



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0676

Introduced 2/6/2007, by Rep. 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.

LRB095 09010 KBJ 29201 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

1 covered under the Compact;

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

7 4. To give appropriate regulatory approval to those
8 product filings and advertisements satisfying the
9 applicable uniform standard;

10 5. To improve coordination of regulatory resources and
11 expertise between state insurance departments regarding
12 the setting of uniform standards and review of insurance
13 products covered under the Compact;

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

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

19 Article II. DEFINITIONS

20 For purposes of this Compact:

21 1. "Advertisement" means any material designed to
22 create public interest in a Product, or induce the public
23 to purchase, increase, modify, reinstate, borrow on,
24 surrender, replace or retain a policy, as more specifically
25 defined in the Rules and Operating Procedures of the

1 Commission.

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

5 3. "Compacting State" means any State which has enacted
6 this Compact legislation and which has not withdrawn
7 pursuant to Article XIV, Section 1, or been terminated
8 pursuant to Article XIV, Section 2.

9 4. "Commission" means the "Interstate Insurance
10 Product Regulation Commission" established by this
11 Compact.

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

15 6. "Domiciliary State" means the state in which an
16 Insurer is incorporated or organized; or, in the case of an
17 alien Insurer, its state of entry.

18 7. "Insurer" means any entity licensed by a State to
19 issue contracts of insurance for any of the lines of
20 insurance covered by this Act.

21 8. "Member" means the person chosen by a Compacting
22 State as its representative to the Commission, or his or
23 her designee.

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

26 10. "Operating Procedures" mean procedures promulgated

1 by the Commission implementing a Rule, Uniform Standard or
2 a provision of this Compact.

3 11. "Product" means the form of a policy or contract,
4 including any application, endorsement, or related form
5 which is attached to and made a part of the policy or
6 contract, and any evidence of coverage or certificate, for
7 an individual or group annuity, life insurance, disability
8 income or long-term care insurance product that an Insurer
9 is authorized to issue.

10 12. "Rule" means a statement of general or particular
11 applicability and future effect promulgated by the
12 Commission, including a Uniform Standard developed
13 pursuant to Article VII of this Compact, designed to
14 implement, interpret, or prescribe law or policy or
15 describing the organization, procedure, or practice
16 requirements of the Commission, which shall have the force
17 and effect of law in the Compacting States.

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

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

22 15. "Uniform Standard" means a standard adopted by the
23 Commission for a Product line, pursuant to Article VII of
24 this Compact, and shall include all of the Product
25 requirements in aggregate; provided, that each Uniform
26 Standard shall be construed, whether express or implied, to

1 prohibit the use of any inconsistent, misleading or
2 ambiguous provisions in a Product and the form of the
3 Product made available to the public shall not be unfair,
4 inequitable or against public policy as determined by the
5 Commission.

6 Article III. ESTABLISHMENT OF THE COMMISSION AND VENUE

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

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

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

24 4. Venue is proper and judicial proceedings by or against
25 the Commission shall be brought solely and exclusively in a

1 Court of competent jurisdiction where the principal office of
2 the Commission is located.

3 Article IV. POWERS OF THE COMMISSION

4 The Commission shall have the following powers:

5 1. To promulgate Rules, pursuant to Article VII of this
6 Compact, which shall have the force and effect of law and
7 shall be binding in the Compacting States to the extent and
8 in the manner provided in this Compact;

9 2. To exercise its rule-making authority and establish
10 reasonable Uniform Standards for Products covered under
11 the Compact, and Advertisement related thereto, which
12 shall have the force and effect of law and shall be binding
13 in the Compacting States, but only for those Products filed
14 with the Commission, provided, that a Compacting State
15 shall have the right to opt out of such Uniform Standard
16 pursuant to Article VII, to the extent and in the manner
17 provided in this Compact, and, provided further, that any
18 Uniform Standard established by the Commission for
19 long-term care insurance products may provide the same or
20 greater protections for consumers as, but shall not provide
21 less than, those protections set forth in the National
22 Association of Insurance Commissioners' Long-Term Care
23 Insurance Model Act and Long-Term Care Insurance Model
24 Regulation, respectively, adopted as of 2001. The
25 Commission shall consider whether any subsequent

