

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 Director of Insurance.

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

14 Article I. PURPOSES

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

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

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

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

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

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

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

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

18 Article II. DEFINITIONS

19 For purposes of this Compact:

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

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

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5 this Compact legislation and which has not withdrawn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

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

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

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

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

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

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

25 10. "Operating Procedures" mean procedures promulgated
26 by the Commission implementing a Rule, Uniform Standard or

1 a provision of this Compact.

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

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

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

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

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

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

5 Article III. ESTABLISHMENT OF THE COMMISSION AND VENUE

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

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

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

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

1 the Commission is located.

2 Article IV. POWERS OF THE COMMISSION

3 The Commission shall have the following powers:

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

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

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

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

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

1 extent and in the manner provided in the Compact;

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

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

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

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

16 9. To establish and maintain offices;

17 10. To purchase and maintain insurance and bonds;

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

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

1 relating to, among other things, conflicts of interest,
2 rates of compensation and qualifications of personnel;

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

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

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

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

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

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

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

26 20. To provide advice and training to those personnel

1 in state insurance departments responsible for product
2 review, and to be a resource for state insurance
3 departments;

4 21. To establish a budget and make expenditures;

5 22. To borrow money;

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

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

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

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

18 Article V. ORGANIZATION OF THE COMMISSION

19 1. Membership, Voting and Bylaws.

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

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

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

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

17 i. establishing the fiscal year of the Commission;

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

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

26 iv. providing reasonable procedures for calling

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

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

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

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

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

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

10 2. Management Committee, Officers and Personnel.

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

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

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

25 (iii) Four (4) members from those Compacting
26 States with less than two percent (2%) of the market,

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

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

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

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

22 iii. overseeing the offices of the Commission; and

23 iv. planning, implementing, and coordinating
24 communications and activities with other state,
25 federal and local government organizations in order to
26 advance the goals of the Commission.

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

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

12 3. Legislative and Advisory Committees.

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

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

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

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

7 5. Qualified Immunity, Defense and Indemnification.

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

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

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

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

20 Article VI. MEETINGS AND ACTS OF THE COMMISSION

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

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

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

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

8 Article VII. RULES & OPERATING PROCEDURES: RULEMAKING
9 FUNCTIONS OF THE COMMISSION AND OPTING OUT OF UNIFORM STANDARDS

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

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

1 Standard. The Commission in adopting a Uniform Standard shall
2 consider fully all submitted materials and issue a concise
3 explanation of its decision.

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

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

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

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

23 5. Effect of Opt Out. If a Compacting State elects to opt
24 out of a Uniform Standard, the Uniform Standard shall remain
25 applicable in the Compacting State electing to opt out until
26 such time the opt out legislation is enacted into law or the

1 regulation opting out becomes effective.

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

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

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

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

18 Article VIII. COMMISSION RECORDS AND ENFORCEMENT

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

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

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

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

1 default as set forth in Article XIV.

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

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

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

1 information and trade secrets, that may be contained in a
2 Product filing or supporting information.

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

6 Article XI. REVIEW OF COMMISSION DECISIONS REGARDING FILINGS

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

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

1 Article XII. FINANCE

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

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

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

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

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

24 6. The Commission shall keep complete and accurate accounts
25 of all its internal receipts, including grants and donations,

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

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

24 Article XIII. COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

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

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

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

20 Article XIV. WITHDRAWAL, DEFAULT AND TERMINATION

21 1. Withdrawal.

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

1 repealing the statute which enacted the Compact into law.

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

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

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

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

1 rescinded by the Withdrawing State in the same manner as
2 provided by the laws of the Withdrawing State for the
3 prospective disapproval of products or advertisement
4 previously approved under state law.

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

8 2. Default.

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

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

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

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

12 3. Dissolution of Compact.

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

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

21 Article XV. SEVERABILITY AND CONSTRUCTION

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

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

3 Article XVI. BINDING EFFECT OF COMPACT AND OTHER LAWS

4 1. Other Laws.

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

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

25 c. All insurance products filed with individual States

1 shall be subject to the laws of those States.

2 2. Binding Effect of this Compact.

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

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

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

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

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