



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB0499

Introduced 1/27/2005, by Rep. Mr. Frank J. Mautino

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Interstate Insurance Product Regulation Compact. Provides for the promotion and protection of the interests of consumers of individual and group annuity, life insurance, disability income, and long-term care insurance products. Creates the Interstate Insurance Product Regulation Commission to develop uniform standards for insurance products covered under the Compact, to establish a central clearing house to receive and provide prompt review of insurance products covered under the Compact, to provide appropriate regulatory approval, and to improve coordination of regulatory resources and expertise between state insurance departments. Effective immediately.

LRB094 03548 LJB 33551 b

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Interstate Insurance Product Regulation Compact.

6 Section 5. Agreement. Pursuant to terms and conditions of  
7 this Act, the State of Illinois seeks to join with other States  
8 and establish the Interstate Insurance Product Regulation  
9 Compact, and thus become a member of the Interstate Insurance  
10 Product Regulation Commission. The representative of this  
11 State to the Commission shall be the Secretary of Financial and  
12 Professional Regulation.

13 Section 10. Ratification. The State of Illinois ratifies,  
14 approves, and adopts the following interstate compact:

15 Article I. PURPOSES

16 The purposes of this Compact are, through means of joint  
17 and cooperative action among the Compacting States:

18 1. To promote and protect the interest of consumers of  
19 individual and group annuity, life insurance, disability  
20 income and long-term care insurance products;

21 2. To develop uniform standards for insurance products  
22 covered under the Compact;

23 3. To establish a central clearinghouse to receive and  
24 provide prompt review of insurance products covered under  
25 the Compact and, in certain cases, advertisements related  
26 thereto, submitted by insurers authorized to do business in  
27 one or more Compacting States;

28 4. To give appropriate regulatory approval to those  
29 product filings and advertisements satisfying the  
30 applicable uniform standard;

1           5. To improve coordination of regulatory resources and  
2 expertise between state insurance departments regarding  
3 the setting of uniform standards and review of insurance  
4 products covered under the Compact;

5           6. To create the Interstate Insurance Product  
6 Regulation Commission; and

7           7. To perform these and such other related functions as  
8 may be consistent with the state regulation of the business  
9 of insurance.

## 10                           Article II. DEFINITIONS

11 For purposes of this Compact:

12           1. "Advertisement" means any material designed to  
13 create public interest in a Product, or induce the public  
14 to purchase, increase, modify, reinstate, borrow on,  
15 surrender, replace or retain a policy, as more specifically  
16 defined in the Rules and Operating Procedures of the  
17 Commission.

18           2. "Bylaws" mean those bylaws established by the  
19 Commission for its governance, or for directing or  
20 controlling the Commission's actions or conduct.

21           3. "Compacting State" means any State which has enacted  
22 this Compact legislation and which has not withdrawn  
23 pursuant to Article XIV, Section 1, or been terminated  
24 pursuant to Article XIV, Section 2.

25           4. "Commission" means the "Interstate Insurance  
26 Product Regulation Commission" established by this  
27 Compact.

28           5. "Commissioner" means the chief insurance regulatory  
29 official of a State including, but not limited to  
30 commissioner, superintendent, director or administrator.

31           6. "Domiciliary State" means the state in which an  
32 Insurer is incorporated or organized; or, in the case of an  
33 alien Insurer, its state of entry.

34           7. "Insurer" means any entity licensed by a State to  
35 issue contracts of insurance for any of the lines of

1 insurance covered by this Act.

2 8. "Member" means the person chosen by a Compacting  
3 State as its representative to the Commission, or his or  
4 her designee.

5 9. "Non-compacting State" means any State which is not  
6 at the time a Compacting State.

7 10. "Operating Procedures" mean procedures promulgated  
8 by the Commission implementing a Rule, Uniform Standard or  
9 a provision of this Compact.

10 11. "Product" means the form of a policy or contract,  
11 including any application, endorsement, or related form  
12 which is attached to and made a part of the policy or  
13 contract, and any evidence of coverage or certificate, for  
14 an individual or group annuity, life insurance, disability  
15 income or long-term care insurance product that an Insurer  
16 is authorized to issue.

17 12. "Rule" means a statement of general or particular  
18 applicability and future effect promulgated by the  
19 Commission, including a Uniform Standard developed  
20 pursuant to Article VII of this Compact, designed to  
21 implement, interpret, or prescribe law or policy or  
22 describing the organization, procedure, or practice  
23 requirements of the Commission, which shall have the force  
24 and effect of law in the Compacting States.

25 13. "State" means any state, district or territory of  
26 the United States of America.

27 14. "Third-Party Filer" means an entity that submits a  
28 Product filing to the Commission on behalf of an Insurer.

29 15. "Uniform Standard" means a standard adopted by the  
30 Commission for a Product line, pursuant to Article VII of  
31 this Compact, and shall include all of the Product  
32 requirements in aggregate; provided, that each Uniform  
33 Standard shall be construed, whether express or implied, to  
34 prohibit the use of any inconsistent, misleading or  
35 ambiguous provisions in a Product and the form of the  
36 Product made available to the public shall not be unfair,

1 inequitable or against public policy as determined by the  
2 Commission.

