

By: Representative Robinson

To: Insurance

HOUSE BILL NO. 694

1 AN ACT TO ENACT THE INTERSTATE INSURANCE PRODUCT REGULATION
2 COMPACT; TO SET FORTH THE PURPOSES OF THE COMPACT; TO DEFINE
3 CERTAIN TERMS USED IN THE COMPACT; TO ESTABLISH THE INTERSTATE
4 INSURANCE PRODUCT REGULATION COMMISSION; TO SET FORTH THE POWERS
5 OF THE COMMISSION; TO SET FORTH PROVISIONS FOR THE ORGANIZATION OF
6 THE COMMISSION; TO SET FORTH PROVISIONS REGARDING THE MEETINGS AND
7 ACTS OF THE COMMISSION; TO SET FORTH THE RULES AND OPERATING
8 PROCEDURES OF THE COMMISSION; TO SET FORTH PROVISIONS REGARDING
9 COMMISSION RECORDS AND ENFORCEMENT; TO SET FORTH PROVISIONS
10 REGARDING DISPUTE RESOLUTION OF THE COMMISSION; TO SET FORTH
11 PROVISIONS REGARDING PRODUCT FILING WITH AND APPROVAL FROM THE
12 COMMISSION; TO SET FORTH PROVISIONS REGARDING REVIEW OF COMMISSION
13 DECISIONS REGARDING FILINGS; TO SET FORTH PROVISIONS REGARDING THE
14 FINANCES OF THE COMMISSION; TO SET FORTH PROVISIONS REGARDING
15 COMPACTING STATES ELIGIBLE FOR, THE EFFECTIVE DATE OF, AND
16 AMENDMENTS TO THE COMPACT; TO SET FORTH PROVISIONS REGARDING
17 WITHDRAWAL FROM THE COMPACT, DEFAULT UNDER THE COMPACT, AND
18 DISSOLUTION OF THE COMPACT; TO SET FORTH PROVISIONS REGARDING THE
19 SEVERABILITY AND CONSTRUCTION OF THE PROVISIONS OF THE COMPACT; TO
20 SET FORTH PROVISIONS REGARDING THE BINDING EFFECT OF THE COMPACT
21 AND THE EFFECT OF THE COMPACT ON OTHER LAWS; AND FOR RELATED
22 PURPOSES.

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

24 **SECTION 1.** The Interstate Insurance Product Regulation
25 Compact is enacted into law and entered into by this state with
26 any and all states legally joining in accordance with its terms,
27 in the form substantially as follows:

28 **Article I. Purposes.** The purposes of this Compact are,
29 through means of joint and cooperative action among the Compacting
30 States:

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

34 2. To develop uniform standards for insurance products
35 covered under the Compact;



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

41 4. To give appropriate regulatory approval to those product
42 filings and advertisements satisfying the applicable uniform
43 standard;

44 5. To improve coordination of regulatory resources and
45 expertise between state insurance departments regarding the
46 setting of uniform standards and review of insurance products
47 covered under the Compact;

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

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

53 **Article II. Definitions.** For purposes of this compact:

54 1. "Advertisement" means any material designed to create
55 public interest in a product, or induce the public to purchase,
56 increase, modify, reinstate, borrow on, surrender, replace or
57 retain a policy, as more specifically defined in the Rules and
58 Operating Procedures of the Commission.

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

62 3. "Compacting State" means any State which has enacted this
63 Compact legislation and which has not withdrawn pursuant to
64 Article XIV, Section 1, or been terminated pursuant to Article
65 XIV, Section 2.

66 4. "Commission" means the "Interstate Insurance Product
67 Regulation Commission" established by this compact.

68



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

72 6. "Domiciliary State" means the state in which an Insurer
73 is incorporated or organized; or, in the case of an alien Insurer,
74 its state of entry.

75 7. "Insurer" means any entity licensed by a State to issue
76 contracts of insurance for any of the lines of insurance covered
77 by this Act.

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

80 9. "Noncompacting State" means any State which is not at the
81 time a Compacting State.

82 10. "Operating Procedures" mean procedures promulgated by
83 the Commission implementing a Rule, Uniform Standard or a
84 provision of this Compact.

85 11. "Product" means the form of a policy or contract,
86 including any application, endorsement, or related form which is
87 attached to and made a part of the policy or contract, and any
88 evidence of coverage or certificate, for an individual or group
89 annuity, life insurance, disability income or long-term care
90 insurance product that an Insurer is authorized to issue.

