

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1202 Session of
2005

INTRODUCED BY MICOZZIE, DeLUCA, GANNON, KILLION, NICKOL, MUNDY,
ZUG, FLEAGLE, CALTAGIRONE, CAPPELLI, HERSHEY, JOSEPHS,
McILHATTAN, O'NEILL, SCAVELLO, SEMMEL, SOLOBAY, E. Z. TAYLOR
AND BALDWIN, MARCH 30, 2005

REFERRED TO COMMITTEE ON INSURANCE, MARCH 30, 2005

AN ACT

1 Joining with other states in an effort to establish an
2 interstate compact to regulate designated insurance products.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Interstate
7 Insurance Product Regulation Compact Establishment Act.

8 Section 2. Declaration of policy.

9 The General Assembly finds and declares that, pursuant to the
10 terms and conditions of this act, the Commonwealth of
11 Pennsylvania seeks to join with other states to establish the
12 Interstate Insurance Product Regulation Compact and become a
13 member of the Interstate Insurance Product Regulation
14 Commission. The Insurance Commissioner shall serve as the
15 representative of the Commonwealth to the commission.

16 Section 3. Compact.--The Interstate Insurance Product
17 Regulation Compact is enacted and entered into with all other

1 jurisdictions legally joining in it in the form substantially as
2 follows:

3 Article I. Purposes

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

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

9 2. To develop uniform standards for insurance products covered
10 under the Compact;

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

16 4. To give appropriate regulatory approval to those product
17 filings and advertisements satisfying the applicable uniform
18 standard;

19 5. To improve coordination of regulatory resources and
20 expertise between state insurance departments regarding the
21 setting of uniform standards and review of insurance products
22 covered under the Compact;

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

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

28 Article II. Definitions

29 For purposes of this Compact:

30 1. "Advertisement" means any material designed to create public

1 interest in a Product, or induce the public to purchase,
2 increase, modify, reinstate, borrow on, surrender, replace or
3 retain a policy, as more specifically defined in the Rules and
4 Operating Procedures of the Commission.

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

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

12 4. "Commission" means the "Interstate Insurance Product
13 Regulation Commission" established by this Compact.

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

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

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

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

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

27 10. "Operating Procedures" mean procedures promulgated by the
28 Commission implementing a Rule, Uniform Standard or a provision
29 of this Compact.

30 11. "Product" means the form of a policy or contract, including

any application, endorsement, or related form which is attached to and made a part of the policy or contract, and any evidence of coverage or certificate, for an individual or group annuity, life insurance, disability income or long-term care insurance product that an Insurer is authorized to issue.

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

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

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

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

Article III. Establishment of the Commission and Venue

1. The Compacting States hereby create and establish a joint public agency known as the "Interstate Insurance Product Regulation Commission." Pursuant to Article IV, the Commission will have the power to develop Uniform Standards for Product

1 lines, receive and provide prompt review of Products filed
2 therewith, and give approval to those Product filings satisfying
3 applicable Uniform Standards; provided, it is not intended for
4 the Commission to be the exclusive entity for receipt and review
5 of insurance product filings. Nothing herein shall prohibit any
6 Insurer from filing its product in any State wherein the Insurer
7 is licensed to conduct the business of insurance; and any such
8 filing shall be subject to the laws of the State where filed.

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

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

13 4. Venue is proper and judicial proceedings by or against the
14 Commission shall be brought solely and exclusively in a Court of
15 competent jurisdiction where the principal office of the
16 Commission is located.