3 Article III. ESTABLISHMENT OF THE COMMISSION AND VENUE

4 1. The Compacting States hereby create and establish a  
5 joint public agency known as the "Interstate Insurance Product  
6 Regulation Commission." Pursuant to Article IV, the Commission  
7 will have the power to develop Uniform Standards for Product  
8 lines, receive and provide prompt review of Products filed  
9 therewith, and give approval to those Product filings  
10 satisfying applicable Uniform Standards; provided, it is not  
11 intended for the Commission to be the exclusive entity for  
12 receipt and review of insurance product filings. Nothing herein  
13 shall prohibit any Insurer from filing its product in any State  
14 wherein the Insurer is licensed to conduct the business of  
15 insurance; and any such filing shall be subject to the laws of  
16 the State where filed.

17 2. The Commission is a body corporate and politic, and an  
18 instrumentality of the Compacting States.

19 3. The Commission is solely responsible for its liabilities  
20 except as otherwise specifically provided in this Compact.

21 4. Venue is proper and judicial proceedings by or against  
22 the Commission shall be brought solely and exclusively in a  
23 Court of competent jurisdiction where the principal office of  
24 the Commission is located.

25 Article IV. POWERS OF THE COMMISSION

26 The Commission shall have the following powers:

27 1. To promulgate Rules, pursuant to Article VII of this  
28 Compact, which shall have the force and effect of law and  
29 shall be binding in the Compacting States to the extent and  
30 in the manner provided in this Compact;

31 2. To exercise its rule-making authority and establish  
32 reasonable Uniform Standards for Products covered under  
33 the Compact, and Advertisement related thereto, which  
34 shall have the force and effect of law and shall be binding

1 in the Compacting States, but only for those Products filed  
2 with the Commission, provided, that a Compacting State  
3 shall have the right to opt out of such Uniform Standard  
4 pursuant to Article VII, to the extent and in the manner  
5 provided in this Compact, and, provided further, that any  
6 Uniform Standard established by the Commission for  
7 long-term care insurance products may provide the same or  
8 greater protections for consumers as, but shall not provide  
9 less than, those protections set forth in the National  
10 Association of Insurance Commissioners' Long-Term Care  
11 Insurance Model Act and Long-Term Care Insurance Model  
12 Regulation, respectively, adopted as of 2001. The  
13 Commission shall consider whether any subsequent  
14 amendments to the NAIC Long-Term Care Insurance Model Act  
15 or Long-Term Care Insurance Model Regulation adopted by the  
16 NAIC require amending of the Uniform Standards established  
17 by the Commission for long-term care insurance products;

18 3. To receive and review in an expeditious manner  
19 Products filed with the Commission, and rate filings for  
20 disability income and long-term care insurance Products,  
21 and give approval of those Products and rate filings that  
22 satisfy the applicable Uniform Standard, where such  
23 approval shall have the force and effect of law and be  
24 binding on the Compacting States to the extent and in the  
25 manner provided in the Compact;

26 4. To receive and review in an expeditious manner  
27 Advertisement relating to long-term care insurance  
28 products for which Uniform Standards have been adopted by  
29 the Commission, and give approval to all Advertisement that  
30 satisfies the applicable Uniform Standard. For any product  
31 covered under this Compact, other than long-term care  
32 insurance products, the Commission shall have the  
33 authority to require an insurer to submit all or any part  
34 of its Advertisement with respect to that product for  
35 review or approval prior to use, if the Commission  
36 determines that the nature of the product is such that an

1 Advertisement of the product could have the capacity or  
2 tendency to mislead the public. The actions of Commission  
3 as provided in this section shall have the force and effect  
4 of law and shall be binding in the Compacting States to the  
5 extent and in the manner provided in the Compact;

6 5. To exercise its rule-making authority and designate  
7 Products and Advertisement that may be subject to a  
8 self-certification process without the need for prior  
9 approval by the Commission.

10 6. To promulgate Operating Procedures, pursuant to  
11 Article VII of this Compact, which shall be binding in the  
12 Compacting States to the extent and in the manner provided  
13 in this Compact;

14 7. To bring and prosecute legal proceedings or actions  
15 in its name as the Commission; provided, that the standing  
16 of any state insurance department to sue or be sued under  
17 applicable law shall not be affected;

18 8. To issue subpoenas requiring the attendance and  
19 testimony of witnesses and the production of evidence;

20 9. To establish and maintain offices;

21 10. To purchase and maintain insurance and bonds;

22 11. To borrow, accept or contract for services of  
23 personnel, including, but not limited to, employees of a  
24 Compacting State;

25 12. To hire employees, professionals or specialists,  
26 and elect or appoint officers, and to fix their  
27 compensation, define their duties and give them  
28 appropriate authority to carry out the purposes of the  
29 Compact, and determine their qualifications; and to  
30 establish the Commission's personnel policies and programs  
31 relating to, among other things, conflicts of interest,  
32 rates of compensation and qualifications of personnel;

33 13. To accept any and all appropriate donations and  
34 grants of money, equipment, supplies, materials and  
35 services, and to receive, utilize and dispose of the same;  
36 provided that at all times the Commission shall strive to

1 avoid any appearance of impropriety;

2 14. To lease, purchase, accept appropriate gifts or  
3 donations of, or otherwise to own, hold, improve or use,  
4 any property, real, personal or mixed; provided that at all  
5 times the Commission shall strive to avoid any appearance  
6 of impropriety;

7 15. To sell, convey, mortgage, pledge, lease,  
8 exchange, abandon or otherwise dispose of any property,  
9 real, personal or mixed;