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

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

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



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

111 **Article III. Establishment of the Commission and Venue.**

112 1. The Compacting States hereby create and establish a joint
113 public agency known as the "Interstate Insurance product
114 Regulation Commission." Pursuant to Article IV, the Commission
115 will have the power to develop Uniform Standards for product
116 lines, receive and provide prompt review of products filed
117 therewith, and give approval to those product filings satisfying
118 applicable Uniform Standards; provided, it is not intended for the
119 Commission to be the exclusive entity for receipt and review of
120 insurance product filings. Nothing herein shall prohibit any
121 Insurer from filing its product in any State wherein the Insurer
122 is licensed to conduct the business of insurance; and any such
123 filing shall be subject to the laws of the State where filed.

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

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

128 4. Venue is proper and judicial proceedings by or against
129 the Commission shall be brought solely and exclusively in a Court
130 of competent jurisdiction where the principal office of the
131 Commission is located.

132 **Article IV. Powers of the Commission.** The Commission shall
133 have the following powers:

134



135 1. To promulgate Rules, pursuant to Article VII of this
136 Compact, which shall have the force and effect of law and shall be
137 binding in the Compacting States to the extent and in the manner
138 provided in this Compact;

139 2. To exercise its rule-making authority and establish
140 reasonable Uniform Standards for Products covered under the
141 Compact, and Advertisement related thereto, which shall have the
142 force and effect of law and shall be binding in the Compacting
143 States, but only for those products filed with the Commission,
144 provided, that a Compacting State shall have the right to opt out
145 of such Uniform Standard pursuant to Article VII, to the extent
146 and in the manner provided in this Compact, and, provided further,
147 that any Uniform Standard established by the Commission for
148 long-term care insurance products may provide the same or greater
149 protections for consumers as, but shall not provide less than,
150 those protections set forth in the National Association of
151 Insurance Commissioners' Long-Term Care Insurance Model Act and
152 Long-Term Care Insurance Model Regulation, respectively, adopted
153 as of 2001. The Commission shall consider whether any subsequent
154 amendments to the NAIC Long-Term Care Insurance Model Act or
155 Long-Term Care Insurance Model Regulation adopted by the NAIC
156 require amending of the Uniform Standards established by the
157 Commission for long-term care insurance products;

158 3. To receive and review in an expeditious manner products
159 filed with the Commission, and rate filings for disability income
160 and long-term care insurance products, and give approval of those
161 products and rate filings that satisfy the applicable Uniform
162 Standard, where such approval shall have the force and effect of
163 law and be binding on the Compacting States to the extent and in
164 the manner provided in the Compact;

165 4. To receive and review in an expeditious manner
166 Advertisement relating to long-term care insurance products for
167 which Uniform Standards have been adopted by the Commission, and



168 give approval to all Advertisement that satisfies the applicable
169 Uniform Standard. For any product covered under this Compact,
170 other than long-term care insurance products, the Commission shall
171 have the authority to require an insurer to submit all or any part
172 of its Advertisement with respect to that product for review or
173 approval prior to use, if the Commission determines that the
174 nature of the product is such that an Advertisement of the product
175 could have the capacity or tendency to mislead the public. The
176 actions of the Commission as provided in this section shall have
177 the force and effect of law and shall be binding in the Compacting
178 States to the extent and in the manner provided in the Compact;

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

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

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

190 8. To issue subpoenas requiring the attendance and testimony
191 of witnesses and the production of evidence;

192 9. To establish and maintain offices;

193 10. To purchase and maintain insurance and bonds;

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

196 12. To hire employees, professionals or specialists, and
197 elect or appoint officers, and to fix their compensation, define
198 their duties and give them appropriate authority to carry out the
199 purposes of the Compact, and determine their qualifications; and
200 to establish the Commission's personnel policies and programs



201 relating to, among other things, conflicts of interest, rates of
202 compensation and qualifications of personnel;

203 13. To accept any and all appropriate donations and grants
204 of money, equipment, supplies, materials and services, and to
205 receive, utilize and dispose of the same; provided that at all
206 times the Commission shall strive to avoid any appearance of
207 impropriety;

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

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

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

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

219 18. To provide for dispute resolution among Compacting
220 States;

221 19. To advise Compacting States on issues relating to
222 Insurers domiciled or doing business in Noncompacting
223 jurisdictions, consistent with the purposes of this Compact;

224 20. To provide advice and training to those personnel in
225 state insurance departments responsible for product review, and to
226 be a resource for state insurance departments;

227 21. To establish a budget and make expenditures;

228 22. To borrow money;

229 23. To appoint committees, including advisory committees
230 comprising members, state insurance regulators, state legislators
231 or their representatives, insurance industry and consumer
232 representatives, and such other interested persons as may be
233 designated in the Bylaws;



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

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

237 26. To perform such other functions as may be necessary or
238 appropriate to achieve the purposes of this Compact consistent
239 with the state regulation of the business of insurance.

