article XVI(1)(d) of this act. The
1074 Financial Services Commission shall use the rulemaking authority
1075 granted in this subsection to opt out of any new uniform
1076 standards or amendments to existing uniform standards where such
1077 amendments substantially alter or add to existing uniform
1078 standards adopted by the State of Florida in subsection (2)
1079 until such uniform standards are legislatively approved by this
1080 state.

1081 (5) After enactment of this section, if the commission
1082 adopts any new uniform standard or amendment to uniform
1083 standards as set out in subsection (3), the office shall
1084 immediately notify the Legislature of such new uniform standard
1085 or amendment to an existing uniform standard. If the office or a
1086 court of competent jurisdiction finds that the procedure set out
1087 in subsection (3) has not been followed, notice shall be given
1088 to the Legislature, and reasonable and prompt measures shall be
1089 taken to opt out of a uniform standard that has not been
1090 legislatively approved by the State of Florida.

1091 Section 4. Notwithstanding subsection (4) of Article XII,
1092 the commission is subject to:

1093 (a) State unemployment or reemployment taxes imposed
 1094 pursuant to chapter 443, Florida Statutes, in compliance with
 1095 the Federal Unemployment Tax Act, for any persons employed by
 1096 the commission who perform services for the commission within
 1097 this state.

1098 (b) Taxation for any commission business or activity
 1099 conducted or performed in the State of Florida.

1100 Section 5. (1) Notwithstanding subsections (1) and (2) of
 1101 Article VIII, subsection (2) of Article X, and subsection (6) of
 1102 Article XII of this act, a request by a resident of this state
 1103 for public inspection and copying of information, data, or
 1104 official records that includes:

1105 (a) An insurer's trade secrets shall be referred to the
 1106 commissioner who shall respond to the request, with the
 1107 cooperation and assistance of the commission, in accordance with
 1108 section 624.4213, Florida Statutes, or

1109 (b) Matters of privacy of individuals shall be referred to
 1110 the commissioner who shall respond to the request, with the
 1111 cooperation and assistance of the commission, in accordance with
 1112 section 119.071, Florida Statutes.

1113 (2) Nothing in this act abrogates a person's right to
 1114 access information consistent with the State Constitution and
 1115 laws of the State of Florida.

1116 Section 6. The Financial Services Commission may adopt
 1117 rules to implement this act. The Financial Services Commission
 1118 may use the rulemaking authority granted in this section to opt
 1119 out of any new uniform standards adopted after the effective
 1120 date of this act, pursuant to Article VII, until such standards

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1121 | are approved by the Legislature.

1122 | Section 7. This act shall take effect October 1, 2013.