10 16. To remit filing fees to Compacting States as may be  
11 set forth in the Bylaws, Rules or Operating Procedures;

12 17. To enforce compliance by Compacting States with  
13 Rules, Uniform Standards, Operating Procedures and Bylaws;

14 18. To provide for dispute resolution among Compacting  
15 States;

16 19. To advise Compacting States on issues relating to  
17 Insurers domiciled or doing business in Non-compacting  
18 jurisdictions, consistent with the purposes of this  
19 Compact;

20 20. To provide advice and training to those personnel  
21 in state insurance departments responsible for product  
22 review, and to be a resource for state insurance  
23 departments;

24 21. To establish a budget and make expenditures;

25 22. To borrow money;

26 23. To appoint committees, including advisory  
27 committees comprising Members, state insurance regulators,  
28 state legislators or their representatives, insurance  
29 industry and consumer representatives, and such other  
30 interested persons as may be designated in the Bylaws;

31 24. To provide and receive information from, and to  
32 cooperate with law enforcement agencies;

33 25. To adopt and use a corporate seal; and

34 26. To perform such other functions as may be necessary  
35 or appropriate to achieve the purposes of this Compact  
36 consistent with the state regulation of the business of



1 insurance.

2 Article V. ORGANIZATION OF THE COMMISSION

3 1. Membership, Voting and Bylaws.

4 a. Each Compacting State shall have and be limited to one  
5 Member. Each Member shall be qualified to serve in that  
6 capacity pursuant to applicable law of the Compacting State.  
7 Any Member may be removed or suspended from office as provided  
8 by the law of the State from which he or she shall be  
9 appointed. Any vacancy occurring in the Commission shall be  
10 filled in accordance with the laws of the Compacting State  
11 wherein the vacancy exists. Nothing herein shall be construed  
12 to affect the manner in which a Compacting State determines the  
13 election or appointment and qualification of its own  
14 Commissioner.

15 b. Each Member shall be entitled to one vote and shall have  
16 an opportunity to participate in the governance of the  
17 Commission in accordance with the Bylaws. Notwithstanding any  
18 provision herein to the contrary, no action of the Commission  
19 with respect to the promulgation of a Uniform Standard shall be  
20 effective unless two-thirds (2/3) of the Members vote in favor  
21 thereof.

22 c. The Commission shall, by a majority of the Members,  
23 prescribe Bylaws to govern its conduct as may be necessary or  
24 appropriate to carry out the purposes, and exercise the powers,  
25 of the Compact, including, but not limited to:

- 26 i. establishing the fiscal year of the Commission;  
27 ii. providing reasonable procedures for appointing  
28 and electing members, as well as holding meetings, of  
29 the Management Committee;  
30 iii. providing reasonable standards and  
31 procedures: (i) for the establishment and meetings of  
32 other committees, and (ii) governing any general or  
33 specific delegation of any authority or function of the  
34 Commission;  
35 iv. providing reasonable procedures for calling

1 and conducting meetings of the Commission that  
2 consists of a majority of Commission members, ensuring  
3 reasonable advance notice of each such meeting, and  
4 providing for the right of citizens to attend each such  
5 meeting with enumerated exceptions designed to protect  
6 the public's interest, the privacy of individuals, and  
7 insurers' proprietary information, including trade  
8 secrets. The Commission may meet in camera only after a  
9 majority of the entire membership votes to close a  
10 meeting en toto or in part. As soon as practicable, the  
11 Commission must make public (i) a copy of the vote to  
12 close the meeting revealing the vote of each Member  
13 with no proxy votes allowed, and (ii) votes taken  
14 during such meeting;

15 v. establishing the titles, duties and authority  
16 and reasonable procedures for the election of the  
17 officers of the Commission;

18 vi. providing reasonable standards and procedures  
19 for the establishment of the personnel policies and  
20 programs of the Commission. Notwithstanding any civil  
21 service or other similar laws of any Compacting State,  
22 the Bylaws shall exclusively govern the personnel  
23 policies and programs of the Commission;

24 vii. promulgating a code of ethics to address  
25 permissible and prohibited activities of commission  
26 members and employees; and

27 viii. providing a mechanism for winding up the  
28 operations of the Commission and the equitable  
29 disposition of any surplus funds that may exist after  
30 the termination of the Compact after the payment and/or  
31 reserving of all of its debts and obligations.

32 d. The Commission shall publish its bylaws in a convenient  
33 form and file a copy thereof and a copy of any amendment  
34 thereto, with the appropriate agency or officer in each of the  
35 Compacting States.

36 2. Management Committee, Officers and Personnel.

1 a. A Management Committee comprising no more than fourteen  
2 (14) members shall be established as follows:

3 (i) One (1) member from each of the six (6)  
4 Compacting States with the largest premium volume for  
5 individual and group annuities, life, disability  
6 income and long-term care insurance products,  
7 determined from the records of the NAIC for the prior  
8 year;

9 (ii) Four (4) members from those Compacting States  
10 with at least two percent (2%) of the market based on  
11 the premium volume described above, other than the six  
12 (6) Compacting States with the largest premium volume,  
13 selected on a rotating basis as provided in the Bylaws,  
14 and;

15 (iii) Four (4) members from those Compacting  
16 States with less than two percent (2%) of the market,  
17 based on the premium volume described above, with one  
18 (1) selected from each of the four (4) zone regions of  
19 the NAIC as provided in the Bylaws.

