



General Assembly

Amendment

January Session, 2007

LCO No. 8439

SB0005808439SD0

Offered by:
SEN. CRISCO, 17th Dist.

To: Subst. Senate Bill No. 58

File No. 24

Cal. No. 114

"AN ACT CONCERNING CAPTIVE INSURANCE COMPANIES."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 Section 1. (NEW) (*Effective upon the enactment of this Compact by the*
4 *state of New York*):

5 Article I. Purposes

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

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

11 2. To develop uniform standards for insurance products covered
12 under the Compact;

13 3. To establish a central clearinghouse to receive and provide

14 prompt review of insurance products covered under the Compact and,
15 in certain cases, advertisements related thereto, submitted by insurers
16 authorized to do business in one or more Compacting States;

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

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

27 Article II. Definitions

28 For purposes of this Compact:

29 1. "Advertisement" means any material designed to create public
30 interest in a Product, or induce the public to purchase, increase,
31 modify, reinstate, borrow on, surrender, replace or retain a policy, as
32 more specifically defined in the Rules and Operating Procedures of the
33 Commission.

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

37 3. "Compacting State" means any State which has enacted this
38 Compact legislation and which has not withdrawn pursuant to Article
39 XIV, Section 1, or been terminated pursuant to Article XIV, Section 2.

40 4. "Commission" means the "Interstate Insurance Product
41 Regulation Commission" established by this Compact.

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

45 6. "Domiciliary State" means the state in which an Insurer is
46 incorporated or organized; or, in the case of an alien Insurer, its state of
47 entry.

48 7. "Insurer" means any entity licensed by a State to issue contracts of
49 insurance for any of the lines of insurance covered by this Compact.

50 8. "Member" means the person chosen by a Compacting State as its
51 representative to the Commission, or the member's designee.

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

54 10. "Operating Procedures" mean procedures promulgated by the
55 Commission implementing a Rule, Uniform Standard or a provision of
56 this Compact.

57 11. "Product" means the form of a policy or contract, including any
58 application, endorsement, or related form which is attached to and
59 made a part of the policy or contract, and any evidence of coverage or
60 certificate, for an individual or group annuity, life insurance, disability
61 income or long-term care insurance product that an Insurer is
62 authorized to issue.

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

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

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

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

82 Article III. Establishment of the Commission and Venue

83 1. The Compacting States hereby create and establish a joint public
84 agency known as the "Interstate Insurance Product Regulation
85 Commission." Pursuant to Article IV, the Commission will have the
86 power to develop Uniform Standards for Product lines, receive and
87 provide prompt review of Products filed therewith, and give approval
88 to those Product filings satisfying applicable Uniform Standards;
89 provided, it is not intended for the Commission to be the exclusive
90 entity for receipt and review of insurance product filings. Nothing
91 herein shall prohibit any Insurer from filing its product in any State
92 wherein the Insurer is licensed to conduct the business of insurance;
93 and any such filing shall be subject to the laws of the State where filed.

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

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

98 4. Venue is proper and judicial proceedings by or against the
99 Commission shall be brought solely and exclusively in a Court of
100 competent jurisdiction where the principal office of the Commission is
101 located.

102 Article IV. Powers of the Commission

103 The Commission shall have the following powers:

104 1. To promulgate Rules, pursuant to Article VII of this Compact,
105 which shall have the force and effect of law and shall be binding in the
106 Compacting States to the extent and in the manner provided in this
107 Compact;

108 2. To exercise its rule-making authority and establish reasonable
109 Uniform Standards for Products covered under the Compact, and
110 Advertisement related thereto, which shall have the force and effect of
111 law and shall be binding in the Compacting States, but only for those
112 Products filed with the Commission, provided, that a Compacting
113 State shall have the right to opt out of such Uniform Standard
114 pursuant to Article VII, to the extent and in the manner provided in
115 this Compact, and, provided further, that any Uniform Standard
116 established by the Commission for long-term care insurance products
117 may provide the same or greater protections for consumers as, but
118 shall not provide less than, those protections set forth in the National
119 Association of Insurance Commissioners' Long-Term Care Insurance
120 Model Act and Long-Term Care Insurance Model Regulation,
121 respectively, adopted as of 2001. The Commission shall consider
122 whether any subsequent amendments to the National Association of
123 Insurance Commissioners Long-Term Care Insurance Model Act or
124 Long-Term Care Insurance Model Regulation adopted by the National
125 Association of Insurance Commissioners require amending of the
126 Uniform Standards established by the Commission for long-term care
127 insurance products;

