

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 liability of the members, officers, executive
550 director, employees, and representatives of the commission,
551 acting within the scope of their employment or duties for acts,
552 errors, or omissions occurring within this state, may not exceed
553 the limits of liability set forth under the constitution and
554 laws of this state for state officials, employees, and agents.
555 The commission is an instrumentality of the state for the
556 purposes of any such action. This subsection does not protect
557 such persons from suit or liability for damage, loss, injury, or
558 liability caused by a criminal act or the intentional or willful
559 and wanton misconduct of such person.

560 (c) The commission shall defend any member, officer,

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

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

584 Article VI

586 MEETINGS; ACTS.—

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

617 commission shall give written notice to the relevant state
618 legislative committees in each compacting state responsible for
619 insurance issues of its intention to adopt the uniform standard.
620 The commission in adopting a uniform standard shall consider
621 fully all submitted materials and issue a concise explanation of
622 its decision.

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

633 (4) Opt out procedure.—

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

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

642 2. Find that the uniform standard does not provide
643 reasonable protections to the citizens of the state, given the
644 conditions in the state.

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

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

658 2. The presumption that a uniform standard adopted by the
659 commission provides reasonable protections to consumers of the
660 relevant product.

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

672 (5) Effect of opting out.—If a compacting state elects to

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

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

701 to, the existence of a legal challenge which prevents the
702 compacting state from opting out. A stay may be terminated by
703 the commission upon notice that the rulemaking process has been
704 terminated.

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

716 Article VIII

717 COMMISSION RECORDS AND ENFORCEMENT.—

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

729 or records subject to nondisclosure and confidentiality
730 provisions.

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

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

757 in Article XIV of this compact.

758 (4) The commissioner of any state in which an insurer is
759 authorized to do business or is conducting the business of
760 insurance shall continue to exercise his or her authority to
761 oversee the market regulation of the activities of the insurer
762 in accordance with the provisions of the state's law. The
763 commissioner's enforcement of compliance with the compact is
764 governed by the following provisions:

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

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

782
783 Article IX
784

785 DISPUTE RESOLUTION.—The commission shall attempt, upon the
 786 request of a member, to resolve any disputes or other issues
 787 that are subject to this compact and which may arise between two
 788 or more compacting states, or between compacting states and
 789 noncompacting states, and the commission shall adopt an
 790 operating procedure providing for resolution of such disputes.

791
 792 Article X

793
 794 PRODUCT FILING AND APPROVAL.—

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

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

813 supporting information.

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

817

818 Article XI

819

820 REVIEW OF COMMISSION DECISIONS REGARDING FILINGS.—

821 (1) Within 30 days after the commission has given notice
822 of a disapproved product or advertisement filed with the
823 commission, the insurer or third-party filer whose filing was
824 disapproved may appeal the determination to a review panel
825 appointed by the commission. The commission shall adopt rules to
826 establish procedures for appointing such review panels and
827 provide for notice and hearing. An allegation that the
828 commission, in disapproving a product or advertisement filed
829 with the commission, acted arbitrarily, capriciously, or in a
830 manner that is an abuse of discretion or otherwise not in
831 accordance with the law, is subject to judicial review in
832 accordance with subsection (4) of Article III.

833 (2) The commission shall have authority to monitor,
834 review, and reconsider products and advertisement subsequent to
835 their filing or approval upon a finding that the product does
836 not meet the relevant uniform standard. Where appropriate, the
837 commission may withdraw or modify its approval after proper
838 notice and hearing, subject to the appeal process in subsection
839 (1).

840

Article XIIFINANCE.—

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

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

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

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

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

(6) The commission shall keep complete and accurate accounts of all its internal receipts, including grants and

869 donations, and disbursements of all funds under its control. The
870 internal financial accounts of the commission shall be subject
871 to the accounting procedures established under its bylaws. The
872 financial accounts and reports including the system of internal
873 controls and procedures of the commission shall be audited
874 annually by an independent certified public accountant. Upon the
875 determination of the commission, but no less frequently than
876 every 3 years, the review of the independent auditor shall
877 include a management and performance audit of the commission.
878 The commission shall make an annual report to the Governor and
879 the presiding officers of the Legislature of the compacting
880 states, which shall include a report of the independent audit.
881 The commission's internal accounts shall not be confidential and
882 such materials may be shared with the commissioner of any
883 compacting state upon request; provided any work papers related
884 to any internal or independent audit and any information
885 regarding the privacy of individuals and insurers' proprietary
886 information, including trade secrets, shall remain confidential.

887 (7) No compacting state shall have any claim to or
888 ownership of any property held by or vested in the commission or
889 to any commission funds held pursuant to the provisions of this
890 compact.