1 amendments to the NAIC Long-Term Care Insurance Model Act
2 or Long-Term Care Insurance Model Regulation adopted by the
3 NAIC require amending of the Uniform Standards established
4 by the Commission for long-term care insurance products;

5 3. To receive and review in an expeditious manner
6 Products filed with the Commission, and rate filings for
7 disability income and long-term care insurance Products,
8 and give approval of those Products and rate filings that
9 satisfy the applicable Uniform Standard, where such
10 approval shall have the force and effect of law and be
11 binding on the Compacting States to the extent and in the
12 manner provided in the Compact;

13 4. To receive and review in an expeditious manner
14 Advertisement relating to long-term care insurance
15 products for which Uniform Standards have been adopted by
16 the Commission, and give approval to all Advertisement that
17 satisfies the applicable Uniform Standard. For any product
18 covered under this Compact, other than long-term care
19 insurance products, the Commission shall have the
20 authority to require an insurer to submit all or any part
21 of its Advertisement with respect to that product for
22 review or approval prior to use, if the Commission
23 determines that the nature of the product is such that an
24 Advertisement of the product could have the capacity or
25 tendency to mislead the public. The actions of Commission
26 as provided in this section shall have the force and effect

1 of law and shall be binding in the Compacting States to the
2 extent and in the manner provided in the Compact;

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

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

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

15 8. To issue subpoenas requiring the attendance and
16 testimony of witnesses and the production of evidence;

17 9. To establish and maintain offices;

18 10. To purchase and maintain insurance and bonds;

19 11. To borrow, accept or contract for services of
20 personnel, including, but not limited to, employees of a
21 Compacting State;

22 12. To hire employees, professionals or specialists,
23 and elect or appoint officers, and to fix their
24 compensation, define their duties and give them
25 appropriate authority to carry out the purposes of the
26 Compact, and determine their qualifications; and to

1 establish the Commission's personnel policies and programs
2 relating to, among other things, conflicts of interest,
3 rates of compensation and qualifications of personnel;

4 13. To accept any and all appropriate donations and
5 grants of money, equipment, supplies, materials and
6 services, and to receive, utilize and dispose of the same;
7 provided that at all times the Commission shall strive to
8 avoid any appearance of impropriety;

9 14. To lease, purchase, accept appropriate gifts or
10 donations of, or otherwise to own, hold, improve or use,
11 any property, real, personal or mixed; provided that at all
12 times the Commission shall strive to avoid any appearance
13 of impropriety;

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

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

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

21 18. To provide for dispute resolution among Compacting
22 States;

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

1 20. To provide advice and training to those personnel
2 in state insurance departments responsible for product
3 review, and to be a resource for state insurance
4 departments;

5 21. To establish a budget and make expenditures;

6 22. To borrow money;

7 23. To appoint committees, including advisory
8 committees comprising Members, state insurance regulators,
9 state legislators or their representatives, insurance
10 industry and consumer representatives, and such other
11 interested persons as may be designated in the Bylaws;

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

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

15 26. To perform such other functions as may be necessary
16 or appropriate to achieve the purposes of this Compact
17 consistent with the state regulation of the business of
18 insurance.

19 Article V. ORGANIZATION OF THE COMMISSION

20 1. Membership, Voting and Bylaws.

21 a. Each Compacting State shall have and be limited to one
22 Member. Each Member shall be qualified to serve in that
23 capacity pursuant to applicable law of the Compacting State.
24 Any Member may be removed or suspended from office as provided
25 by the law of the State from which he or she shall be

1 appointed. Any vacancy occurring in the Commission shall be
2 filled in accordance with the laws of the Compacting State
3 wherein the vacancy exists. Nothing herein shall be construed
4 to affect the manner in which a Compacting State determines the
5 election or appointment and qualification of its own
6 Commissioner.