128 3. To receive and review in an expeditious manner Products filed
129 with the Commission, and rate filings for disability income and long-
130 term care insurance Products, and give approval of those Products and
131 rate filings that satisfy the applicable Uniform Standard, where such
132 approval shall have the force and effect of law and be binding on the
133 Compacting States to the extent and in the manner provided in the

134 Compact;

135 4. To receive and review in an expeditious manner Advertisement
136 relating to long-term care insurance products for which Uniform
137 Standards have been adopted by the Commission, and give approval
138 to all Advertisement that satisfies the applicable Uniform Standard.
139 For any product covered under this Compact, other than long-term
140 care insurance products, the Commission shall have the authority to
141 require an insurer to submit all or any part of its Advertisement with
142 respect to that product for review or approval prior to use, if the
143 Commission determines that the nature of the product is such that an
144 Advertisement of the product could have the capacity or tendency to
145 mislead the public. The actions of Commission as provided in this
146 section shall have the force and effect of law and shall be binding in
147 the Compacting States to the extent and in the manner provided in the
148 Compact;

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

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

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

159 8. To issue subpoenas requiring the attendance and testimony of
160 witnesses and the production of evidence;

161 9. To establish and maintain offices;

162 10. To purchase and maintain insurance and bonds;

163 11. To borrow, accept or contract for services of personnel,

164 including, but not limited to, employees of a Compacting State;

165 12. To hire employees, professionals or specialists, and elect or
166 appoint officers, and to fix their compensation, define their duties and
167 give them appropriate authority to carry out the purposes of the
168 Compact, and determine their qualifications; and to establish the
169 Commission's personnel policies and programs relating to, among
170 other things, conflicts of interest, rates of compensation and
171 qualifications of personnel;

172 13. To accept any and all appropriate donations and grants of
173 money, equipment, supplies, materials and services, and to receive,
174 utilize and dispose of the same; provided that at all times the
175 Commission shall strive to avoid any appearance of impropriety;

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

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

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

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

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

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

190 20. To provide advice and training to those personnel in state
191 insurance departments responsible for product review, and to be a
192 resource for state insurance departments;

193 21. To establish a budget and make expenditures;

194 22. To borrow money;

195 23. To appoint committees, including advisory committees
196 comprising Members, state insurance regulators, state legislators or
197 their representatives, insurance industry and consumer
198 representatives, and such other interested persons as may be
199 designated in the Bylaws;

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

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

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

206 Article V. Organization of the Commission

207 1. Membership, Voting and Bylaws

208 a. Each Compacting State shall have and be limited to one Member.
209 Each Member shall be qualified to serve in that capacity pursuant to
210 applicable law of the Compacting State. Any Member may be removed
211 or suspended from office as provided by the law of the State from
212 which the member is appointed. Any vacancy occurring in the
213 Commission shall be filled in accordance with the laws of the
214 Compacting State wherein the vacancy exists. Nothing herein shall be
215 construed to affect the manner in which a Compacting State
216 determines the election or appointment and qualification of its own
217 Commissioner.

218 b. Each Member shall be entitled to one vote and shall have an
219 opportunity to participate in the governance of the Commission in
220 accordance with the Bylaws. Notwithstanding any provision herein to
221 the contrary, no action of the Commission with respect to the

222 promulgation of a Uniform Standard shall be effective unless two-
223 thirds of the Members vote in favor thereof.