240 **Article V. Organization of the Commission.**

241 1. Membership, Voting and Bylaws.

242 a. Each Compacting State shall have and be limited to
243 one (1) member. Each member shall be qualified to serve in that
244 capacity pursuant to applicable law of the Compacting State. Any
245 member may be removed or suspended from office as provided by the
246 law of the State from which he or she shall be appointed. Any
247 vacancy occurring in the Commission shall be filled in accordance
248 with the laws of the Compacting State wherein the vacancy exists.
249 Nothing herein shall be construed to affect the manner in which a
250 Compacting State determines the election or appointment and
251 qualification of its own Commissioner.

252 b. Each member shall be entitled to one (1) vote and
253 shall have an opportunity to participate in the governance of the
254 Commission in accordance with the Bylaws. Notwithstanding any
255 provision herein to the contrary, no action of the Commission with
256 respect to the promulgation of a Uniform Standard shall be
257 effective unless two-thirds (2/3) of the members vote in favor
258 thereof.

259 c. The Commission shall, by a majority of the members,
260 prescribe Bylaws to govern its conduct as may be necessary or
261 appropriate to carry out the purposes, and exercise the powers, of
262 the Compact, including, but not limited to:

263 i. Establishing the fiscal year of the Commission;

264 ii. Providing reasonable procedures for appointing
265 and electing members, as well as holding meetings, of the
266 Management Committee;



267 iii. Providing reasonable standards and
268 procedures: (i) for the establishment and meetings of other
269 committees, and (ii) governing any general or specific delegation
270 of any authority or function of the Commission;

271 iv. Providing reasonable procedures for calling
272 and conducting meetings of the Commission that consists of a
273 majority of Commission members, ensuring reasonable advance notice
274 of each such meeting and providing for the right of citizens to
275 attend each such meeting with enumerated exceptions designed to
276 protect the public's interest, the privacy of individuals, and
277 insurers' proprietary information, including trade secrets. The
278 Commission may meet in camera only after a majority of the entire
279 membership votes to close a meeting en toto or in part. As soon
280 as practicable, the Commission must make public (i) a copy of the
281 vote to close the meeting revealing the vote of each member with
282 no proxy votes allowed, and (ii) votes taken during such meeting;

283 v. Establishing the titles, duties and authority
284 and reasonable procedures for the election of the officers of the
285 Commission;

286 vi. Providing reasonable standards and procedures
287 for the establishment of the personnel policies and programs of
288 the Commission. Notwithstanding any civil service or other
289 similar laws of any Compacting State, the Bylaws shall exclusively
290 govern the personnel policies and programs of the Commission;

291 vii. Promulgating a code of ethics to address
292 permissible and prohibited activities of commission members and
293 employees; and

294 viii. Providing a mechanism for winding up the
295 operations of the Commission and the equitable disposition of any
296 surplus funds that may exist after the termination of the Compact
297 after the payment and/or reserving of all of its debts and
298 obligations.



299 d. The Commission shall publish its bylaws in a
300 convenient form and file a copy thereof and a copy of any
301 amendment thereto, with the appropriate agency or officer in each
302 of the Compacting States.

303 2. Management Committee, Officers and Personnel.

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

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

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

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

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

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

325 ii. Establishing and overseeing an organizational
326 structure within, and appropriate procedures for, the Commission
327 to provide for the creation of Uniform Standards and other Rules,
328 receipt and review of product filings, administrative and
329 technical support functions, review of decisions regarding the
330 disapproval of a product filing, and the review of elections made
331 by a Compacting State to opt out of a Uniform Standard; provided



332 that a Uniform Standard shall not be submitted to the Compacting
333 States for adoption unless approved by two-thirds (2/3) of the
334 members of the Management Committee;

335 iii. Overseeing the offices of the Commission; and
336 iv. Planning, implementing, and coordinating
337 communications and activities with other state, federal and local
338 government organizations in order to advance the goals of the
339 Commission.

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

343 d. The Management Committee may, subject to the
344 approval of the Commission, appoint or retain an executive
345 director for such period, upon such terms and conditions and for
346 such compensation as the Commission may deem appropriate. The
347 executive director shall serve as secretary to the Commission, but
348 shall not be a member of the Commission. The executive director
349 shall hire and supervise such other staff as may be authorized by
350 the Commission.

351 3. Legislative and Advisory Committees.