7 b. Each Member shall be entitled to one vote and shall have
8 an opportunity to participate in the governance of the
9 Commission in accordance with the Bylaws. Notwithstanding any
10 provision herein to the contrary, no action of the Commission
11 with respect to the promulgation of a Uniform Standard shall be
12 effective unless two-thirds (2/3) of the Members vote in favor
13 thereof.

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

18 i. establishing the fiscal year of the Commission;

19 ii. providing reasonable procedures for appointing
20 and electing members, as well as holding meetings, of
21 the Management Committee;

22 iii. providing reasonable standards and
23 procedures: (i) for the establishment and meetings of
24 other committees, and (ii) governing any general or
25 specific delegation of any authority or function of the
26 Commission;

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

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

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

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

1 members and employees; and

2 viii. providing a mechanism for winding up the
3 operations of the Commission and the equitable
4 disposition of any surplus funds that may exist after
5 the termination of the Compact after the payment and/or
6 reserving of all of its debts and obligations.

7 d. The Commission shall publish its bylaws in a convenient
8 form and file a copy thereof and a copy of any amendment
9 thereto, with the appropriate agency or officer in each of the
10 Compacting States.

11 2. Management Committee, Officers and Personnel.

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

14 (i) One (1) member from each of the six (6)
15 Compacting States with the largest premium volume for
16 individual and group annuities, life, disability
17 income and long-term care insurance products,
18 determined from the records of the NAIC for the prior
19 year;

20 (ii) Four (4) members from those Compacting States
21 with at least two percent (2%) of the market based on
22 the premium volume described above, other than the six
23 (6) Compacting States with the largest premium volume,
24 selected on a rotating basis as provided in the Bylaws,
25 and;

26 (iii) Four (4) members from those Compacting

1 States with less than two percent (2%) of the market,
2 based on the premium volume described above, with one
3 (1) selected from each of the four (4) zone regions of
4 the NAIC as provided in the Bylaws.

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

8 i. managing the affairs of the Commission in a
9 manner consistent with the Bylaws and purposes of the
10 Commission;

11 ii. establishing and overseeing an organizational
12 structure within, and appropriate procedures for, the
13 Commission to provide for the creation of Uniform
14 Standards and other Rules, receipt and review of
15 product filings, administrative and technical support
16 functions, review of decisions regarding the
17 disapproval of a product filing, and the review of
18 elections made by a Compacting State to opt out of a
19 Uniform Standard; provided that a Uniform Standard
20 shall not be submitted to the Compacting States for
21 adoption unless approved by two-thirds (2/3) of the
22 members of the Management Committee;

23 iii. overseeing the offices of the Commission; and

24 iv. planning, implementing, and coordinating
25 communications and activities with other state,
26 federal and local government organizations in order to

1 advance the goals of the Commission.

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

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

13 3. Legislative and Advisory Committees.

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

24 b. The Commission shall establish two (2) advisory
25 committees, one of which shall comprise consumer
26 representatives independent of the insurance industry, and the

1 other comprising insurance industry representatives.

2 c. The Commission may establish additional advisory
3 committees as its Bylaws may provide for the carrying out of
4 its functions.

5 4. Corporate Records of the Commission The Commission shall
6 maintain its corporate books and records in accordance with the
7 Bylaws.

8 5. Qualified Immunity, Defense and Indemnification.

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

22 b. The Commission shall defend any Member, officer,
23 executive director, employee or representative of the
24 Commission in any civil action seeking to impose liability
25 arising out of any actual or alleged act, error or omission
26 that occurred within the scope of Commission employment, duties

1 or responsibilities, or that the person against whom the claim
2 is made had a reasonable basis for believing occurred within
3 the scope of Commission employment, duties or
4 responsibilities; provided, that nothing herein shall be
5 construed to prohibit that person from retaining his or her own
6 counsel; and provided further, that the actual or alleged act,
7 error or omission did not result from that person's intentional
8 or willful and wanton misconduct.