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

228 i. Establishing the fiscal year of the Commission;

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

231 iii. Providing reasonable standards and procedures: (I) for the
232 establishment and meetings of other committees, and (II) governing
233 any general or specific delegation of any authority or function of the
234 Commission;

235 iv. Providing reasonable procedures for calling and conducting
236 meetings of the Commission that consists of a majority of Commission
237 members, ensuring reasonable advance notice of each such meeting
238 and providing for the right of citizens to attend each such meeting
239 with enumerated exceptions designed to protect the public's interest,
240 the privacy of individuals, and insurers' proprietary information,
241 including trade secrets. The Commission may meet in camera only
242 after a majority of the entire membership votes to close a meeting in
243 whole or in part. As soon as practicable, the Commission must make
244 public (I) a copy of the vote to close the meeting revealing the vote of
245 each Member with no proxy votes allowed, and (II) votes taken during
246 such meeting;

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

249 vi. Providing reasonable standards and procedures for the
250 establishment of the personnel policies and programs of the
251 Commission. Notwithstanding any civil service or other similar laws

252 of any Compacting State, the Bylaws shall exclusively govern the
253 personnel policies and programs of the Commission;

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

256 viii. Providing a mechanism for winding up the operations of the
257 Commission and the equitable disposition of any surplus funds that
258 may exist after the termination of the Compact after the payment or
259 reserving of all of its debts and obligations.

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

263 2. Management Committee, Officers and Personnel

264 a. A Management Committee comprising no more than fourteen
265 members shall be established as follows:

266 i. One member from each of the six Compacting States with the
267 largest premium volume for individual and group annuities, life,
268 disability income and long-term care insurance products, determined
269 from the records of the National Association of Insurance
270 Commissioners for the prior year;

271 ii. Four members from those Compacting States with at least two
272 per cent of the market based on the premium volume described above,
273 other than the six Compacting States with the largest premium
274 volume, selected on a rotating basis as provided in the Bylaws; and

275 iii. Four members from those Compacting States with less than two
276 per cent of the market, based on the premium volume described above,
277 with one selected from each of the four zone regions of the National
278 Association of Insurance Commissioners as provided in the Bylaws.

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

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

283 ii. Establishing and overseeing an organizational structure within,
284 and appropriate procedures for, the Commission to provide for the
285 creation of Uniform Standards and other Rules, receipt and review of
286 product filings, administrative and technical support functions, review
287 of decisions regarding the disapproval of a product filing, and the
288 review of elections made by a Compacting State to opt out of a
289 Uniform Standard; provided that a Uniform Standard shall not be
290 submitted to the Compacting States for adoption unless approved by
291 two-thirds of the members of the Management Committee;

292 iii. Overseeing the offices of the Commission; and

293 iv. Planning, implementing, and coordinating communications and
294 activities with other state, federal and local government organizations
295 in order to advance the goals of the Commission.

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

299 d. The Management Committee may, subject to the approval of the
300 Commission, appoint or retain an executive director for such period,
301 upon such terms and conditions and for such compensation as the
302 Commission may deem appropriate. The executive director shall serve
303 as secretary to the Commission, but shall not be a Member of the
304 Commission. The executive director shall hire and supervise such
305 other staff as may be authorized by the Commission.

306 3. Legislative and Advisory Committees

307 a. A legislative committee comprising state legislators or their
308 designees shall be established to monitor the operations of, and make
309 recommendations to, the Commission, including the Management
310 Committee; provided that the manner of selection and term of any

311 legislative committee member shall be as set forth in the Bylaws. Prior
312 to the adoption by the Commission of any Uniform Standard, revision
313 to the Bylaws, annual budget or other significant matter as may be
314 provided in the Bylaws, the Management Committee shall consult
315 with and report to the legislative committee.

316 b. The Commission shall establish two advisory committees, one of
317 which shall comprise consumer representatives independent of the
318 insurance industry, and the other comprising insurance industry
319 representatives.

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

322 4. Corporate Records of the Commission

323 The Commission shall maintain its corporate books and records in
324 accordance with the Bylaws.

325 5. Qualified Immunity, Defense and Indemnification

326 a. The Members, officers, executive director, employees and
327 representatives of the Commission shall be immune from suit and
328 liability, either personally or in their official capacity, for any claim for
329 damage to or loss of property or personal injury or other civil liability
330 caused by or arising out of any actual or alleged act, error or omission
331 that occurred, or that the person against whom the claim is made had a
332 reasonable basis for believing occurred within the scope of
333 Commission employment, duties or responsibilities; provided, that
334 nothing in this paragraph shall be construed to protect any such
335 person from suit or liability for any damage, loss, injury or liability
336 caused by the intentional or wilful and wanton misconduct of that
337 person.