352 a. A legislative committee comprising state legislators
353 or their designees shall be established to monitor the operations
354 of, and make recommendations to, the Commission, including the
355 Management Committee; provided that the manner of selection and
356 term of any legislative committee member shall be as set forth in
357 the Bylaws. Prior to the adoption by the Commission of any
358 Uniform Standard, revision to the Bylaws, annual budget or other
359 significant matter as may be provided in the Bylaws, the
360 Management Committee shall consult with and report to the
361 legislative committee.

362 b. The Commission shall establish two (2) advisory
363 committees, one (1) of which shall comprise consumer



364 representatives independent of the insurance industry, and the
365 other comprising insurance industry representatives.

366 c. The Commission may establish additional advisory
367 committees as its Bylaws may provide for the carrying out of its
368 functions.

369 4. Corporate Records of the Commission. The Commission
370 shall maintain its corporate books and records in accordance with
371 the Bylaws.

372 5. Qualified Immunity, Defense and Indemnification.

373 a. The members, officers, executive director, employees
374 and representatives of the Commission shall be immune from suit
375 and liability, either personally or in their official capacity,
376 for any claim for damage to or loss of property or personal injury
377 or other civil liability caused by or arising out of any actual or
378 alleged act, error or omission that occurred, or that the person
379 against whom the claim is made had a reasonable basis for
380 believing occurred within the scope of Commission employment,
381 duties or responsibilities; provided, that nothing in this
382 paragraph shall be construed to protect any such person from suit
383 and/or liability for any damage, loss, injury or liability caused
384 by the intentional or willful and wanton misconduct of that
385 person.

386 b. The Commission shall defend any member, officer,
387 executive director, employee or representative of the Commission
388 in any civil action seeking to impose liability arising out of any
389 actual or alleged act, error or omission that occurred within the
390 scope of Commission employment, duties or responsibilities, or
391 that the person against whom the claim is made had a reasonable
392 basis for believing occurred within the scope of Commission
393 employment, duties or responsibilities; provided, that nothing
394 herein shall be construed to prohibit that person from retaining
395 his or her own counsel; and provided further, that the actual or



396 alleged act, error or omission did not result from that person's
397 intentional or willful and wanton misconduct.

398 c. The Commission shall indemnify and hold harmless any
399 member, officer, executive director, employee or representative of
400 the Commission for the amount of any settlement or judgment
401 obtained against that person arising out of any actual or alleged
402 act, error or omission that occurred within the scope of
403 Commission employment, duties or responsibilities, or that such
404 person had a reasonable basis for believing occurred within the
405 scope of Commission employment, duties or responsibilities,
406 provided, that the actual or alleged act, error or omission did
407 not result from the intentional or willful and wanton misconduct
408 of that person.

409 **Article VI. Meetings and Acts of the Commission.**

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

412 2. Each member of the Commission shall have the right and
413 power to cast a vote to which that Compacting State is entitled
414 and to participate in the business and affairs of the Commission.
415 A member shall vote in person or by such other means as provided
416 in the Bylaws. The Bylaws may provide for members' participation
417 in meetings by telephone or other means of communication.

418 3. The Commission shall meet at least once during each
419 calendar year. Additional meetings shall be held as set forth in
420 the Bylaws.

421 **Article VII. Rules and Operating Procedures: Rulemaking**
422 **Functions of the Commission and Opting Out of Uniform Standards.**

423 1. Rulemaking Authority. The Commission shall promulgate
424 reasonable Rules, including Uniform Standards, and Operating
425 Procedures in order to effectively and efficiently achieve the
426 purposes of this Compact. Notwithstanding the foregoing, in the
427 event the Commission exercises its rulemaking authority in a
428 manner that is beyond the scope of the purposes of this Act, or



429 the powers granted hereunder, then such an action by the
430 Commission shall be invalid and have no force and effect.

431 2. Rulemaking Procedure. Rules and Operating Procedures
432 shall be made pursuant to a rulemaking process that conforms to
433 the Model State Administrative Procedure Act of 1981 as amended,
434 as may be appropriate to the operations of the Commission. Before
435 the Commission adopts a Uniform Standard, the Commission shall
436 give written notice to the relevant state legislative committee(s)
437 in each Compacting State responsible for insurance issues of its
438 intention to adopt the Uniform Standard. The Commission in
439 adopting a Uniform Standard shall consider fully all submitted
440 materials and issue a concise explanation of its decision.