9 c. The Commission shall indemnify and hold harmless any
10 Member, officer, executive director, employee or
11 representative of the Commission for the amount of any
12 settlement or judgment obtained against that person arising out
13 of any actual or alleged act, error or omission that occurred
14 within the scope of Commission employment, duties or
15 responsibilities, or that such person had a reasonable basis
16 for believing occurred within the scope of Commission
17 employment, duties or responsibilities, provided, that the
18 actual or alleged act, error or omission did not result from
19 the intentional or willful and wanton misconduct of that
20 person.

21 Article VI. MEETINGS AND ACTS OF THE COMMISSION

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

24 2. Each Member of the Commission shall have the right and
25 power to cast a vote to which that Compacting State is entitled

1 and to participate in the business and affairs of the
2 Commission. A Member shall vote in person or by such other
3 means as provided in the Bylaws. The Bylaws may provide for
4 Members' participation in meetings by telephone or other means
5 of communication.

6 3. The Commission shall meet at least once during each
7 calendar year. Additional meetings shall be held as set forth
8 in the Bylaws.

9 Article VII. RULES & OPERATING PROCEDURES: RULEMAKING

10 FUNCTIONS OF THE COMMISSION AND OPTING OUT OF UNIFORM STANDARDS

11 1. Rulemaking Authority. The Commission shall promulgate
12 reasonable Rules, including Uniform Standards, and Operating
13 Procedures in order to effectively and efficiently achieve the
14 purposes of this Compact. Notwithstanding the foregoing, in the
15 event the Commission exercises its rulemaking authority in a
16 manner that is beyond the scope of the purposes of this Act, or
17 the powers granted hereunder, then such an action by the
18 Commission shall be invalid and have no force and effect.

19 2. Rulemaking Procedure. Rules and Operating Procedures
20 shall be made pursuant to a rulemaking process that conforms to
21 the Model State Administrative Procedure Act of 1981 as
22 amended, as may be appropriate to the operations of the
23 Commission. Before the Commission adopts a Uniform Standard,
24 the Commission shall give written notice to the relevant state
25 legislative committee(s) in each Compacting State responsible

1 for insurance issues of its intention to adopt the Uniform
2 Standard. The Commission in adopting a Uniform Standard shall
3 consider fully all submitted materials and issue a concise
4 explanation of its decision.

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

16 4. Opt Out Procedure. A Compacting State may opt out of a
17 Uniform Standard, either by legislation or regulation duly
18 promulgated by the Insurance Department under the Compacting
19 State's Administrative Procedure Act. If a Compacting State
20 elects to opt out of a Uniform Standard by regulation, it must
21 (a) give written notice to the Commission no later than ten
22 (10) business days after the Uniform Standard is promulgated,
23 or at the time the State becomes a Compacting State and (b)
24 find that the Uniform Standard does not provide reasonable
25 protections to the citizens of the State, given the conditions
26 in the State. The Commissioner shall make specific findings of

1 fact and conclusions of law, based on a preponderance of the
2 evidence, detailing the conditions in the State which warrant a
3 departure from the Uniform Standard and determining that the
4 Uniform Standard would not reasonably protect the citizens of
5 the State. The Commissioner must consider and balance the
6 following factors and find that the conditions in the State and
7 needs of the citizens of the State outweigh: (i) the intent of
8 the legislature to participate in, and the benefits of, an
9 interstate agreement to establish national uniform consumer
10 protections for the Products subject to this Act; and (ii) the
11 presumption that a Uniform Standard adopted by the Commission
12 provides reasonable protections to consumers of the relevant
13 Product.