338 b. The Commission shall defend any Member, officer, executive
339 director, employee or representative of the Commission in any civil
340 action seeking to impose liability arising out of any actual or alleged

341 act, error or omission that occurred within the scope of Commission
342 employment, duties or responsibilities, or that the person against
343 whom the claim is made had a reasonable basis for believing occurred
344 within the scope of Commission employment, duties or
345 responsibilities; provided, that nothing herein shall be construed to
346 prohibit that person from retaining counsel; and provided further, that
347 the actual or alleged act, error or omission did not result from that
348 person's intentional or wilful and wanton misconduct.

349 c. The Commission shall indemnify and hold harmless any Member,
350 officer, executive director, employee or representative of the
351 Commission for the amount of any settlement or judgment obtained
352 against that person arising out of any actual or alleged act, error or
353 omission that occurred within the scope of Commission employment,
354 duties or responsibilities, or that such person had a reasonable basis
355 for believing occurred within the scope of Commission employment,
356 duties or responsibilities, provided, that the actual or alleged act, error
357 or omission did not result from the intentional or wilful and wanton
358 misconduct of that person.

359 Article VI. Meetings and Acts of the Commission

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

362 2. Each Member of the Commission shall have the right and power
363 to cast a vote to which that Compacting State is entitled and to
364 participate in the business and affairs of the Commission. A Member
365 shall vote in person or by such other means as provided in the Bylaws.
366 The Bylaws may provide for Members' participation in meetings by
367 telephone or other means of communication.

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

370 Article VII. Rules and Operating Procedures: Rulemaking Functions
371 of the Commission and Opting Out of Uniform Standards

372 1. Rulemaking Authority. The Commission shall promulgate
373 reasonable Rules, including Uniform Standards, and Operating
374 Procedures in order to effectively and efficiently achieve the purposes
375 of this Compact. Notwithstanding the foregoing, in the event the
376 Commission exercises its rulemaking authority in a manner that is
377 beyond the scope of the purposes of this Compact, or the powers
378 granted hereunder, then such an action by the Commission shall be
379 invalid and have no force and effect.

380 2. Rulemaking Procedure. Rules and Operating Procedures shall be
381 made pursuant to a rulemaking process that conforms to the Model
382 State Administrative Procedure Act of 1981 as amended, as may be
383 appropriate to the operations of the Commission. Before the
384 Commission adopts a Uniform Standard, the Commission shall give
385 written notice to the relevant state legislative committees in each
386 Compacting State responsible for insurance issues of its intention to
387 adopt the Uniform Standard. The Commission in adopting a Uniform
388 Standard shall consider fully all submitted materials and issue a
389 concise explanation of its decision.

390 3. Effective Date and Opt Out of a Uniform Standard. A Uniform
391 Standard shall become effective ninety days after its promulgation by
392 the Commission or such later date as the Commission may determine;
393 provided, however, that a Compacting State may opt out of a Uniform
394 Standard as provided in this Article. "Opt out" shall be defined as any
395 action by a Compacting State to decline to adopt or participate in a
396 promulgated Uniform Standard. All other Rules and Operating
397 Procedures, and amendments thereto, shall become effective as of the
398 date specified in each Rule, Operating Procedure or amendment.

399 4. Opt Out Procedure. A Compacting State may opt out of a
400 Uniform Standard, either by legislation or regulation duly
401 promulgated by the Insurance Department under the Compacting
402 State's Administrative Procedure Act. If a Compacting State elects to
403 opt out of a Uniform Standard by regulation, it must (a) give written
404 notice to the Commission no later than ten business days after the