891
892 Article XIII
893

894 COMPACTING STATES, EFFECTIVE DATE, AMENDMENT.—

- 895 (1) Any state is eligible to become a compacting state.
896 (2) The compact shall become effective and binding upon

897 legislative enactment of the compact into law by two compacting
898 states; provided the commission shall become effective for
899 purposes of adopting uniform standards for, reviewing, and
900 giving approval or disapproval of, products filed with the
901 commission that satisfy applicable uniform standards only after
902 26 states are compacting states or, alternatively, by states
903 representing greater than 40 percent of the premium volume for
904 life insurance, annuity, disability income, and long-term care
905 insurance products, based on records of the National Association
906 of Insurance Commissioners for the prior year. Thereafter, the
907 compact shall become effective and binding as to any other
908 compacting state upon enactment of the compact into law by that
909 state.

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

915
916 Article XIV

917
918 WITHDRAWAL; DEFAULT; DISSOLUTION.—

919 (1) Withdrawal.—

920 (a) Once effective, the compact shall continue in force
921 and remain binding upon each and every compacting state;
922 provided a compacting state may withdraw from the compact by
923 enacting a law specifically repealing the law which enacted the
924 compact into law.

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

932 (c) The commissioner of the withdrawing state shall
933 immediately notify the management committee in writing upon the
934 introduction of legislation repealing this compact in the
935 withdrawing state.

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

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

952 (f) Reinstatement following withdrawal of any compacting

953 state shall occur upon the effective date of the withdrawing
954 state reenacting the compact.

955 (2) Default.—

956 (a) If the commission determines that any compacting state
957 has at any time defaulted in the performance of any of its
958 obligations or responsibilities under this compact, the bylaws,
959 or duly adopted rules or operating procedures, after notice and
960 hearing as set forth in the bylaws, all rights, privileges, and
961 benefits conferred by this compact on the defaulting state shall
962 be suspended from the effective date of default as fixed by the
963 commission. The grounds for default include, but are not limited
964 to, failure of a compacting state to perform its obligations or
965 responsibilities, and any other grounds designated in commission
966 rules. The commission shall immediately notify the defaulting
967 state in writing of the defaulting state's suspension pending a
968 cure of the default. The commission shall stipulate the
969 conditions and the time period within which the defaulting state
970 must cure its default. If the defaulting state fails to cure the
971 default within the time period specified by the commission, the
972 defaulting state shall be terminated from the compact and all
973 rights, privileges, and benefits conferred by this compact shall
974 be terminated from the effective date of termination.

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

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

983 (3) Dissolution of compact.—

984 (a) The compact dissolves effective upon the date of the
 985 withdrawal or default of the compacting state which reduces
 986 membership in the compact to a single compacting state.

987 (b) Upon the dissolution of this compact, the compact
 988 becomes null and void and shall be of no further force or effect
 989 and the business and affairs of the commission shall be
 990 concluded and any surplus funds shall be distributed in
 991 accordance with the bylaws.

992
 993 Article XV

994
 995 SEVERABILITY; CONSTRUCTION.—

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

1000 (2) The provisions of this compact shall be liberally
 1001 construed to effectuate its purposes.

1002
 1003 Article XVI

1004
 1005 BINDING EFFECT OF COMPACT AND OTHER LAWS.—

1006 (1) Binding effect of this compact.—

1007 (a) All lawful actions of the commission, including all
 1008 rules and operating procedures adopted by the commission, are

1009 binding upon the compacting states.

1010 (b) All agreements between the commission and the
1011 compacting states are binding in accordance with their terms.

1012 (c) Upon the request of a party to a conflict over the
1013 meaning or interpretation of commission actions, and upon a
1014 majority vote of the compacting states, the commission may issue
1015 advisory opinions regarding the meaning or interpretation in
1016 dispute.

1017 (d) If any provision of this compact exceeds the
1018 constitutional limits imposed on the Legislature of any
1019 compacting state, the obligations, duties, powers, or
1020 jurisdiction sought to be conferred by that provision upon the
1021 commission shall be ineffective as to that compacting state and
1022 those obligations, duties, powers, or jurisdiction shall remain
1023 in the compacting state and shall be exercised by the agency of
1024 such state to which those obligations, duties, powers, or
1025 jurisdiction are delegated by law in effect at the time this
1026 compact becomes effective.

1027 (2) Other laws.—

1028 (a) Nothing in this compact prevents the enforcement of
1029 any other law of a compacting state, except as provided in
1030 paragraph (b).

1031 (b) For any product approved or certified to the
1032 commission, the rules, uniform standards, and any other
1033 requirements of the commission shall constitute the exclusive
1034 provisions applicable to the content, approval, and
1035 certification of such products. For advertisement that is
1036 subject to the commission's authority, any rule, uniform

1037 standard, or other requirement of the commission which governs
1038 the content of the advertisement shall constitute the exclusive
1039 provision that a commissioner may apply to the content of the
1040 advertisement. Notwithstanding this paragraph, no action taken
1041 by the commission shall abrogate or restrict:

1042 1. The access of any person to state courts;

1043 2. Remedies available under state law related to breach of
1044 contract, tort, or other laws not specifically directed to the
1045 content of the product;

1046 3. State law relating to the construction of insurance
1047 contracts; or

1048 4. The authority of the attorney general of the state,
1049 including, but not limited to, maintaining any actions or
1050 proceedings, as authorized by law.