20 b. The Management Committee shall have such authority and  
21 duties as may be set forth in the Bylaws, including but not  
22 limited to:

23 i. managing the affairs of the Commission in a  
24 manner consistent with the Bylaws and purposes of the  
25 Commission;

26 ii. establishing and overseeing an organizational  
27 structure within, and appropriate procedures for, the  
28 Commission to provide for the creation of Uniform  
29 Standards and other Rules, receipt and review of  
30 product filings, administrative and technical support  
31 functions, review of decisions regarding the  
32 disapproval of a product filing, and the review of  
33 elections made by a Compacting State to opt out of a  
34 Uniform Standard; provided that a Uniform Standard  
35 shall not be submitted to the Compacting States for  
36 adoption unless approved by two-thirds (2/3) of the

1 members of the Management Committee;

2 iii. overseeing the offices of the Commission; and

3 iv. planning, implementing, and coordinating  
4 communications and activities with other state,  
5 federal and local government organizations in order to  
6 advance the goals of the Commission.

7 c. The Commission shall elect annually officers from the  
8 Management Committee, with each having such authority and  
9 duties, as may be specified in the Bylaws.

10 d. The Management Committee may, subject to the approval of  
11 the Commission, appoint or retain an executive director for  
12 such period, upon such terms and conditions and for such  
13 compensation as the Commission may deem appropriate. The  
14 executive director shall serve as secretary to the Commission,  
15 but shall not be a Member of the Commission. The executive  
16 director shall hire and supervise such other staff as may be  
17 authorized by the Commission.

18 3. Legislative and Advisory Committees.

19 a. A legislative committee comprising state legislators or  
20 their designees shall be established to monitor the operations  
21 of, and make recommendations to, the Commission, including the  
22 Management Committee; provided that the manner of selection and  
23 term of any legislative committee member shall be as set forth  
24 in the Bylaws. Prior to the adoption by the Commission of any  
25 Uniform Standard, revision to the Bylaws, annual budget or  
26 other significant matter as may be provided in the Bylaws, the  
27 Management Committee shall consult with and report to the  
28 legislative committee.

29 b. The Commission shall establish two (2) advisory  
30 committees, one of which shall comprise consumer  
31 representatives independent of the insurance industry, and the  
32 other comprising insurance industry representatives.

33 c. The Commission may establish additional advisory  
34 committees as its Bylaws may provide for the carrying out of  
35 its functions.

36 4. Corporate Records of the Commission The Commission shall

1 maintain its corporate books and records in accordance with the  
2 Bylaws.

3 5. Qualified Immunity, Defense and Indemnification.

4 a. The Members, officers, executive director, employees  
5 and representatives of the Commission shall be immune from suit  
6 and liability, either personally or in their official capacity,  
7 for any claim for damage to or loss of property or personal  
8 injury or other civil liability caused by or arising out of any  
9 actual or alleged act, error or omission that occurred, or that  
10 the person against whom the claim is made had a reasonable  
11 basis for believing occurred within the scope of Commission  
12 employment, duties or responsibilities; provided, that nothing  
13 in this paragraph shall be construed to protect any such person  
14 from suit and/or liability for any damage, loss, injury or  
15 liability caused by the intentional or willful and wanton  
16 misconduct of that person.

17 b. The Commission shall defend any Member, officer,  
18 executive director, employee or representative of the  
19 Commission in any civil action seeking to impose liability  
20 arising out of any actual or alleged act, error or omission  
21 that occurred within the scope of Commission employment, duties  
22 or responsibilities, or that the person against whom the claim  
23 is made had a reasonable basis for believing occurred within  
24 the scope of Commission employment, duties or  
25 responsibilities; provided, that nothing herein shall be  
26 construed to prohibit that person from retaining his or her own  
27 counsel; and provided further, that the actual or alleged act,  
28 error or omission did not result from that person's intentional  
29 or willful and wanton misconduct.

30 c. The Commission shall indemnify and hold harmless any  
31 Member, officer, executive director, employee or  
32 representative of the Commission for the amount of any  
33 settlement or judgment obtained against that person arising out  
34 of any actual or alleged act, error or omission that occurred  
35 within the scope of Commission employment, duties or  
36 responsibilities, or that such person had a reasonable basis

1 for believing occurred within the scope of Commission  
2 employment, duties or responsibilities, provided, that the  
3 actual or alleged act, error or omission did not result from  
4 the intentional or willful and wanton misconduct of that  
5 person.

6 Article VI. MEETINGS AND ACTS OF THE COMMISSION

7 1. The Commission shall meet and take such actions as are  
8 consistent with the provisions of this Compact and the Bylaws.

9 2. Each Member of the Commission shall have the right and  
10 power to cast a vote to which that Compacting State is entitled  
11 and to participate in the business and affairs of the  
12 Commission. A Member shall vote in person or by such other  
13 means as provided in the Bylaws. The Bylaws may provide for  
14 Members' participation in meetings by telephone or other means  
15 of communication.

16 3. The Commission shall meet at least once during each  
17 calendar year. Additional meetings shall be held as set forth  
18 in the Bylaws.