405 Uniform Standard is promulgated, or at the time the State becomes a
406 Compacting State and (b) find that the Uniform Standard does not
407 provide reasonable protections to the citizens of the State, given the
408 conditions in the State. The Commissioner shall make specific findings
409 of fact and conclusions of law, based on a preponderance of the
410 evidence, detailing the conditions in the State which warrant a
411 departure from the Uniform Standard and determining that the
412 Uniform Standard would not reasonably protect the citizens of the
413 State. The Commissioner must consider and balance the following
414 factors and find that the conditions in the State and needs of the
415 citizens of the State outweigh: (i) the intent of the legislature to
416 participate in, and the benefits of, an interstate agreement to establish
417 national uniform consumer protections for the Products subject to this
418 Compact; and (ii) the presumption that a Uniform Standard adopted
419 by the Commission provides reasonable protections to consumers of
420 the relevant Product. Notwithstanding the foregoing, a Compacting
421 State may, at the time of its enactment of this Compact, prospectively
422 opt out of all Uniform Standards involving long-term care insurance
423 products by expressly providing for such opt out in the enacted
424 Compact, and such an opt out shall not be treated as a material
425 variance in the offer or acceptance of any State to participate in this
426 Compact. Such an opt out shall be effective at the time of enactment of
427 this Compact by the Compacting State and shall apply to all existing
428 Uniform Standards involving long-term care insurance products and
429 those subsequently promulgated.

430 5. Effect of Opt Out. If a Compacting State elects to opt out of a
431 Uniform Standard, the Uniform Standard shall remain applicable in
432 the Compacting State electing to opt out until such time the opt out
433 legislation is enacted into law or the regulation opting out becomes
434 effective. Once the opt out of a Uniform Standard by a Compacting
435 State becomes effective as provided under the laws of that State, the
436 Uniform Standard shall have no further force and effect in that State
437 unless and until the legislation or regulation implementing the opt out
438 is repealed or otherwise becomes ineffective under the laws of the

439 State. If a Compacting State opts out of a Uniform Standard after the
440 Uniform Standard has been made effective in that State, the opt out
441 shall have the same prospective effect as provided under Article XIV
442 for withdrawals.

443 6. Stay of Uniform Standard. If a Compacting State has formally
444 initiated the process of opting out of a Uniform Standard by
445 regulation, and while the regulatory opt out is pending, the
446 Compacting State may petition the Commission, at least fifteen days
447 before the effective date of the Uniform Standard, to stay the
448 effectiveness of the Uniform Standard in that State. The Commission
449 may grant a stay if it determines the regulatory opt out is being
450 pursued in a reasonable manner and there is a likelihood of success. If
451 a stay is granted or extended by the Commission, the stay or extension
452 thereof may postpone the effective date by up to ninety days, unless
453 affirmatively extended by the Commission; provided, a stay may not
454 be permitted to remain in effect for more than one year unless the
455 Compacting State can show extraordinary circumstances which
456 warrant a continuance of the stay, including, but not limited to, the
457 existence of a legal challenge which prevents the Compacting State
458 from opting out. A stay may be terminated by the Commission upon
459 notice that the rulemaking process has been terminated.

460 7. Not later than thirty days after a Rule or Operating Procedure is
461 promulgated, any person may file a petition for judicial review of the
462 Rule or Operating Procedure; provided, that the filing of such a
463 petition shall not stay or otherwise prevent the Rule or Operating
464 Procedure from becoming effective unless the court finds that the
465 petitioner has a substantial likelihood of success. The court shall give
466 deference to the actions of the Commission consistent with applicable
467 law and shall not find the Rule or Operating Procedure to be unlawful
468 if the Rule or Operating Procedure represents a reasonable exercise of
469 the Commission's authority.

470 Article VIII. Commission Records and Enforcement

471 1. The Commission shall promulgate Rules establishing conditions
472 and procedures for public inspection and copying of its information
473 and official records, except such information and records involving the
474 privacy of individuals and insurers' trade secrets. The Commission
475 may promulgate additional Rules under which it may make available
476 to federal and state agencies, including law enforcement agencies,
477 records and information otherwise exempt from disclosure, and may
478 enter into agreements with such agencies to receive or exchange
479 information or records subject to nondisclosure and confidentiality
480 provisions.

481 2. Except as to privileged records, data and information, the laws of
482 any Compacting State pertaining to confidentiality or nondisclosure
483 shall not relieve any Compacting State Commissioner of the duty to
484 disclose any relevant records, data or information to the Commission;
485 provided, that disclosure to the Commission shall not be deemed to
486 waive or otherwise affect any confidentiality requirement; and further
487 provided, that, except as otherwise expressly provided in this
488 Compact, the Commission shall not be subject to the Compacting
489 State's laws pertaining to confidentiality and nondisclosure with
490 respect to records, data and information in its possession. Confidential
491 information of the Commission shall remain confidential after such
492 information is provided to any Commissioner.