17 Article IV. Powers of the Commission

18 The Commission shall have the following powers:

19 1. To promulgate Rules, pursuant to Article VII of this
20 Compact, which shall have the force and effect of law and shall
21 be binding in the Compacting States to the extent and in the
22 manner provided in this Compact;

23 2. To exercise its rule-making authority and establish
24 reasonable Uniform Standards for Products covered under the
25 Compact, and Advertisement related thereto, which shall have the
26 force and effect of law and shall be binding in the Compacting
27 States, but only for those Products filed with the Commission,
28 provided, that a Compacting State shall have the right to opt
29 out of such Uniform Standard pursuant to Article VII, to the
30 extent and in the manner provided in this Compact, and, provided

1 further, that any Uniform Standard established by the Commission
2 for long-term care insurance products may provide the same or
3 greater protections for consumers as, but shall not provide less
4 than, those protections set forth in the National Association of
5 Insurance Commissioners' Long-Term Care Insurance Model Act and
6 Long-Term Care Insurance Model Regulation, respectively, adopted
7 as of 2001. The Commission shall consider whether any subsequent
8 amendments to the NAIC Long-Term Care Insurance Model Act or
9 Long-Term Care Insurance Model Regulation adopted by the NAIC
10 require amending of the Uniform Standards established by the
11 Commission for long-term care insurance products;

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

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

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

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

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

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

14 8. To issue subpoenas requiring the attendance and testimony of
15 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 personnel,
19 including, but not limited to, employees of a Compacting State;

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

27 13. To accept any and all appropriate donations and grants of
28 money, equipment, supplies, materials and services, and to
29 receive, utilize and dispose of the same; provided that at all
30 times the Commission shall strive to avoid any appearance of

1 impropriety;

2 14. To lease, purchase, accept appropriate gifts or donations

3 of, or otherwise to own, hold, improve or use, any property,

4 real, personal or mixed; provided that at all times the

5 Commission shall strive to avoid any appearance of impropriety;

6 15. To sell, convey, mortgage, pledge, lease, exchange, abandon

7 or otherwise dispose of any property, real, personal or mixed;

8 16. To remit filing fees to Compacting States as may be set

9 forth in the Bylaws, Rules or Operating Procedures;

10 17. To enforce compliance by Compacting States with Rules,

11 Uniform Standards, Operating Procedures and Bylaws;

12 18. To provide for dispute resolution among Compacting States;

13 19. To advise Compacting States on issues relating to Insurers

14 domiciled or doing business in Non-compacting jurisdictions,

15 consistent with the purposes of this Compact;

16 20. To provide advice and training to those personnel in state

17 insurance departments responsible for product review, and to be

18 a resource for state insurance departments;

19 21. To establish a budget and make expenditures;

20 22. To borrow money;

21 23. To appoint committees, including advisory committees

22 comprising Members, state insurance regulators, state

23 legislators or their representatives, insurance industry and

24 consumer representatives, and such other interested persons as

25 may be designated in the Bylaws;

26 24. To provide and receive information from, and to cooperate

27 with law enforcement agencies;

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

29 26. To perform such other functions as may be necessary or

30 appropriate to achieve the purposes of this Compact consistent

1 with the state regulation of the business of insurance.

2 Article V. Organization of the Commission

3 1. Membership, Voting and Bylaws

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

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

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

24 i. Establishing the fiscal year of the Commission;

25 ii. Providing reasonable procedures for appointing and electing
26 members, as well as holding meetings, of the Management
27 Committee;

28 iii. Providing reasonable standards and procedures: (i) for the
29 establishment and meetings of other committees, and (ii)
30 governing any general or specific delegation of any authority or

1 function of the Commission;

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

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

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

22 vii. Promulgating a code of ethics to address permissible and
23 prohibited activities of commission members and employees; and

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

29 d. The Commission shall publish its bylaws in a convenient form
30 and file a copy thereof and a copy of any amendment thereto,

1 with the appropriate agency or officer in each of the Compacting
2 States.