19 Article VII. RULES & OPERATING PROCEDURES: RULEMAKING

20 FUNCTIONS OF THE COMMISSION AND OPTING OUT OF UNIFORM STANDARDS

21 1. Rulemaking Authority. The Commission shall promulgate  
22 reasonable Rules, including Uniform Standards, and Operating  
23 Procedures in order to effectively and efficiently achieve the  
24 purposes of this Compact. Notwithstanding the foregoing, in the  
25 event the Commission exercises its rulemaking authority in a  
26 manner that is beyond the scope of the purposes of this Act, or  
27 the powers granted hereunder, then such an action by the  
28 Commission shall be invalid and have no force and effect.

29 2. Rulemaking Procedure. Rules and Operating Procedures  
30 shall be made pursuant to a rulemaking process that conforms to  
31 the Model State Administrative Procedure Act of 1981 as  
32 amended, as may be appropriate to the operations of the  
33 Commission. Before the Commission adopts a Uniform Standard,  
34 the Commission shall give written notice to the relevant state

1 legislative committee(s) in each Compacting State responsible  
2 for insurance issues of its intention to adopt the Uniform  
3 Standard. The Commission in adopting a Uniform Standard shall  
4 consider fully all submitted materials and issue a concise  
5 explanation of its decision.

6 3. Effective Date and Opt Out of a Uniform Standard. A  
7 Uniform Standard shall become effective ninety (90) days after  
8 its promulgation by the Commission or such later date as the  
9 Commission may determine; provided, however, that a Compacting  
10 State may opt out of a Uniform Standard as provided in this  
11 Article. "Opt out" shall be defined as any action by a  
12 Compacting State to decline to adopt or participate in a  
13 promulgated Uniform Standard. All other Rules and Operating  
14 Procedures, and amendments thereto, shall become effective as  
15 of the date specified in each Rule, Operating Procedure or  
16 amendment.

17 4. Opt Out Procedure. A Compacting State may opt out of a  
18 Uniform Standard, either by legislation or regulation duly  
19 promulgated by the Insurance Department under the Compacting  
20 State's Administrative Procedure Act. If a Compacting State  
21 elects to opt out of a Uniform Standard by regulation, it must  
22 (a) give written notice to the Commission no later than ten  
23 (10) business days after the Uniform Standard is promulgated,  
24 or at the time the State becomes a Compacting State and (b)  
25 find that the Uniform Standard does not provide reasonable  
26 protections to the citizens of the State, given the conditions  
27 in the State. The Commissioner shall make specific findings of  
28 fact and conclusions of law, based on a preponderance of the  
29 evidence, detailing the conditions in the State which warrant a  
30 departure from the Uniform Standard and determining that the  
31 Uniform Standard would not reasonably protect the citizens of  
32 the State. The Commissioner must consider and balance the  
33 following factors and find that the conditions in the State and  
34 needs of the citizens of the State outweigh: (i) the intent of  
35 the legislature to participate in, and the benefits of, an  
36 interstate agreement to establish national uniform consumer

1 protections for the Products subject to this Act; and (ii) the  
2 presumption that a Uniform Standard adopted by the Commission  
3 provides reasonable protections to consumers of the relevant  
4 Product.

5 Notwithstanding the foregoing, a Compacting State may, at  
6 the time of its enactment of this Compact, prospectively opt  
7 out of all Uniform Standards involving long-term care insurance  
8 products by expressly providing for such opt out in the enacted  
9 Compact, and such an opt out shall not be treated as a material  
10 variance in the offer or acceptance of any State to participate  
11 in this Compact. Such an opt out shall be effective at the time  
12 of enactment of this Compact by the Compacting State and shall  
13 apply to all existing Uniform Standards involving long-term  
14 care insurance products and those subsequently promulgated.

15 5. Effect of Opt Out. If a Compacting State elects to opt  
16 out of a Uniform Standard, the Uniform Standard shall remain  
17 applicable in the Compacting State electing to opt out until  
18 such time the opt out legislation is enacted into law or the  
19 regulation opting out becomes effective.

20 Once the opt out of a Uniform Standard by a Compacting  
21 State becomes effective as provided under the laws of that  
22 State, the Uniform Standard shall have no further force and  
23 effect in that State unless and until the legislation or  
24 regulation implementing the opt out is repealed or otherwise  
25 becomes ineffective under the laws of the State. If a  
26 Compacting State opts out of a Uniform Standard after the  
27 Uniform Standard has been made effective in that State, the opt  
28 out shall have the same prospective effect as provided under  
29 Article XIV for withdrawals.

30 6. Stay of Uniform Standard. If a Compacting State has  
31 formally initiated the process of opting out of a Uniform  
32 Standard by regulation, and while the regulatory opt out is  
33 pending, the Compacting State may petition the Commission, at  
34 least fifteen (15) days before the effective date of the  
35 Uniform Standard, to stay the effectiveness of the Uniform  
36 Standard in that State. The Commission may grant a stay if it



1 determines the regulatory opt out is being pursued in a  
2 reasonable manner and there is a likelihood of success. If a  
3 stay is granted or extended by the Commission, the stay or  
4 extension thereof may postpone the effective date by up to  
5 ninety (90) days, unless affirmatively extended by the  
6 Commission; provided, a stay may not be permitted to remain in  
7 effect for more than one (1) year unless the Compacting State  
8 can show extraordinary circumstances which warrant a  
9 continuance of the stay, including, but not limited to, the  
10 existence of a legal challenge which prevents the Compacting  
11 State from opting out. A stay may be terminated by the  
12 Commission upon notice that the rulemaking process has been  
13 terminated.