493 3. The Commission shall monitor Compacting States for compliance
494 with duly adopted Bylaws, Rules, including Uniform Standards, and
495 Operating Procedures. The Commission shall notify any non-
496 complying Compacting State in writing of its noncompliance with
497 Commission Bylaws, Rules or Operating Procedures. If a non-
498 complying Compacting State fails to remedy its noncompliance within
499 the time specified in the notice of noncompliance, the Compacting
500 State shall be deemed to be in default as set forth in Article XIV.

501 4. The Commissioner of any State in which an Insurer is authorized
502 to do business, or is conducting the business of insurance, shall
503 continue to exercise the commissioner's authority to oversee the

504 market regulation of the activities of the Insurer in accordance with the
505 provisions of the State's law. The Commissioner's enforcement of
506 compliance with the Compact is governed by the following provisions:

507 a. With respect to the Commissioner's market regulation of a
508 Product or Advertisement that is approved or certified to the
509 Commission, the content of the Product or Advertisement shall not
510 constitute a violation of the provisions, standards or requirements of
511 the Compact except upon a final order of the Commission, issued at
512 the request of a Commissioner after prior notice to the Insurer and an
513 opportunity for hearing before the Commission.

514 b. Before a Commissioner may bring an action for violation of any
515 provision, standard or requirement of the Compact relating to the
516 content of an Advertisement not approved or certified to the
517 Commission, the Commission, or an authorized Commission officer or
518 employee, must authorize the action. However, authorization
519 pursuant to this paragraph does not require notice to the Insurer,
520 opportunity for hearing or disclosure of requests for authorization or
521 records of the Commission's action on such requests.

522 Article IX. Dispute Resolution

523 The Commission shall attempt, upon the request of a Member, to
524 resolve any disputes or other issues that are subject to this Compact
525 and which may arise between two or more Compacting States, or
526 between Compacting States and Non-compacting States, and the
527 Commission shall promulgate an Operating Procedure providing for
528 resolution of such disputes.

529 Article X. Product Filing and Approval

530 1. Insurers and Third-Party Filers seeking to have a Product
531 approved by the Commission shall file the Product with, and pay
532 applicable filing fees to, the Commission. Nothing in this Compact
533 shall be construed to restrict or otherwise prevent an insurer from
534 filing its Product with the insurance department in any State wherein

535 the insurer is licensed to conduct the business of insurance, and such
536 filing shall be subject to the laws of the States where filed.

537 2. The Commission shall establish appropriate filing and review
538 processes and procedures pursuant to Commission Rules and
539 Operating Procedures. Notwithstanding any provision herein to the
540 contrary, the Commission shall promulgate Rules to establish
541 conditions and procedures under which the Commission will provide
542 public access to Product filing information. In establishing such Rules,
543 the Commission shall consider the interests of the public in having
544 access to such information, as well as protection of personal medical
545 and financial information and trade secrets, that may be contained in a
546 Product filing or supporting information.

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

550 Article XI. Review of Commission Decisions Regarding Filings

551 1. Not later than thirty days after the Commission has given notice
552 of a disapproved Product or Advertisement filed with the
553 Commission, the Insurer or Third Party Filer whose filing was
554 disapproved may appeal the determination to a review panel
555 appointed by the Commission. The Commission shall promulgate
556 Rules to establish procedures for appointing such review panels and
557 provide for notice and hearing. An allegation that the Commission, in
558 disapproving a Product or Advertisement filed with the Commission,
559 acted arbitrarily, capriciously, or in a manner that is an abuse of
560 discretion or otherwise not in accordance with the law, is subject to
561 judicial review in accordance with Article III, Section 4.

562 2. The Commission shall have authority to monitor, review and
563 reconsider Products and Advertisement subsequent to their filing or
564 approval upon a finding that the product does not meet the relevant
565 Uniform Standard. Where appropriate, the Commission may
566 withdraw or modify its approval after proper notice and hearing,

567 subject to the appeal process in Section 1 of this article.

