



General Assembly

Amendment

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LCO No. 6368

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Offered by:

REP. O'CONNOR, 35th Dist.

SEN. CRISCO, 17th Dist.

To: Senate Bill No. 164

File No. 152

Cal. No. 481

(As Amended by Senate Amendment Schedule "A")

**"AN ACT ADOPTING THE NATIONAL ASSOCIATION OF
INSURANCE COMMISSIONERS' INTERSTATE INSURANCE
PRODUCT REGULATION COMPACT."**

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

6 PURPOSES

7 The purposes of this compact are, through means of joint and
8 cooperative action among the compacting states:

9 1. To promote and protect the interest of consumers of individual

10 and group annuity, life insurance, disability income and long-term
11 care insurance products;

12 2. To develop uniform standards for insurance products covered
13 under the compact;

14 3. To establish a central clearinghouse to receive and provide
15 prompt review of insurance products covered under the compact and,
16 in certain cases, advertisements related thereto, submitted by insurers
17 authorized to do business in one or more compacting states;

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

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

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

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

28 ARTICLE II

29 DEFINITIONS

30 For purposes of this compact:

31 1. "Advertisement" means any material designed to create public
32 interest in a product, or induce the public to purchase, increase,
33 modify, reinstate, borrow on, surrender, replace or retain a policy, as
34 more specifically defined in the rules and operating procedures of the
35 commission.

36 2. "Bylaws" mean those bylaws established by the commission for its
37 governance, or for directing or controlling the commission's actions or

38 conduct.

39 3. "Compacting state" means any state which has enacted this
40 Compact legislation and which has not withdrawn pursuant to Article
41 XIV, Section A, or been terminated pursuant to Article XIV, Section B.

42 4. "Commission" means the "Interstate Insurance Product
43 Regulation Commission" established by this compact.

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

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

50 7. "Insurer" means any entity licensed by a state to issue contracts of
51 insurance for any of the lines of insurance covered by this compact.

52 8. "Member" means the person chosen by a compacting state as its
53 representative to the commission, or the member's designee.

54 9. "Non-Compacting state" means any state which is not at the time
55 a compacting state.

56 10. "Operating Procedures" mean procedures promulgated by the
57 commission implementing a rule, uniform standard or a provision of
58 this compact.

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

65 12. "Rule" means a statement of general or particular applicability

66 and future effect promulgated by the commission, including a uniform
67 standard developed pursuant to Article VII of this compact, designed
68 to implement, interpret, or prescribe law or policy or describing the
69 organization, procedure, or practice requirements of the commission,
70 which shall have the force and effect of law in the compacting states.

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

73 14. "Third-Party Filer" means an entity that submits a product filing
74 to the commission on behalf of an Insurer.

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

83

ARTICLE III

84 ESTABLISHMENT OF THE INTERSTATE INSURANCE PRODUCT
85 REGULATION COMMISSION AND VENUE

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

97 2. The Interstate Insurance Product Regulation Commission is a
98 body corporate and politic, and an instrumentality of the compacting
99 states.

100 3. The commission is solely responsible for its liabilities except as
101 otherwise specifically provided in this compact.

102 4. Venue is proper and judicial proceedings by or against the
103 commission shall be brought solely and exclusively in a court of
104 competent jurisdiction where the principal office of the commission is
105 located.

106 ARTICLE IV

107 POWERS OF THE INTERSTATE INSURANCE PRODUCT
108 REGULATION COMMISSION

109 The commission shall have the following powers:

110 1. To promulgate rules, pursuant to Article VII of this compact,
111 which shall have the force and effect of law and shall be binding in the
112 compacting states to the extent and in the manner provided in this
113 compact;

114 2. To exercise its rule-making authority and establish reasonable
115 uniform standards for products covered under the compact, and
116 advertisement related thereto, which shall have the force and effect of
117 law and shall be binding in the compacting states, but only for those
118 products filed with the commission, provided, that a compacting state
119 shall have the right to opt out of such uniform standard pursuant to
120 Article VII, to the extent and in the manner provided in this compact,
121 and, provided further, that any uniform standard established by the
122 commission for long-term care insurance products may provide the
123 same or greater protections for consumers as, but shall not provide less
124 than, those protections set forth in the National Association of
125 Insurance Commissioners' Long-Term Care Insurance Model Act and
126 Long-Term Care Insurance Model Regulation, respectively, adopted as