3 2. Management Committee, Officers and Personnel

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

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

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

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

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

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

25 ii. Establishing and overseeing an organizational structure
26 within, and appropriate procedures for, the Commission to
27 provide for the creation of Uniform Standards and other Rules,
28 receipt and review of product filings, administrative and
29 technical support functions, review of decisions regarding the
30 disapproval of a product filing, and the review of elections

1 made by a Compacting State to opt out of a Uniform Standard;
2 provided that a Uniform Standard shall not be submitted to the
3 Compacting States for adoption unless approved by two-thirds
4 (2/3) of the members of the Management Committee;
5 iii. Overseeing the offices of the Commission; and
6 iv. Planning, implementing, and coordinating communications and
7 activities with other state, federal and local government
8 organizations in order to advance the goals of the Commission.
9 c. The Commission shall elect annually officers from the
10 Management Committee, with each having such authority and
11 duties, as may be specified in the Bylaws.
12 d. The Management Committee may, subject to the approval of the
13 Commission, appoint or retain an executive director for such
14 period, upon such terms and conditions and for such compensation
15 as the Commission may deem appropriate. The executive director
16 shall serve as secretary to the Commission, but shall not be a
17 Member of the Commission. The executive director shall hire and
18 supervise such other staff as may be authorized by the
19 Commission.

20 3. Legislative and Advisory Committees

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

1 b. The Commission shall establish two (2) advisory committees,
2 one of which shall comprise consumer representatives independent
3 of the insurance industry, and the other comprising insurance
4 industry representatives.

5 c. The Commission may establish additional advisory committees
6 as its Bylaws may provide for the carrying out of its functions.

7 4. Corporate Records of the Commission

8 The Commission shall maintain its corporate books and records in
9 accordance with the Bylaws.

10 5. Qualified Immunity, Defense and Indemnification

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

24 b. The Commission shall defend any Member, officer, executive
25 director, employee or representative of the Commission in any
26 civil action seeking to impose liability arising out of any
27 actual or alleged act, error or omission that occurred within
28 the scope of Commission employment, duties or responsibilities,
29 or that the person against whom the claim is made had a
30 reasonable basis for believing occurred within the scope of

1 Commission employment, duties or responsibilities; provided,
2 that nothing herein shall be construed to prohibit that person
3 from retaining his or her own counsel; and provided further,
4 that the actual or alleged act, error or omission did not result
5 from that person's intentional or willful and wanton misconduct.
6 c. The Commission shall indemnify and hold harmless any Member,
7 officer, executive director, employee or representative of the
8 Commission for the amount of any settlement or judgment obtained
9 against that person arising out of any actual or alleged act,
10 error or omission that occurred within the scope of Commission
11 employment, duties or responsibilities, or that such person had
12 a reasonable basis for believing occurred within the scope of
13 Commission employment, duties or responsibilities, provided,
14 that the actual or alleged act, error or omission did not result
15 from the intentional or willful and wanton misconduct of that
16 person.

17 Article VI. Meetings and Acts of the Commission

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

20 2. Each Member of the Commission shall have the right and power
21 to cast a vote to which that Compacting State is entitled and to
22 participate in the business and affairs of the Commission. A
23 Member shall vote in person or by such other means as provided
24 in the Bylaws. The Bylaws may provide for Members' participation
25 in meetings by telephone or other means of communication.

26 3. The Commission shall meet at least once during each calendar
27 year. Additional meetings shall be held as set forth in the
28 Bylaws.

29 Article VII. Rules and Operating Procedures: Rulemaking

30 Functions of the Commission and Opting Out of Uniform Standards

1 1. Rulemaking Authority. The Commission shall promulgate
2 reasonable Rules, including Uniform Standards, and Operating
3 Procedures in order to effectively and efficiently achieve the
4 purposes of this Compact. Notwithstanding the foregoing, in the
5 event the Commission exercises its rulemaking authority in a
6 manner that is beyond the scope of the purposes of this Act, or
7 the powers granted hereunder, then such an action by the
8 Commission shall be invalid and have no force and effect.

9 2. Rulemaking Procedure. Rules and Operating Procedures shall
10 be made pursuant to a rulemaking process that conforms to the
11 Model State Administrative Procedure Act of 1981 as amended, as
12 may be appropriate to the operations of the Commission. Before
13 the Commission adopts a Uniform Standard, the Commission shall
14 give written notice to the relevant state legislative
15 committee(s) in each Compacting State responsible for insurance
16 issues of its intention to adopt the Uniform Standard. The
17 Commission in adopting a Uniform Standard shall consider fully
18 all submitted materials and issue a concise explanation of its
19 decision.