14 7. Not later than thirty (30) days after a Rule or  
15 Operating Procedure is promulgated, any person may file a  
16 petition for judicial review of the Rule or Operating  
17 Procedure; provided, that the filing of such a petition shall  
18 not stay or otherwise prevent the Rule or Operating Procedure  
19 from becoming effective unless the court finds that the  
20 petitioner has a substantial likelihood of success. The court  
21 shall give deference to the actions of the Commission  
22 consistent with applicable law and shall not find the Rule or  
23 Operating Procedure to be unlawful if the Rule or Operating  
24 Procedure represents a reasonable exercise of the Commission's  
25 authority.

#### 26 Article VIII. COMMISSION RECORDS AND ENFORCEMENT

27 1. The Commission shall promulgate Rules establishing  
28 conditions and procedures for public inspection and copying of  
29 its information and official records, except such information  
30 and records involving the privacy of individuals and insurers'  
31 trade secrets. The Commission may promulgate additional Rules  
32 under which it may make available to federal and state  
33 agencies, including law enforcement agencies, records and  
34 information otherwise exempt from disclosure, and may enter  
35 into agreements with such agencies to receive or exchange

1 information or records subject to nondisclosure and  
2 confidentiality provisions.

3 2. Except as to privileged records, data and information,  
4 the laws of any Compacting State pertaining to confidentiality  
5 or nondisclosure shall not relieve any Compacting State  
6 Commissioner of the duty to disclose any relevant records, data  
7 or information to the Commission; provided, that disclosure to  
8 the Commission shall not be deemed to waive or otherwise affect  
9 any confidentiality requirement; and further provided, that,  
10 except as otherwise expressly provided in this Act, the  
11 Commission shall not be subject to the Compacting State's laws  
12 pertaining to confidentiality and nondisclosure with respect  
13 to records, data and information in its possession.  
14 Confidential information of the Commission shall remain  
15 confidential after such information is provided to any  
16 Commissioner.

17 3. The Commission shall monitor Compacting States for  
18 compliance with duly adopted Bylaws, Rules, including Uniform  
19 Standards, and Operating Procedures. The Commission shall  
20 notify any non-complying Compacting State in writing of its  
21 noncompliance with Commission Bylaws, Rules or Operating  
22 Procedures. If a non-complying Compacting State fails to remedy  
23 its noncompliance within the time specified in the notice of  
24 noncompliance, the Compacting State shall be deemed to be in  
25 default as set forth in Article XIV.

26 4. The Commissioner of any State in which an Insurer is  
27 authorized to do business, or is conducting the business of  
28 insurance, shall continue to exercise his or her authority to  
29 oversee the market regulation of the activities of the Insurer  
30 in accordance with the provisions of the State's law. The  
31 Commissioner's enforcement of compliance with the Compact is  
32 governed by the following provisions:

33 a. With respect to the Commissioner's market regulation of  
34 a Product or Advertisement that is approved or certified to the  
35 Commission, the content of the Product or Advertisement shall  
36 not constitute a violation of the provisions, standards or

1 requirements of the Compact except upon a final order of the  
2 Commission, issued at the request of a Commissioner after prior  
3 notice to the Insurer and an opportunity for hearing before the  
4 Commission.

5 b. Before a Commissioner may bring an action for violation  
6 of any provision, standard or requirement of the Compact  
7 relating to the content of an Advertisement not approved or  
8 certified to the Commission, the Commission, or an authorized  
9 Commission officer or employee, must authorize the action.  
10 However, authorization pursuant to this Paragraph does not  
11 require notice to the Insurer, opportunity for hearing or  
12 disclosure of requests for authorization or records of the  
13 Commission's action on such requests.

#### 14 Article IX. DISPUTE RESOLUTION

15 The Commission shall attempt, upon the request of a Member,  
16 to resolve any disputes or other issues that are subject to  
17 this Compact and which may arise between two or more Compacting  
18 States, or between Compacting States and Non-compacting  
19 States, and the Commission shall promulgate an Operating  
20 Procedure providing for resolution of such disputes.

#### 21 Article X. PRODUCT FILING AND APPROVAL

22 1. Insurers and Third-Party Filers seeking to have a  
23 Product approved by the Commission shall file the Product with,  
24 and pay applicable filing fees to, the Commission. Nothing in  
25 this Act shall be construed to restrict or otherwise prevent an  
26 insurer from filing its Product with the insurance department  
27 in any State wherein the insurer is licensed to conduct the  
28 business of insurance, and such filing shall be subject to the  
29 laws of the States where filed.

30 2. The Commission shall establish appropriate filing and  
31 review processes and procedures pursuant to Commission Rules  
32 and Operating Procedures. Notwithstanding any provision herein  
33 to the contrary, the Commission shall promulgate Rules to  
34 establish conditions and procedures under which the Commission

1 will provide public access to Product filing information. In  
2 establishing such Rules, the Commission shall consider the  
3 interests of the public in having access to such information,  
4 as well as protection of personal medical and financial  
5 information and trade secrets, that may be contained in a  
6 Product filing or supporting information.

7 3. Any Product approved by the Commission may be sold or  
8 otherwise issued in those Compacting States for which the  
9 Insurer is legally authorized to do business.