441 3. Effective Date and Opt Out of a Uniform Standard. A
442 Uniform Standard shall become effective ninety (90) days after its
443 promulgation by the Commission or such later date as the
444 Commission may determine; provided, however, that a Compacting
445 State may opt out of a Uniform Standard as provided in this
446 Article. "Opt out" shall be defined as any action by a Compacting
447 State to decline to adopt or participate in a promulgated Uniform
448 Standard. All other Rules and Operating Procedures, and amendments
449 thereto, shall become effective as of the date specified in each
450 Rule, Operating Procedure or amendment.

451 4. Opt Out Procedure. A Compacting State may opt out of a
452 Uniform Standard, either by legislation or regulation duly
453 promulgated by the Insurance Department under the Compacting
454 State's Administrative Procedure Act. If a Compacting State
455 elects to opt out of a Uniform Standard by regulation, it must (a)
456 give written notice to the Commission no later than ten (10)
457 business days after the Uniform Standard is promulgated, or at the
458 time the State becomes a Compacting State and (b) find that the
459 Uniform Standard does not provide reasonable protections to the
460 citizens of the State, given the conditions in the State. The
461 Commissioner shall make specific findings of fact and conclusions



462 of law, based on a preponderance of the evidence, detailing the
463 conditions in the State which warrant a departure from the Uniform
464 Standard and determining that the Uniform Standard would not
465 reasonably protect the citizens of the State. The Commissioner
466 must consider and balance the following factors and find that the
467 conditions in the State and needs of the citizens of the State
468 outweigh: (i) the intent of the legislature to participate in,
469 and the benefits of, an interstate agreement to establish national
470 uniform consumer protections for the products subject to this Act;
471 and (ii) the presumption that a Uniform Standard adopted by the
472 Commission provides reasonable protections to consumers of the
473 relevant product.

474 Notwithstanding the foregoing, a Compacting State may, at the
475 time of its enactment of this Compact, prospectively opt out of
476 all Uniform Standards involving long-term care insurance products
477 by expressly providing for such opt out in the enacted Compact,
478 and such an opt out shall not be treated as a material variance in
479 the offer or acceptance of any State to participate in this
480 Compact. Such an opt out shall be effective at the time of
481 enactment of this Compact by the Compacting State and shall apply
482 to all existing Uniform Standards involving long-term care
483 insurance products and those subsequently promulgated.

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

489 Once the opt out of a Uniform Standard by a Compacting State
490 becomes effective as provided under the laws of that State, the
491 Uniform Standard shall have no further force and effect in that
492 State unless and until the legislation or regulation implementing
493 the opt out is repealed or otherwise becomes ineffective under the
494 laws of the State. If a Compacting State opts out of a Uniform



495 Standard after the Uniform Standard has been made effective in
496 that State, the opt out shall have the same prospective effect as
497 provided under Article XIV for withdrawals.

498 6. Stay of Uniform Standard. If a Compacting State has
499 formally initiated the process of opting out of a Uniform Standard
500 by regulation, and while the regulatory opt out is pending, the
501 Compacting State may petition the Commission, at least fifteen
502 (15) days before the effective date of the Uniform Standard, to
503 stay the effectiveness of the Uniform Standard in that State. The
504 Commission may grant a stay if it determines the regulatory opt
505 out is being pursued in a reasonable manner and there is a
506 likelihood of success. If a stay is granted or extended by the
507 Commission, the stay or extension thereof may postpone the
508 effective date by up to ninety (90) days, unless affirmatively
509 extended by the Commission; provided, a stay may not be permitted
510 to remain in effect for more than one (1) year unless the
511 Compacting State can show extraordinary circumstances which
512 warrant a continuance of the stay, including, but not limited to,
513 the existence of a legal challenge which prevents the Compacting
514 State from opting out. A stay may be terminated by the Commission
515 upon notice that the rulemaking process has been terminated.

516 7. Not later than thirty (30) days after a Rule or Operating
517 Procedure is promulgated, any person may file a petition for
518 judicial review of the Rule or Operating Procedure; provided, that
519 the filing of such a petition shall not stay or otherwise prevent
520 the Rule or Operating Procedure from becoming effective unless the
521 court finds that the petitioner has a substantial likelihood of
522 success. The court shall give deference to the actions of the
523 Commission consistent with applicable law and shall not find the
524 Rule or Operating Procedure to be unlawful if the Rule or
525 Operating Procedure represents a reasonable exercise of the
526 Commission's authority.

527 **Article VIII. Commission Records and Enforcement.**



528 1. The Commission shall promulgate Rules establishing
529 conditions and procedures for public inspection and copying of its
530 information and official records, except such information and
531 records involving the privacy of individuals and insurers' trade
532 secrets. The Commission may promulgate additional Rules under
533 which it may make available to federal and state agencies,
534 including law enforcement agencies, records and information
535 otherwise exempt from disclosure, and may enter into agreements
536 with such agencies to receive or exchange information or records
537 subject to nondisclosure and confidentiality provisions.