20 3. Effective Date and Opt Out of a Uniform Standard. A Uniform
21 Standard shall become effective ninety (90) days after its
22 promulgation by the Commission or such later date as the
23 Commission may determine; provided, however, that a Compacting
24 State may opt out of a Uniform Standard as provided in this
25 Article. "Opt out" shall be defined as any action by a
26 Compacting State to decline to adopt or participate in a
27 promulgated Uniform Standard. All other Rules and Operating
28 Procedures, and amendments thereto, shall become effective as of
29 the date specified in each Rule, Operating Procedure or
30 amendment.

1 4. Opt Out Procedure. A Compacting State may opt out of a
2 Uniform Standard, either by legislation or regulation duly
3 promulgated by the Insurance Department under the Compacting
4 State's Administrative Procedure Act. If a Compacting State
5 elects to opt out of a Uniform Standard by regulation, it must
6 (a) give written notice to the Commission no later than ten (10)
7 business days after the Uniform Standard is promulgated, or at
8 the time the State becomes a Compacting State and (b) find that
9 the Uniform Standard does not provide reasonable protections to
10 the citizens of the State, given the conditions in the State.
11 The Commissioner shall make specific findings of fact and
12 conclusions of law, based on a preponderance of the evidence,
13 detailing the conditions in the State which warrant a departure
14 from the Uniform Standard and determining that the Uniform
15 Standard would not reasonably protect the citizens of the State.
16 The Commissioner must consider and balance the following factors
17 and find that the conditions in the State and needs of the
18 citizens of the State outweigh: (i) the intent of the
19 legislature to participate in, and the benefits of, an
20 interstate agreement to establish national uniform consumer
21 protections for the Products subject to this Act; and (ii) the
22 presumption that a Uniform Standard adopted by the Commission
23 provides reasonable protections to consumers of the relevant
24 Product.
25 Notwithstanding the foregoing, a Compacting State may, at the
26 time of its enactment of this Compact, prospectively opt out of
27 all Uniform Standards involving long-term care insurance
28 products by expressly providing for such opt out in the enacted
29 Compact, and such an opt out shall not be treated as a material
30 variance in the offer or acceptance of any State to participate

1 in this Compact. Such an opt out shall be effective at the time
2 of enactment of this Compact by the Compacting State and shall
3 apply to all existing Uniform Standards involving long-term care
4 insurance products and those subsequently promulgated.

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

10 Once the opt out of a Uniform Standard by a Compacting State
11 becomes effective as provided under the laws of that State, the
12 Uniform Standard shall have no further force and effect in that
13 State unless and until the legislation or regulation
14 implementing the opt out is repealed or otherwise becomes
15 ineffective under the laws of the State. If a Compacting State
16 opts out of a Uniform Standard after the Uniform Standard has
17 been made effective in that State, the opt out shall have the
18 same prospective effect as provided under Article XIV for
19 withdrawals.

20 6. Stay of Uniform Standard. If a Compacting State has formally
21 initiated the process of opting out of a Uniform Standard by
22 regulation, and while the regulatory opt out is pending, the
23 Compacting State may petition the Commission, at least fifteen
24 (15) days before the effective date of the Uniform Standard, to
25 stay the effectiveness of the Uniform Standard in that State.
26 The Commission may grant a stay if it determines the regulatory
27 opt out is being pursued in a reasonable manner and there is a
28 likelihood of success. If a stay is granted or extended by the
29 Commission, the stay or extension thereof may postpone the
30 effective date by up to ninety (90) days, unless affirmatively

1 extended by the Commission; provided, a stay may not be
2 permitted to remain in effect for more than one (1) year unless
3 the Compacting State can show extraordinary circumstances which
4 warrant a continuance of the stay, including, but not limited
5 to, the existence of a legal challenge which prevents the
6 Compacting State from opting out. A stay may be terminated by
7 the Commission upon notice that the rulemaking process has been
8 terminated.