#### 10 Article XI. REVIEW OF COMMISSION DECISIONS REGARDING FILINGS

11 1. Not later than thirty (30) days after the Commission has  
12 given notice of a disapproved Product or Advertisement filed  
13 with the Commission, the Insurer or Third Party Filer whose  
14 filing was disapproved may appeal the determination to a review  
15 panel appointed by the Commission. The Commission shall  
16 promulgate Rules to establish procedures for appointing such  
17 review panels and provide for notice and hearing. An allegation  
18 that the Commission, in disapproving a Product or Advertisement  
19 filed with the Commission, acted arbitrarily, capriciously, or  
20 in a manner that is an abuse of discretion or otherwise not in  
21 accordance with the law, is subject to judicial review in  
22 accordance with Article III, section 5.

23 2. The Commission shall have authority to monitor, review  
24 and reconsider Products and Advertisement subsequent to their  
25 filing or approval upon a finding that the product does not  
26 meet the relevant Uniform Standard. Where appropriate, the  
27 Commission may withdraw or modify its approval after proper  
28 notice and hearing, subject to the appeal process in section 1  
29 above.

#### 30 Article XII. FINANCE

31 1. The Commission shall pay or provide for the payment of  
32 the reasonable expenses of its establishment and organization.  
33 To fund the cost of its initial operations, the Commission may  
34 accept contributions and other forms of funding from the

1 National Association of Insurance Commissioners, Compacting  
2 States and other sources. Contributions and other forms of  
3 funding from other sources shall be of such a nature that the  
4 independence of the Commission concerning the performance of  
5 its duties shall not be compromised.

6 2. The Commission shall collect a filing fee from each  
7 Insurer and Third Party Filer filing a product with the  
8 Commission to cover the cost of the operations and activities  
9 of the Commission and its staff in a total amount sufficient to  
10 cover the Commission's annual budget.

11 3. The Commission's budget for a fiscal year shall not be  
12 approved until it has been subject to notice and comment as set  
13 forth in Article VII of this Compact.

14 4. The Commission shall be exempt from all taxation in and  
15 by the Compacting States.

16 5. The Commission shall not pledge the credit of any  
17 Compacting State, except by and with the appropriate legal  
18 authority of that Compacting State.

19 6. The Commission shall keep complete and accurate accounts  
20 of all its internal receipts, including grants and donations,  
21 and disbursements of all funds under its control. The internal  
22 financial accounts of the Commission shall be subject to the  
23 accounting procedures established under its Bylaws. The  
24 financial accounts and reports including the system of internal  
25 controls and procedures of the Commission shall be audited  
26 annually by an independent certified public accountant. Upon  
27 the determination of the Commission, but no less frequently  
28 than every three (3) years, the review of the independent  
29 auditor shall include a management and performance audit of the  
30 Commission. The Commission shall make an Annual Report to the  
31 Governor and legislature of the Compacting States, which shall  
32 include a report of the independent audit. The Commission's  
33 internal accounts shall not be confidential and such materials  
34 may be shared with the Commissioner of any Compacting State  
35 upon request, provided, however, that any work papers related  
36 to any internal or independent audit and any information

1 regarding the privacy of individuals and insurers' proprietary  
2 information, including trade secrets, shall remain  
3 confidential.

4 7. No Compacting State shall have any claim to or ownership  
5 of any property held by or vested in the Commission or to any  
6 Commission funds held pursuant to the provisions of this  
7 Compact.

8 Article XIII. COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

9 1. Any State is eligible to become a Compacting State.

10 2. The Compact shall become effective and binding upon  
11 legislative enactment of the Compact into law by two Compacting  
12 States; provided, the Commission shall become effective for  
13 purposes of adopting Uniform Standards for, reviewing, and  
14 giving approval or disapproval of, Products filed with the  
15 Commission that satisfy applicable Uniform Standards only  
16 after twenty-six (26) States are Compacting States or,  
17 alternatively, by States representing greater than forty  
18 percent (40%) of the premium volume for life insurance,  
19 annuity, disability income and long-term care insurance  
20 products, based on records of the NAIC for the prior year.  
21 Thereafter, it shall become effective and binding as to any  
22 other Compacting State upon enactment of the Compact into law  
23 by that State.

24 3. Amendments to the Compact may be proposed by the  
25 Commission for enactment by the Compacting States. No amendment  
26 shall become effective and binding upon the Commission and the  
27 Compacting States unless and until all Compacting States enact  
28 the amendment into law.

29 Article XIV. WITHDRAWAL, DEFAULT AND TERMINATION

30 1. Withdrawal.

31 a. Once effective, the Compact shall continue in force and  
32 remain binding upon each and every Compacting State; provided,  
33 that a Compacting State may withdraw from the Compact  
34 ("Withdrawing State") by enacting a statute specifically

1 repealing the statute which enacted the Compact into law.

2 b. The effective date of withdrawal is the effective date  
3 of the repealing statute. However, the withdrawal shall not  
4 apply to any product filings approved or self-certified, or any  
5 Advertisement of such products, on the date the repealing  
6 statute becomes effective, except by mutual agreement of the  
7 Commission and the Withdrawing State unless the approval is  
8 rescinded by the Withdrawing State as provided in subsection e.  
9 of this section.

10 c. The Commissioner of the Withdrawing State shall  
11 immediately notify the Management Committee in writing upon the  
12 introduction of legislation repealing this Compact in the  
13 Withdrawing State.

14 d. The Commission shall notify the other Compacting States  
15 of the introduction of such legislation within ten (10) days  
16 after its receipt of notice thereof.