127 of 2001. The commission shall consider whether any subsequent
128 amendments to the National Association of Insurance Commissioners
129 Long-Term Care Insurance Model Act or Long-Term Care Insurance
130 Model Regulation adopted by the National Association of Insurance
131 Commissioners require amending of the uniform standards
132 established by the commission for long-term care insurance products;

133 3. To receive and review in an expeditious manner products filed
134 with the commission, and rate filings for disability income and long-
135 term care insurance products, and give approval of those products and
136 rate filings that satisfy the applicable uniform standard, where such
137 approval shall have the force and effect of law and be binding on the
138 compacting states to the extent and in the manner provided in the
139 compact;

140 4. To receive and review in an expeditious manner advertisement
141 relating to long-term care insurance products for which uniform
142 standards have been adopted by the commission, and give approval to
143 all advertisement that satisfies the applicable uniform standard. For
144 any product covered under this compact, other than long-term care
145 insurance products, the commission shall have the authority to require
146 an insurer to submit all or any part of its advertisement with respect to
147 that product for review or approval prior to use, if the commission
148 determines that the nature of the product is such that an advertisement
149 of the product could have the capacity or tendency to mislead the
150 public. The actions of the commission as provided in this section shall
151 have the force and effect of law and shall be binding in the compacting
152 states to the extent and in the manner provided in the compact;

153 5. To exercise its rule-making authority and designate products and
154 advertisement that may be subject to a self-certification process
155 without the need for prior approval by the commission;

156 6. To promulgate operating procedures, pursuant to Article VII of
157 this compact, which shall be binding in the compacting states to the
158 extent and in the manner provided in this compact;

159 7. To bring and prosecute legal proceedings or actions in its name as
160 the commission; provided, that the standing of any state insurance
161 department to sue or be sued under applicable law shall not be
162 affected;

163 8. To issue subpoenas requiring the attendance and testimony of
164 witnesses and the production of evidence;

165 9. To establish and maintain offices;

166 10. To purchase and maintain insurance and bonds;

167 11. To borrow, accept or contract for services of personnel,
168 including, but not limited to, employees of a compacting state;

169 12. To hire employees, professionals or specialists, and elect or
170 appoint officers, and to fix their compensation, define their duties and
171 give them appropriate authority to carry out the purposes of the
172 compact, and determine their qualifications; and to establish the
173 commission's personnel policies and programs relating to, among
174 other things, conflicts of interest, rates of compensation and
175 qualifications of personnel;

176 13. To accept any and all appropriate donations and grants of
177 money, equipment, supplies, materials and services, and to receive,
178 utilize and dispose of the same; provided that at all times the
179 commission shall strive to avoid any appearance of impropriety;

180 14. To lease, purchase, accept appropriate gifts or donations of, or
181 otherwise to own, hold, improve or use, any property, real, personal or
182 mixed; provided that at all times the commission shall strive to avoid
183 any appearance of impropriety;

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

186 16. To remit filing fees to compacting states as may be set forth in
187 the bylaws, rules or operating procedures;

188 17. To enforce compliance by compacting states with rules, uniform
189 standards, operating procedures and bylaws;

190 18. To provide for dispute resolution among compacting states;

191 19. To advise compacting states on issues relating to Insurers
192 domiciled or doing business in non-compacting jurisdictions,
193 consistent with the purposes of this compact;

194 20. To provide advice and training to those personnel in state
195 insurance departments responsible for product review, and to be a
196 resource for state insurance departments;

197 21. To establish a budget and make expenditures;

198 22. To borrow money;

199 23. To appoint committees, including advisory committees
200 comprising members, state insurance regulators, state legislators or
201 their representatives, insurance industry and consumer
202 representatives, and such other interested persons as may be
203 designated in the bylaws;

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

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

207 26. To perform such other functions as may be necessary or
208 appropriate to achieve the purposes of this compact consistent with the
209 state regulation of the business of insurance.

210 ARTICLE V

211 ORGANIZATION OF THE COMMISSION

212 Section A. Membership, Voting and Bylaws

213 1. Each compacting state shall have and be limited to one member.

214 Each member shall be qualified to serve in that capacity pursuant to
215 applicable law of the compacting state. Any member may be removed
216 or suspended from office as provided by the law of the state from
217 which the member is appointed. Any vacancy occurring in the
218 commission shall be filled in accordance with the laws of the
219 compacting state wherein the vacancy exists. Nothing herein shall be
220 construed to affect the manner in which a compacting state determines
221 the election or appointment and qualification of its own commissioner.