568 Article XII. Finance

569 1. The Commission shall pay or provide for the payment of the
570 reasonable expenses of its establishment and organization. To fund the
571 cost of its initial operations, the Commission may accept contributions
572 and other forms of funding from the National Association of Insurance
573 Commissioners, Compacting States and other sources. Contributions
574 and other forms of funding from other sources shall be of such a
575 nature that the independence of the Commission concerning the
576 performance of its duties shall not be compromised.

577 2. The Commission shall collect a filing fee from each Insurer and
578 Third Party Filer filing a product with the Commission to cover the
579 cost of the operations and activities of the Commission and its staff in a
580 total amount sufficient to cover the Commission's annual budget.

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

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

586 5. The Commission shall not pledge the credit of any Compacting
587 State, except by and with the appropriate legal authority of that
588 Compacting State.

589 6. The Commission shall keep complete and accurate accounts of all
590 its internal receipts, including grants and donations, and
591 disbursements of all funds under its control. The internal financial
592 accounts of the Commission shall be subject to the accounting
593 procedures established under its Bylaws. The financial accounts and
594 reports including the system of internal controls and procedures of the
595 Commission shall be audited annually by an independent certified
596 public accountant. Upon the determination of the Commission, but no

597 less frequently than every three years, the review of the independent
598 auditor shall include a management and performance audit of the
599 Commission. The Commission shall make an Annual Report to the
600 Governor and legislature of the Compacting States, which shall
601 include a report of the independent audit. The Commission's internal
602 accounts shall not be confidential and such materials may be shared
603 with the Commissioner of any Compacting State upon request
604 provided, however, that any work papers related to any internal or
605 independent audit and any information regarding the privacy of
606 individuals and insurers' proprietary information, including trade
607 secrets, shall remain confidential.

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

611 Article XIII. Compacting States, Effective Date and Amendment

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

613 2. The Compact shall become effective and binding upon legislative
614 enactment of the Compact into law by two Compacting States;
615 provided, the Commission shall become effective for purposes of
616 adopting Uniform Standards for, reviewing, and giving approval or
617 disapproval of, Products filed with the Commission that satisfy
618 applicable Uniform Standards only after twenty-six States are
619 Compacting States or, alternatively, by States representing greater than
620 forty per cent of the premium volume for life insurance, annuity,
621 disability income and long-term care insurance products, based on
622 records of the National Association of Insurance Commissioners for
623 the prior year. Thereafter, it shall become effective and binding as to
624 any other Compacting State upon enactment of the Compact into law
625 by that State.

626 3. Amendments to the Compact may be proposed by the
627 Commission for enactment by the Compacting States. No amendment
628 shall become effective and binding upon the Commission and the

629 Compacting States unless and until all Compacting States enact the
630 amendment into law.

631 Article XIV. Withdrawal, Default and Termination

632 1. Withdrawal

633 a. Once effective, the Compact shall continue in force and remain
634 binding upon each and every Compacting State; provided, that a
635 Compacting State may withdraw from the Compact by enacting a
636 statute specifically repealing the statute which enacted the Compact
637 into law.

638 b. The effective date of withdrawal is the effective date of the
639 repealing statute. However, the withdrawal shall not apply to any
640 product filings approved or self-certified, or any Advertisement of
641 such products, on the date the repealing statute becomes effective,
642 except by mutual agreement of the Commission and the Withdrawing
643 State unless the approval is rescinded by the Withdrawing State as
644 provided in Paragraph e of this section.

645 c. The Commissioner of the Withdrawing State shall immediately
646 notify the Management Committee in writing upon the introduction of
647 legislation repealing this Compact in the Withdrawing State.

648 d. The Commission shall notify the other Compacting States of the
649 introduction of such legislation within ten days after its receipt of
650 notice thereof.

651 e. The Withdrawing State is responsible for all obligations, duties
652 and liabilities incurred through the effective date of withdrawal,
653 including any obligations, the performance of which extend beyond
654 the effective date of withdrawal, except to the extent those obligations
655 may have been released or relinquished by mutual agreement of the
656 Commission and the Withdrawing State. The Commission's approval
657 of Products and Advertisement prior to the effective date of
658 withdrawal shall continue to be effective and be given full force and

659 effect in the Withdrawing State, unless formally rescinded by the
660 Withdrawing State in the same manner as provided by the laws of the
661 Withdrawing State for the prospective disapproval of products or
662 advertisement previously approved under state law.