14 Notwithstanding the foregoing, a Compacting State may, at
15 the time of its enactment of this Compact, prospectively opt
16 out of all Uniform Standards involving long-term care insurance
17 products by expressly providing for such opt out in the enacted
18 Compact, and such an opt out shall not be treated as a material
19 variance in the offer or acceptance of any State to participate
20 in this Compact. Such an opt out shall be effective at the time
21 of enactment of this Compact by the Compacting State and shall
22 apply to all existing Uniform Standards involving long-term
23 care insurance products and those subsequently promulgated.

24 5. Effect of Opt Out. If a Compacting State elects to opt
25 out of a Uniform Standard, the Uniform Standard shall remain
26 applicable in the Compacting State electing to opt out until

1 such time the opt out legislation is enacted into law or the
2 regulation opting out becomes effective.

3 Once the opt out of a Uniform Standard by a Compacting
4 State becomes effective as provided under the laws of that
5 State, the Uniform Standard shall have no further force and
6 effect in that State unless and until the legislation or
7 regulation implementing the opt out is repealed or otherwise
8 becomes ineffective under the laws of the State. If a
9 Compacting State opts out of a Uniform Standard after the
10 Uniform Standard has been made effective in that State, the opt
11 out shall have the same prospective effect as provided under
12 Article XIV for withdrawals.

13 6. Stay of Uniform Standard. If a Compacting State has
14 formally initiated the process of opting out of a Uniform
15 Standard by regulation, and while the regulatory opt out is
16 pending, the Compacting State may petition the Commission, at
17 least fifteen (15) days before the effective date of the
18 Uniform Standard, to stay the effectiveness of the Uniform
19 Standard in that State. The Commission may grant a stay if it
20 determines the regulatory opt out is being pursued in a
21 reasonable manner and there is a likelihood of success. If a
22 stay is granted or extended by the Commission, the stay or
23 extension thereof may postpone the effective date by up to
24 ninety (90) days, unless affirmatively extended by the
25 Commission; provided, a stay may not be permitted to remain in
26 effect for more than one (1) year unless the Compacting State

1 can show extraordinary circumstances which warrant a
2 continuance of the stay, including, but not limited to, the
3 existence of a legal challenge which prevents the Compacting
4 State from opting out. A stay may be terminated by the
5 Commission upon notice that the rulemaking process has been
6 terminated.

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

19 Article VIII. COMMISSION RECORDS AND ENFORCEMENT

20 1. The Commission shall promulgate Rules establishing
21 conditions and procedures for public inspection and copying of
22 its information and official records, except such information
23 and records involving the privacy of individuals and insurers'
24 trade secrets. The Commission may promulgate additional Rules
25 under which it may make available to federal and state

1 agencies, including law enforcement agencies, records and
2 information otherwise exempt from disclosure, and may enter
3 into agreements with such agencies to receive or exchange
4 information or records subject to nondisclosure and
5 confidentiality provisions.

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

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

1 noncompliance, the Compacting State shall be deemed to be in
2 default as set forth in Article XIV.

3 4. The Commissioner of any State in which an Insurer is
4 authorized to do business, or is conducting the business of
5 insurance, shall continue to exercise his or her authority to
6 oversee the market regulation of the activities of the Insurer
7 in accordance with the provisions of the State's law. The
8 Commissioner's enforcement of compliance with the Compact is
9 governed by the following provisions:

10 a. With respect to the Commissioner's market regulation of
11 a Product or Advertisement that is approved or certified to the
12 Commission, the content of the Product or Advertisement shall
13 not constitute a violation of the provisions, standards or
14 requirements of the Compact except upon a final order of the
15 Commission, issued at the request of a Commissioner after prior
16 notice to the Insurer and an opportunity for hearing before the
17 Commission.

18 b. Before a Commissioner may bring an action for violation
19 of any provision, standard or requirement of the Compact
20 relating to the content of an Advertisement not approved or
21 certified to the Commission, the Commission, or an authorized
22 Commission officer or employee, must authorize the action.
23 However, authorization pursuant to this Paragraph does not
24 require notice to the Insurer, opportunity for hearing or
25 disclosure of requests for authorization or records of the
26 Commission's action on such requests.