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

20 Article VIII. Commission Records and Enforcement

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

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

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

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

30 a. With respect to the Commissioner's market regulation of a

1 Product or Advertisement that is approved or certified to the
2 Commission, the content of the Product or Advertisement shall
3 not constitute a violation of the provisions, standards or
4 requirements of the Compact except upon a final order of the
5 Commission, issued at the request of a Commissioner after prior
6 notice to the Insurer and an opportunity for hearing before the
7 Commission.

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

17 Article IX. Dispute Resolution

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

24 Article X. Product Filing and Approval

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

1 insurance, and such filing shall be subject to the laws of the
2 States where filed.

3 2. The Commission shall establish appropriate filing and review
4 processes and procedures pursuant to Commission Rules and
5 Operating Procedures. Notwithstanding any provision herein to
6 the contrary, the Commission shall promulgate Rules to establish
7 conditions and procedures under which the Commission will
8 provide public access to Product filing information. In
9 establishing such Rules, the Commission shall consider the
10 interests of the public in having access to such information, as
11 well as protection of personal medical and financial information
12 and trade secrets, that may be contained in a Product filing or
13 supporting information.

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

17 Article XI. Review of Commission Decisions Regarding Filings

18 1. Not later than thirty (30) days after the Commission has
19 given notice of a disapproved Product or Advertisement filed
20 with the Commission, the Insurer or Third Party Filer whose
21 filing was disapproved may appeal the determination to a review
22 panel appointed by the Commission. The Commission shall
23 promulgate Rules to establish procedures for appointing such
24 review panels and provide for notice and hearing. An allegation
25 that the Commission, in disapproving a Product or Advertisement
26 filed with the Commission, acted arbitrarily, capriciously, or
27 in a manner that is an abuse of discretion or otherwise not in
28 accordance with the law, is subject to judicial review in
29 accordance with Article III, Section 4.

30 2. The Commission shall have authority to monitor, review and

1 reconsider Products and Advertisement subsequent to their filing
2 or approval upon a finding that the product does not meet the
3 relevant Uniform Standard. Where appropriate, the Commission may
4 withdraw or modify its approval after proper notice and hearing,
5 subject to the appeal process in Section 1 above.

6 Article XII. Finance

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

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

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

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

26 5. The Commission shall not pledge the credit of any Compacting
27 State, except by and with the appropriate legal authority of
28 that Compacting State.

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

1 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 the
7 determination of the Commission, but no less frequently than
8 every three (3) years, the review of the independent auditor
9 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 upon
15 request provided, however, that any work papers related to any
16 internal or independent audit and any information regarding the
17 privacy of individuals and insurers' proprietary information,
18 including trade secrets, shall remain confidential.

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

23 Article XIII. Compacting States, Effective Date and Amendment

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

25 2. The Compact shall become effective and binding upon
26 legislative enactment of the Compact into law by two Compacting
27 States; provided, the Commission shall become effective for
28 purposes of adopting Uniform Standards for, reviewing, and
29 giving approval or disapproval of, Products filed with the
30 Commission that satisfy applicable Uniform Standards only after

1 twenty-six (26) States are Compacting States or, alternatively,
2 by States representing greater than forty percent (40%) of the
3 premium volume for life insurance, annuity, disability income
4 and long-term care insurance products, based on records of the
5 NAIC for the prior year. Thereafter, it shall become effective
6 and binding as to any other Compacting State upon enactment of
7 the Compact into law by that State.

8 3. Amendments to the Compact may be proposed by the Commission
9 for enactment by the Compacting States. No amendment shall
10 become effective and binding upon the Commission and the
11 Compacting States unless and until all Compacting States enact
12 the amendment into law.

13 Article XIV. Withdrawal, Default and Termination

14 1. Withdrawal

15 a. Once effective, the Compact shall continue in force and
16 remain binding upon each and every Compacting State; provided,
17 that a Compacting State may withdraw from the Compact
18 ("Withdrawing State") by enacting a statute specifically
19 repealing the statute which enacted the Compact into law.