663 f. Reinstatement following withdrawal of any Compacting State
664 shall occur upon the effective date of the Withdrawing State reenacting
665 the Compact.

666 2. Default

667 a. If the Commission determines that any Compacting State has at
668 any time defaulted in the performance of any of its obligations or
669 responsibilities under this Compact, the Bylaws or duly promulgated
670 Rules or Operating Procedures, then, after notice and hearing as set
671 forth in the Bylaws, all rights, privileges and benefits conferred by this
672 Compact on the Defaulting State shall be suspended from the effective
673 date of default as fixed by the Commission. The grounds for default
674 include, but are not limited to, failure of a Compacting State to
675 perform its obligations or responsibilities, and any other grounds
676 designated in Commission Rules. The Commission shall immediately
677 notify the Defaulting State in writing of the Defaulting State's
678 suspension pending a cure of the default. The Commission shall
679 stipulate the conditions and the time period within which the
680 Defaulting State must cure its default. If the Defaulting State fails to
681 cure the default within the time period specified by the Commission,
682 the Defaulting State shall be terminated from the Compact and all
683 rights, privileges and benefits conferred by this Compact shall be
684 terminated from the effective date of termination.

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

690 c. Reinstatement following termination of any Compacting State

691 requires a reenactment of the Compact.

692 3. Dissolution of Compact

693 a. The Compact dissolves effective upon the date of the withdrawal
694 or default of the Compacting State which reduces membership in the
695 Compact to one Compacting State.

696 b. Upon the dissolution of this Compact, the Compact becomes null
697 and void and shall be of no further force or effect, and the business and
698 affairs of the Commission shall be wound up and any surplus funds
699 shall be distributed in accordance with the Bylaws.

700 Article XV. Severability and Construction

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

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

706 Article XVI. Binding Effect of Compact and Other Laws

707 1. Other Laws

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

710 b. For any Product approved or certified to the Commission, the
711 Rules, Uniform Standards and any other requirements of the
712 Commission shall constitute the exclusive provisions applicable to the
713 content, approval and certification of such Products. For
714 Advertisement that is subject to the Commission's authority, any Rule,
715 Uniform Standard or other requirement of the Commission which
716 governs the content of the Advertisement shall constitute the exclusive
717 provision that a Commissioner may apply to the content of the
718 Advertisement. Notwithstanding the foregoing, no action taken by the

719 Commission shall abrogate or restrict: (i) The access of any person to
720 state courts; (ii) remedies available under state law related to breach of
721 contract, tort, or other laws not specifically directed to the content of
722 the Product; (iii) state law relating to the construction of insurance
723 contracts; or (iv) the authority of the attorney general of the state,
724 including but not limited to maintaining any actions or proceedings, as
725 authorized by law.

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

728 2. Binding Effect of this Compact

729 a. All lawful actions of the Commission, including all Rules and
730 Operating Procedures promulgated by the Commission, are binding
731 upon the Compacting States.

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

734 c. Upon the request of a party to a conflict over the meaning or
735 interpretation of Commission actions, and upon a majority vote of the
736 Compacting States, the Commission may issue advisory opinions
737 regarding the meaning or interpretation in dispute.

738 d. In the event any provision of this Compact exceeds the
739 constitutional limits imposed on the legislature of any Compacting
740 State, the obligations, duties, powers or jurisdiction sought to be
741 conferred by that provision upon the Commission shall be ineffective
742 as to that Compacting State, and those obligations, duties, powers or
743 jurisdiction shall remain in the Compacting State and shall be
744 exercised by the agency thereof to which those obligations, duties,
745 powers or jurisdiction are delegated by law in effect at the time this
746 Compact becomes effective.

747 Appendix A

748 Pursuant to terms and conditions of this Compact, the State of

749 Connecticut seeks to join with other States and establish the Interstate
750 Insurance Product Regulation Compact, and thus become a member of
751 the Interstate Insurance Product Regulation Commission. The
752 Insurance Commissioner is hereby designated to serve as the
753 representative of this State to the Commission."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>upon the enactment of this Compact by the state of New York</i>	New section