1 Article IX. DISPUTE RESOLUTION

2 The Commission shall attempt, upon the request of a Member,
3 to resolve any disputes or other issues that are subject to
4 this Compact and which may arise between two or more Compacting
5 States, or between Compacting States and Non-compacting
6 States, and the Commission shall promulgate an Operating
7 Procedure providing for resolution of such disputes.

8 Article X. PRODUCT FILING AND APPROVAL

9 1. Insurers and Third-Party Filers seeking to have a
10 Product approved by the Commission shall file the Product with,
11 and pay applicable filing fees to, the Commission. Nothing in
12 this Act shall be construed to restrict or otherwise prevent an
13 insurer from filing its Product with the insurance department
14 in any State wherein the insurer is licensed to conduct the
15 business of insurance, and such filing shall be subject to the
16 laws of the States where filed.

17 2. The Commission shall establish appropriate filing and
18 review processes and procedures pursuant to Commission Rules
19 and Operating Procedures. Notwithstanding any provision herein
20 to the contrary, the Commission shall promulgate Rules to
21 establish conditions and procedures under which the Commission
22 will provide public access to Product filing information. In
23 establishing such Rules, the Commission shall consider the
24 interests of the public in having access to such information,

1 as well as protection of personal medical and financial
2 information and trade secrets, that may be contained in a
3 Product filing or supporting information.

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

7 Article XI. REVIEW OF COMMISSION DECISIONS REGARDING FILINGS

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

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

1 above.

2 Article XII. FINANCE

3 1. The Commission shall pay or provide for the payment of
4 the reasonable expenses of its establishment and organization.
5 To fund the cost of its initial operations, the Commission may
6 accept contributions and other forms of funding from the
7 National Association of Insurance Commissioners, Compacting
8 States and other sources. Contributions and other forms of
9 funding from other sources shall be of such a nature that the
10 independence of the Commission concerning the performance of
11 its duties shall not be compromised.

12 2. The Commission shall collect a filing fee from each
13 Insurer and Third Party Filer filing a product with the
14 Commission to cover the cost of the operations and activities
15 of the Commission and its staff in a total amount sufficient to
16 cover the Commission's annual budget.

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

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

22 5. The Commission shall not pledge the credit of any
23 Compacting State, except by and with the appropriate legal
24 authority of that Compacting State.

25 6. The Commission shall keep complete and accurate accounts

1 of all its internal receipts, including grants and donations,
2 and disbursements of all funds under its control. The internal
3 financial accounts of the Commission shall be subject to the
4 accounting procedures established under its Bylaws. The
5 financial accounts and reports including the system of internal
6 controls and procedures of the Commission shall be audited
7 annually by an independent certified public accountant. Upon
8 the determination of the Commission, but no less frequently
9 than every three (3) years, the review of the independent
10 auditor shall include a management and performance audit of the
11 Commission. The Commission shall make an Annual Report to the
12 Governor and legislature of the Compacting States, which shall
13 include a report of the independent audit. The Commission's
14 internal accounts shall not be confidential and such materials
15 may be shared with the Commissioner of any Compacting State
16 upon request, provided, however, that any work papers related
17 to any internal or independent audit and any information
18 regarding the privacy of individuals and insurers' proprietary
19 information, including trade secrets, shall remain
20 confidential.

21 7. No Compacting State shall have any claim to or ownership
22 of any property held by or vested in the Commission or to any
23 Commission funds held pursuant to the provisions of this
24 Compact.

25 Article XIII. COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

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

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

16 3. Amendments to the Compact may be proposed by the
17 Commission for enactment by the Compacting States. No amendment
18 shall become effective and binding upon the Commission and the
19 Compacting States unless and until all Compacting States enact
20 the amendment into law.

21 Article XIV. WITHDRAWAL, DEFAULT AND TERMINATION

22 1. Withdrawal.