20 b. The effective date of withdrawal is the effective date of
21 the repealing statute. However, the withdrawal shall not apply
22 to any product filings approved or self-certified, or any
23 Advertisement of such products, on the date the repealing
24 statute becomes effective, except by mutual agreement of the
25 Commission and the Withdrawing State unless the approval is
26 rescinded by the Withdrawing State as provided in Paragraph e of
27 this section.

28 c. The Commissioner of the Withdrawing State shall immediately
29 notify the Management Committee in writing upon the introduction
30 of legislation repealing this Compact in the Withdrawing State.

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

4 e. The Withdrawing State is responsible for all obligations,
5 duties and liabilities incurred through the effective date of
6 withdrawal, including any obligations, the performance of which
7 extend beyond the effective date of withdrawal, except to the
8 extent those obligations may have been released or relinquished
9 by mutual agreement of the Commission and the Withdrawing State.
10 The Commission's approval of Products and Advertisement prior to
11 the effective date of withdrawal shall continue to be effective
12 and be given full force and effect in the Withdrawing State,
13 unless formally rescinded by the Interstate Insurance Product
14 Regulation Compact Withdrawing State in the same manner as
15 provided by the laws of the Withdrawing State for the
16 prospective disapproval of products or advertisement previously
17 approved under state law.

18 f. Reinstatement following withdrawal of any Compacting State
19 shall occur upon the effective date of the Withdrawing State
20 reenacting the Compact.

21 2. Default

22 a. If the Commission determines that any Compacting State has
23 at any time defaulted ("Defaulting State") in the performance of
24 any of its obligations or responsibilities under this Compact,
25 the Bylaws or duly promulgated Rules or Operating Procedures,
26 then, after notice and hearing as set forth in the Bylaws, all
27 rights, privileges and benefits conferred by this Compact on the
28 Defaulting State shall be suspended from the effective date of
29 default as fixed by the Commission. The grounds for default
30 include, but are not limited to, failure of a Compacting State

1 to perform its obligations or responsibilities, and any other
2 grounds designated in Commission Rules. The Commission shall
3 immediately notify the Defaulting State in writing of the
4 Defaulting State's suspension pending a cure of the default. The
5 Commission shall stipulate the conditions and the time period
6 within which the Defaulting State must cure its default. If the
7 Defaulting State fails to cure the default within the time
8 period specified by the Commission, the Defaulting State shall
9 be terminated from the Compact and all rights, privileges and
10 benefits conferred by this Compact shall be terminated from the
11 effective date of termination.

12 b. Product approvals by the Commission or product self-
13 certifications, or any Advertisement in connection with such
14 product, that are in force on the effective date of termination
15 shall remain in force in the Defaulting State in the same manner
16 as if the Defaulting State had withdrawn voluntarily pursuant to
17 Section 1 of this article.

18 c. Reinstatement following termination of any Compacting State
19 requires a reenactment of the Compact.

20 3. Dissolution of Compact

21 a. The Compact dissolves effective upon the date of the
22 withdrawal or default of the Compacting State which reduces
23 membership in the Compact to one Compacting State.

24 b. Upon the dissolution of this Compact, the Compact becomes
25 null and void and shall be of no further force or effect, and
26 the business and affairs of the Commission shall be wound up and
27 any surplus funds shall be distributed in accordance with the
28 Bylaws.

29 Article XV. Severability and Construction

30 1. The provisions of this Compact shall be severable; and if

1 any phrase, clause, sentence or provision is deemed
2 unenforceable, the remaining provisions of the Compact shall be
3 enforceable.

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

6 Article XVI. Binding Effect of Compact and Other Laws

7 1. Other Laws

8 a. Nothing herein prevents the enforcement of any other law of
9 a Compacting State, except as provided in Paragraph b of this
10 section.

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

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

30 2. Binding Effect of this Compact

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

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

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

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

20 Section 4. Effective date.

21 This act shall take effect in 60 days.