538 2. Except as to privileged records, data and information,
539 the laws of any Compacting State pertaining to confidentiality or
540 nondisclosure shall not relieve any Compacting State Commissioner
541 of the duty to disclose any relevant records, data or information
542 to the Commission; provided, that disclosure to the Commission
543 shall not be deemed to waive or otherwise affect any
544 confidentiality requirement; and further provided, that, except as
545 otherwise expressly provided in this Act, the Commission shall not
546 be subject to the Compacting State's laws pertaining to
547 confidentiality and nondisclosure with respect to records, data
548 and information in its possession. Confidential information of
549 the Commission shall remain confidential after such information is
550 provided to any Commissioner.

551 3. The Commission shall monitor Compacting States for
552 compliance with duly adopted Bylaws, Rules, including Uniform
553 Standards, and Operating Procedures. The Commission shall notify
554 any noncomplying Compacting State in writing of its noncompliance
555 with Commission Bylaws, Rules or Operating Procedures. If a
556 noncomplying Compacting State fails to remedy its noncompliance
557 within the time specified in the notice of noncompliance, the
558 Compacting State shall be deemed to be in default as set forth in
559 Article XIV.



560 4. The Commissioner of any State in which an Insurer is
561 authorized to do business, or is conducting the business of
562 insurance, shall continue to exercise his or her authority to
563 oversee the market regulation of the activities of the Insurer in
564 accordance with the provisions of the State's law. The
565 Commissioner's enforcement of compliance with the Compact is
566 governed by the following provisions:

567 a. With respect to the Commissioner's market regulation
568 of a Product or Advertisement that is approved or certified to the
569 Commission, the content of the Product or Advertisement shall not
570 constitute a violation of the
571 provisions, standards or requirements of the Compact except upon a
572 final order of the Commission, issued at the request of a
573 Commissioner after prior notice to the Insurer and an opportunity
574 for hearing before the Commission.

575 b. Before a Commissioner may bring an action for
576 violation of any provision, standard or requirement of the Compact
577 relating to the content of an Advertisement not approved or
578 certified to the Commission, the Commission, or an authorized
579 Commission officer or employee, must authorize the action.
580 However, authorization pursuant to this paragraph does not require
581 notice to the Insurer, opportunity for hearing or disclosure of
582 requests for authorization or records of the Commission's action
583 on such requests.

584 **Article IX. Dispute Resolution.** The Commission shall
585 attempt, upon the request of a member, to resolve any disputes or
586 other issues that are subject to this Compact and which may arise
587 between two (2) or more Compacting States, or between Compacting
588 States and Noncompacting States, and the Commission shall
589 promulgate an Operating Procedure providing for resolution of such
590 disputes.

591 **Article X. Product Filing and Approval.**



592 1. Insurers and Third-Party Filers seeking to have a product
593 approved by the Commission shall file the product with, and pay
594 applicable filing fees to, the Commission. Nothing in this Act
595 shall be construed to restrict or otherwise prevent an insurer
596 from filing its product with the insurance department in any State
597 wherein the insurer is licensed to conduct the business of
598 insurance, and such filing shall be subject to the laws of the
599 States where filed.

600 2. The Commission shall establish appropriate filing and
601 review processes and procedures pursuant to Commission Rules and
602 Operating Procedures. Notwithstanding any provision herein to the
603 contrary, the Commission shall promulgate Rules to establish
604 conditions and procedures under which the Commission will provide
605 public access to product filing information. In establishing such
606 Rules, the Commission shall consider the interests of the public
607 in having access to such information, as well as protection of
608 personal medical and financial information and trade secrets, that
609 may be contained in a product filing or supporting information.

610 3. Any product approved by the Commission may be sold or
611 otherwise issued in those Compacting States for which the Insurer
612 is legally authorized to do business.

613 **Article XI. Review of Commission Decisions Regarding**
614 **Filings.**

615 1. Not later than thirty (30) days after the Commission has
616 given notice of a disapproved product or Advertisement filed with
617 the Commission, the Insurer or Third Party Filer whose filing was
618 disapproved may appeal the determination to a review panel
619 appointed by the Commission. The Commission shall promulgate
620 Rules to establish procedures for appointing such review panels
621 and provide for notice and hearing. An allegation that the
622 Commission, in disapproving a Product or Advertisement filed with
623 the Commission, acted arbitrarily, capriciously, or in a manner
624 that is an abuse of discretion or otherwise not in accordance with



625 the law, is subject to judicial review in accordance with Article
626 III, Section 4.