23 a. Once effective, the Compact shall continue in force and
24 remain binding upon each and every Compacting State; provided,
25 that a Compacting State may withdraw from the Compact

1 ("Withdrawing State") by enacting a statute specifically
2 repealing the statute which enacted the Compact into law.

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

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

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

18 e. The Withdrawing State is responsible for all
19 obligations, duties and liabilities incurred through the
20 effective date of withdrawal, including any obligations, the
21 performance of which extend beyond the effective date of
22 withdrawal, except to the extent those obligations may have
23 been released or relinquished by mutual agreement of the
24 Commission and the Withdrawing State. The Commission's
25 approval of Products and Advertisement prior to the effective
26 date of withdrawal shall continue to be effective and be given

1 full force and effect in the Withdrawing State, unless formally
2 rescinded by the Withdrawing State in the same manner as
3 provided by the laws of the Withdrawing State for the
4 prospective disapproval of products or advertisement
5 previously approved under state law.

6 f. Reinstatement following withdrawal of any Compacting
7 State shall occur upon the effective date of the Withdrawing
8 State reenacting the Compact.

9 2. Default.

10 a. If the Commission determines that any Compacting State
11 has at any time defaulted ("Defaulting State") in the
12 performance of any of its obligations or responsibilities under
13 this Compact, the Bylaws or duly promulgated Rules or Operating
14 Procedures, then, after notice and hearing as set forth in the
15 Bylaws, all rights, privileges and benefits conferred by this
16 Compact on the Defaulting State shall be suspended from the
17 effective date of default as fixed by the Commission. The
18 grounds for default include, but are not limited to, failure of
19 a Compacting State to perform its obligations or
20 responsibilities, and any other grounds designated in
21 Commission Rules. The Commission shall immediately notify the
22 Defaulting State in writing of the Defaulting State's
23 suspension pending a cure of the default. The Commission shall
24 stipulate the conditions and the time period within which the
25 Defaulting State must cure its default. If the Defaulting State
26 fails to cure the default within the time period specified by

1 the Commission, the Defaulting State shall be terminated from
2 the Compact and all rights, privileges and benefits conferred
3 by this Compact shall be terminated from the effective date of
4 termination.

5 b. Product approvals by the Commission or product
6 self-certifications, or any Advertisement in connection with
7 such product, that are in force on the effective date of
8 termination shall remain in force in the Defaulting State in
9 the same manner as if the Defaulting State had withdrawn
10 voluntarily pursuant to paragraph 1 of this Article.

11 c. Reinstatement following termination of any Compacting
12 State requires a reenactment of the Compact.

13 3. Dissolution of Compact.

14 a. The Compact dissolves effective upon the date of the
15 withdrawal or default of the Compacting State which reduces
16 membership in the Compact to one Compacting State.

17 b. Upon the dissolution of this Compact, the Compact
18 becomes null and void and shall be of no further force or
19 effect, and the business and affairs of the Commission shall be
20 wound up and any surplus funds shall be distributed in
21 accordance with the Bylaws.

22 Article XV. SEVERABILITY AND CONSTRUCTION

23 1. The provisions of this Compact shall be severable; and
24 if any phrase, clause, sentence or provision is deemed
25 unenforceable, the remaining provisions of the Compact shall be

1 enforceable.

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

4 Article XVI. BINDING EFFECT OF COMPACT AND OTHER LAWS

5 1. Other Laws.

6 a. Nothing herein prevents the enforcement of any other law
7 of a Compacting State, except as provided in paragraph b of
8 this Article.

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

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

3 2. Binding Effect of this Compact.

4 a. All lawful actions of the Commission, including all
5 Rules and Operating Procedures promulgated by the Commission,
6 are binding upon the Compacting States.

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

9 c. Upon the request of a party to a conflict over the
10 meaning or interpretation of Commission actions, and upon a
11 majority vote of the Compacting States, the Commission may
12 issue advisory opinions regarding the meaning or
13 interpretation in dispute.

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

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.