1051 (c) All insurance products filed with individual states
1052 shall be subject to the laws of those states.

1053 Section 3. Election to opt out of all uniform standards
1054 adopted by the commission involving long-term care insurance
1055 products; adoption of existing uniform standards of the
1056 commission; procedure for adoption of new or amended uniform
1057 standards; notification of new or amended uniform standards.-

1058 (1) Pursuant to Article VII of the compact authorized in
1059 this act, the State of Florida prospectively opts out of all
1060 uniform standards adopted by the commission involving long-term
1061 care insurance products, and such opt out shall not be treated
1062 as a material variance in the offer or acceptance of this state
1063 to participate in the compact.

1064 (2) Except as provided in subsection (1), all uniform

1065 standards adopted by the commission as of March 1, 2013 are
1066 adopted by this state.

1067 (3) Notwithstanding subsections (3), (4), (5), and (6) of
1068 Article VII, as a participant in this compact, it is the policy
1069 of the State of Florida to opt out, and the office shall opt out
1070 of any new uniform standard adopted by the commission after
1071 March 1, 2013, or amendments to existing uniform standards
1072 adopted by the commission after March 1, 2013, where such
1073 amendments substantially alter or add to existing uniform
1074 standards adopted by this state in subsection (2) until such
1075 time as this state enacts legislation to adopt or opt out of new
1076 uniform standards or such amendments to uniform standards
1077 adopted by the commission after March 1, 2013.

1078 (4) The Financial Services Commission may adopt rules to
1079 implement this act. It is the policy of the State of Florida
1080 that this state's participation in new uniform standards or
1081 amendments to uniform standards adopted after March 1, 2013, as
1082 set out in subsection (3) that have not been legislatively
1083 approved by this state may not reasonably protect the citizens
1084 of this state based on Article XVI(1)(d) of this act. The
1085 Financial Services Commission shall use the rulemaking authority
1086 granted in this subsection to opt out of any new uniform
1087 standards or amendments to existing uniform standards where such
1088 amendments substantially alter or add to existing uniform
1089 standards adopted by the State of Florida in subsection (2)
1090 until such uniform standards are legislatively approved by this
1091 state.

1092 (5) After enactment of this section, if the commission

1093 adopts any new uniform standard or amendment to uniform
 1094 standards as set out in subsection (3), the office shall
 1095 immediately notify the Legislature of such new uniform standard
 1096 or amendment to an existing uniform standard. If the office or a
 1097 court of competent jurisdiction finds that the procedure set out
 1098 in subsection (3) has not been followed, notice shall be given
 1099 to the Legislature, and reasonable and prompt measures shall be
 1100 taken to opt out of a uniform standard that has not been
 1101 legislatively approved by the State of Florida.

1102 Section 4. Notwithstanding subsection (4) of Article XII,
 1103 the commission is subject to:

1104 (a) State unemployment or reemployment taxes imposed
 1105 pursuant to chapter 443, Florida Statutes, in compliance with
 1106 the Federal Unemployment Tax Act, for any persons employed by
 1107 the commission who perform services for the commission within
 1108 this state.

1109 (b) Taxation for any commission business or activity
 1110 conducted or performed in the State of Florida.

1111 Section 5. (1) Notwithstanding subsections (1) and (2) of
 1112 Article VIII, subsection (2) of Article X, and subsection (6) of
 1113 Article XII of this act, a request by a resident of this state
 1114 for public inspection and copying of information, data, or
 1115 official records that includes:

1116 (a) An insurer's trade secrets shall be referred to the
 1117 commissioner who shall respond to the request, with the
 1118 cooperation and assistance of the commission, in accordance with
 1119 section 624.4213, Florida Statutes, or

1120 (b) Matters of privacy of individuals shall be referred to

1121 the commissioner who shall respond to the request, with the
1122 cooperation and assistance of the commission, in accordance with
1123 section 119.07(1), Florida Statutes.

1124 (2) Nothing in this act abrogates a person's right to
1125 access information consistent with the State Constitution and
1126 laws of the State of Florida.

1127 Section 6. The Financial Services Commission may adopt
1128 rules to implement this act. The Financial Services Commission
1129 may use the rulemaking authority granted in this section to opt
1130 out of any new uniform standards adopted after the effective
1131 date of this act, pursuant to Article VII, until such standards
1132 are approved by the Legislature.

1133 Section 7. This act shall take effect October 1, 2013.