627 2. The Commission shall have authority to monitor, review
628 and reconsider Products and Advertisement subsequent to their
629 filing or approval upon a finding that the product does not meet
630 the relevant Uniform Standard. Where appropriate, the Commission
631 may withdraw or modify its approval after proper notice and
632 hearing, subject to the appeal process in Section 1 above.

633 **Article XII. Finance.**

634 1. The Commission shall pay or provide for the payment of
635 the reasonable expenses of its establishment and organization. To
636 fund the cost of its initial operations, the Commission may accept
637 contributions and other forms of funding from the National
638 Association of Insurance Commissioners, Compacting States and
639 other sources. Contributions and other forms of funding from
640 other sources shall be of such a nature that the independence of
641 the Commission concerning the performance of its duties shall not
642 be compromised.

643 2. The Commission shall collect a filing fee from each
644 Insurer and Third Party Filer filing a product with the Commission
645 to cover the cost of the operations and activities of the
646 Commission and its staff in a total amount sufficient to cover the
647 Commission's annual budget.

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

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

653 5. The Commission shall not pledge the credit of any
654 Compacting State, except by and with the appropriate legal
655 authority of that Compacting State.

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



658 disbursements of all funds under its control. The internal
659 financial accounts of the Commission shall be subject to the
660 accounting procedures established under its Bylaws. The financial
661 accounts and reports including the system of internal controls and
662 procedures of the Commission shall be audited annually by an
663 independent certified public accountant. Upon the determination
664 of the Commission, but no less frequently than every three (3)
665 years, the review of the independent auditor shall include a
666 management and performance audit of the Commission. The
667 Commission shall make an Annual Report to the Governor and
668 legislature of the Compacting States, which shall include a report
669 of the independent audit. The Commission's internal accounts shall
670 not be confidential and such materials may be shared with the
671 Commissioner of any Compacting State upon request provided,
672 however, that any work papers related to any internal or
673 independent audit and any information regarding the privacy of
674 individuals and insurers' proprietary information, including trade
675 secrets, shall remain confidential.

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

679 **Article XIII. Compacting States, Effective Date and**
680 **Amendment.**

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

682 2. The Compact shall become effective and binding upon
683 legislative enactment of the Compact into law by two Compacting
684 States; provided, the Commission shall become effective for
685 purposes of adopting Uniform Standards for, reviewing, and giving
686 approval or disapproval of, products filed with the Commission
687 that satisfy applicable Uniform Standards only after twenty-six
688 (26) States are Compacting States or, alternatively, by States
689 representing greater than forty percent (40%) of the premium
690 volume for life insurance, annuity, disability income and



691 long-term care insurance products, based on records of the NAIC
692 for the prior year. Thereafter, it shall become effective and
693 binding as to any other Compacting State upon enactment of the
694 Compact into law by that State.

695 3. Amendments to the Compact may be proposed by the
696 Commission for enactment by the Compacting States. No amendment
697 shall become effective and binding upon the Commission and the
698 Compacting States unless and until all Compacting States enact the
699 amendment into law.

700 **Article XIV. Withdrawal, Default and Termination.**

701 1. Withdrawal.

702 a. Once effective, the Compact shall continue in force
703 and remain binding upon each and every Compacting State; *provided,*
704 that a Compacting State may withdraw from the Compact
705 ("Withdrawing State") by enacting a statute specifically repealing
706 the statute which enacted the Compact into law.

707 b. The effective date of withdrawal is the effective
708 date of the repealing statute. However, the withdrawal shall not
709 apply to any product filings approved or self-certified, or any
710 Advertisement of such products, on the date the repealing statute
711 becomes effective, except by mutual agreement of the Commission
712 and the Withdrawing State unless the approval is rescinded by the
713 Withdrawing State as provided in Paragraph e of this section.

714 c. The Commissioner of the Withdrawing State shall
715 immediately notify the Management Committee in writing upon the
716 introduction of legislation repealing this Compact in the
717 Withdrawing State.

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

721 e. The Withdrawing State is responsible for all
722 obligations, duties and liabilities incurred through the effective
723 date of withdrawal, including any obligations, the performance of



724 which extend beyond the effective date of withdrawal, except to
725 the extent those obligations may have been released or
726 relinquished by mutual agreement of the Commission and the
727 Withdrawing State. The Commission's approval of Products and
728 Advertisement prior to the effective date of withdrawal shall
729 continue to be effective and be given full force and effect in the
730 Withdrawing State, unless formally rescinded by the Withdrawing
731 State in the same manner as provided by the laws of the
732 Withdrawing State for the prospective disapproval of products or
733 advertisement previously approved under state law.