17 e. The Withdrawing State is responsible for all  
18 obligations, duties and liabilities incurred through the  
19 effective date of withdrawal, including any obligations, the  
20 performance of which extend beyond the effective date of  
21 withdrawal, except to the extent those obligations may have  
22 been released or relinquished by mutual agreement of the  
23 Commission and the Withdrawing State. The Commission's  
24 approval of Products and Advertisement prior to the effective  
25 date of withdrawal shall continue to be effective and be given  
26 full force and effect in the Withdrawing State, unless formally  
27 rescinded by the Withdrawing State in the same manner as  
28 provided by the laws of the Withdrawing State for the  
29 prospective disapproval of products or advertisement  
30 previously approved under state law.

31 f. Reinstatement following withdrawal of any Compacting  
32 State shall occur upon the effective date of the Withdrawing  
33 State reenacting the Compact.

34 2. Default.

35 a. If the Commission determines that any Compacting State  
36 has at any time defaulted ("Defaulting State") in the

1 performance of any of its obligations or responsibilities under  
2 this Compact, the Bylaws or duly promulgated Rules or Operating  
3 Procedures, then, after notice and hearing as set forth in the  
4 Bylaws, all rights, privileges and benefits conferred by this  
5 Compact on the Defaulting State shall be suspended from the  
6 effective date of default as fixed by the Commission. The  
7 grounds for default include, but are not limited to, failure of  
8 a Compacting State to perform its obligations or  
9 responsibilities, and any other grounds designated in  
10 Commission Rules. The Commission shall immediately notify the  
11 Defaulting State in writing of the Defaulting State's  
12 suspension pending a cure of the default. The Commission shall  
13 stipulate the conditions and the time period within which the  
14 Defaulting State must cure its default. If the Defaulting State  
15 fails to cure the default within the time period specified by  
16 the Commission, the Defaulting State shall be terminated from  
17 the Compact and all rights, privileges and benefits conferred  
18 by this Compact shall be terminated from the effective date of  
19 termination.

20 b. Product approvals by the Commission or product  
21 self-certifications, or any Advertisement in connection with  
22 such product, that are in force on the effective date of  
23 termination shall remain in force in the Defaulting State in  
24 the same manner as if the Defaulting State had withdrawn  
25 voluntarily pursuant to paragraph 1 of this Article.

26 c. Reinstatement following termination of any Compacting  
27 State requires a reenactment of the Compact.

28 3. Dissolution of Compact.

29 a. The Compact dissolves effective upon the date of the  
30 withdrawal or default of the Compacting State which reduces  
31 membership in the Compact to one Compacting State.

32 b. Upon the dissolution of this Compact, the Compact  
33 becomes null and void and shall be of no further force or  
34 effect, and the business and affairs of the Commission shall be  
35 wound up and any surplus funds shall be distributed in  
36 accordance with the Bylaws.



1 Article XV. SEVERABILITY AND CONSTRUCTION

2 1. The provisions of this Compact shall be severable; and  
3 if any phrase, clause, sentence or provision is deemed  
4 unenforceable, the remaining provisions of the Compact shall be  
5 enforceable.

6 2. The provisions of this Compact shall be liberally  
7 construed to effectuate its purposes.

8 Article XVI. BINDING EFFECT OF COMPACT AND OTHER LAWS

9 1. Other Laws.

10 a. Nothing herein prevents the enforcement of any other law  
11 of a Compacting State, except as provided in paragraph b of  
12 this Article.

13 b. For any Product approved or certified to the Commission,  
14 the Rules, Uniform Standards and any other requirements of the  
15 Commission shall constitute the exclusive provisions  
16 applicable to the content, approval and certification of such  
17 Products. For Advertisement that is subject to the Commission's  
18 authority, any Rule, Uniform Standard or other requirement of  
19 the Commission which governs the content of the Advertisement  
20 shall constitute the exclusive provision that a Commissioner  
21 may apply to the content of the Advertisement. Notwithstanding  
22 the foregoing, no action taken by the Commission shall abrogate  
23 or restrict: (i) the access of any person to state courts; (ii)  
24 remedies available under state law related to breach of  
25 contract, tort, or other laws not specifically directed to the  
26 content of the Product; (iii) state law relating to the  
27 construction of insurance contracts; or (iv) the authority of  
28 the attorney general of the state, including but not limited to  
29 maintaining any actions or proceedings, as authorized by law.

30 c. All insurance products filed with individual States  
31 shall be subject to the laws of those States.

32 2. Binding Effect of this Compact.

33 a. All lawful actions of the Commission, including all  
34 Rules and Operating Procedures promulgated by the Commission,

1 are binding upon the Compacting States.

2 b. All agreements between the Commission and the Compacting  
3 States are binding in accordance with their terms.

4 c. Upon the request of a party to a conflict over the  
5 meaning or interpretation of Commission actions, and upon a  
6 majority vote of the Compacting States, the Commission may  
7 issue advisory opinions regarding the meaning or  
8 interpretation in dispute.

9 d. In the event any provision of this Compact exceeds the  
10 constitutional limits imposed on the legislature of any  
11 Compacting State, the obligations, duties, powers or  
12 jurisdiction sought to be conferred by that provision upon the  
13 Commission shall be ineffective as to that Compacting State,  
14 and those obligations, duties, powers or jurisdiction shall  
15 remain in the Compacting State and shall be exercised by the  
16 agency thereof to which those obligations, duties, powers or  
17 jurisdiction are delegated by law in effect at the time this  
18 Compact becomes effective.

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law.