



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB2544

Introduced 1/12/2010, by Sen. William R. Haine

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Interstate Insurance Product Regulation Compact. Provides that the purposes of the Compact include 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, establish a central clearing house to receive and provide prompt review of insurance products covered under the Compact, provide appropriate regulatory approval, and improve coordination of regulatory resources and expertise between state insurance departments. Effective immediately.

LRB096 17045 RPM 32363 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.