734 f. Reinstatement following withdrawal of any Compacting
735 State shall occur upon the effective date of the Withdrawing State
736 reenacting the Compact.

737 2. Default.

738 a. If the Commission determines that any Compacting
739 State has at any time defaulted ("Defaulting State") in the
740 performance of any of its obligations or responsibilities under
741 this Compact, the Bylaws or duly promulgated Rules or Operating
742 Procedures, then, after notice and hearing as set forth in the
743 Bylaws, all rights, privileges and benefits conferred by this
744 Compact on the Defaulting State shall be suspended from the
745 effective date of default as fixed by the Commission. The grounds
746 for default include, but are not limited to, failure of a
747 Compacting State to perform its obligations or responsibilities,
748 and any other grounds designated in Commission Rules. The
749 Commission shall immediately notify the Defaulting State in
750 writing of the Defaulting State's suspension pending a cure of the
751 default. The Commission shall stipulate the conditions and the
752 time period within which the Defaulting State must cure its
753 default. If the Defaulting State fails to cure the default within
754 the time period specified by the Commission, the Defaulting State
755 shall be terminated from the Compact and all rights, privileges



756 and benefits conferred by this Compact shall be terminated from
757 the effective date of termination.

758 b. Product approvals by the Commission or product
759 self-certifications, or any Advertisement in connection with such
760 product, that are in force on the effective date of termination
761 shall remain in force in the Defaulting State in the same manner
762 as if the Defaulting State had withdrawn voluntarily pursuant to
763 Section 1 of this article.

764 c. Reinstatement following termination of any
765 Compacting State requires a reenactment of the Compact.

766 3. Dissolution of Compact.

767 a. The Compact dissolves effective upon the date of the
768 withdrawal or default of the Compacting State which reduces
769 membership in the Compact to one (1) Compacting State.

770 b. Upon the dissolution of this Compact, the Compact
771 becomes null and void and shall be of no further force or effect,
772 and the business and affairs of the Commission shall be wound up
773 and any surplus funds shall be distributed in accordance with the
774 Bylaws.

775 Article XV. Severability and Construction.

776 1. The provisions of this Compact shall be severable; and if
777 any phrase, clause, sentence or provision is deemed unenforceable,
778 the remaining provisions of the Compact shall be enforceable.

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

781 **Article XVI. Binding Effect of Compact and Other Laws.**

782 1. Other Laws

783 a. Nothing herein prevents the enforcement of any other
784 law of a Compacting State, except as provided in Paragraph b of
785 this section.

786 b. For any product approved or certified to the
787 Commission, the Rules, Uniform Standards and any other
788 requirements of the Commission shall constitute the exclusive



789 provisions applicable to the content, approval and certification
790 of such products. For Advertisement that is subject to the
791 Commission's authority, any Rule, Uniform Standard or other
792 requirement of the Commission which governs the content of the
793 Advertisement shall constitute the exclusive provision that a
794 Commissioner may apply to the content of the Advertisement.
795 Notwithstanding the foregoing, no action taken by the Commission
796 shall abrogate or restrict: (i) the access of any person to state
797 courts; (ii) remedies available under state law related to breach
798 of contract, tort, or other laws not specifically directed to the
799 content of the product; (iii) state law relating to the
800 construction of insurance contracts; or (iv) the authority of the
801 attorney general of the state including, but not limited to,
802 maintaining any actions or proceedings, as authorized by law.

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

805 2. Binding Effect of this Compact.

806 a. All lawful actions of the Commission, including all
807 Rules and Operating Procedures promulgated by the Commission, are
808 binding upon the Compacting States.

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

811 c. Upon the request of a party to a conflict over the
812 meaning or interpretation of Commission actions, and upon a
813 majority vote of the Compacting States, the Commission may issue
814 advisory opinions regarding the meaning or interpretation in
815 dispute.

816 d. In the event any provision of this Compact exceeds
817 the constitutional limits imposed on the legislature of any
818 Compacting State, the obligations, duties, powers or jurisdiction
819 sought to be conferred by that provision upon the Commission shall
820 be ineffective as to that Compacting State, and those obligations,
821 duties, powers or jurisdiction shall remain in the Compacting



822 State and shall be exercised by the agency thereof to which those
823 obligations, duties, powers or jurisdiction are delegated by law
824 in effect at the time this Compact becomes effective.

825 **SECTION 2.** This act shall take effect and be in force from
826 and after July 1, 2009.