222 2. Each member shall be entitled to one vote and shall have an
223 opportunity to participate in the governance of the commission in
224 accordance with the bylaws. Notwithstanding any provision herein to
225 the contrary, no action of the commission with respect to the
226 promulgation of a uniform standard shall be effective unless two-
227 thirds of the members vote in favor thereof.

228 3. The commission shall, by a majority of the members, prescribe
229 bylaws to govern its conduct as may be necessary or appropriate to
230 carry out the purposes, and exercise the powers, of the compact,
231 including, but not limited to:

232 a. Establishing the fiscal year of the commission;

233 b. Providing reasonable procedures for appointing and electing
234 members, as well as holding meetings, of the management committee;

235 c. Providing reasonable standards and procedures: (I) for the
236 establishment and meetings of other committees, and (II) governing
237 any general or specific delegation of any authority or function of the
238 commission;

239 d. Providing reasonable procedures for calling and conducting
240 meetings of the commission that consists of a majority of commission
241 members, ensuring reasonable advance notice of each such meeting
242 and providing for the right of citizens to attend each such meeting
243 with enumerated exceptions designed to protect the public's interest,
244 the privacy of individuals, and insurers' proprietary information,

245 including trade secrets. The commission may meet in camera only after
246 a majority of the entire membership votes to close a meeting in whole
247 or in part. As soon as practicable, the commission must make public (I)
248 a copy of the vote to close the meeting revealing the vote of each
249 member with no proxy votes allowed, and (II) votes taken during such
250 meeting;

251 e. Establishing the titles, duties and authority and reasonable
252 procedures for the election of the officers of the commission;

253 f. Providing reasonable standards and procedures for the
254 establishment of the personnel policies and programs of the
255 commission. Notwithstanding any civil service or other similar laws of
256 any compacting state, the bylaws shall exclusively govern the
257 personnel policies and programs of the commission;

258 g. Promulgating a code of ethics to address permissible and
259 prohibited activities of commission members and employees; and

260 h. Providing a mechanism for winding up the operations of the
261 commission and the equitable disposition of any surplus funds that
262 may exist after the termination of the compact after the payment or
263 reserving of all of its debts and obligations.

264 4. The commission shall publish its bylaws in a convenient form and
265 file a copy thereof and a copy of any amendment thereto, with the
266 appropriate agency or officer in each of the compacting states.

267 Section B. Management Committee, Officers and Personnel

268 1. A management committee comprising no more than fourteen
269 members shall be established as follows:

270 a. One member from each of the six compacting states with the
271 largest premium volume for individual and group annuities, life,
272 disability income and long-term care insurance products, determined
273 from the records of the National Association of Insurance
274 Commissioners for the prior year;

275 b. Four members from those compacting states with at least two per
276 cent of the market based on the premium volume described above,
277 other than the six compacting states with the largest premium volume,
278 selected on a rotating basis as provided in the bylaws; and

279 c. Four members from those compacting states with less than two
280 per cent of the market, based on the premium volume described above,
281 with one selected from each of the four zone regions of the National
282 Association of Insurance Commissioners as provided in the bylaws.

283 2. The management committee shall have such authority and duties
284 as may be set forth in the bylaws, including, but not limited to:

285 a. Managing the affairs of the commission in a manner consistent
286 with the bylaws and purposes of the commission;

287 b. Establishing and overseeing an organizational structure within,
288 and appropriate procedures for, the commission to provide for the
289 creation of uniform standards and other rules, receipt and review of
290 product filings, administrative and technical support functions, review
291 of decisions regarding the disapproval of a product filing, and the
292 review of elections made by a compacting state to opt out of a uniform
293 standard; provided that a uniform standard shall not be submitted to
294 the compacting states for adoption unless approved by two-thirds of
295 the members of the management committee;

296 c. Overseeing the offices of the commission; and

297 d. Planning, implementing, and coordinating communications and
298 activities with other state, federal and local government organizations
299 in order to advance the goals of the commission.

300 3. The commission shall elect annually officers from the
301 management committee, with each having such authority and duties,
302 as may be specified in the bylaws.

303 4. The management committee may, subject to the approval of the
304 commission, appoint or retain an executive director for such period,

305 upon such terms and conditions and for such compensation as the
306 commission may deem appropriate. The executive director shall serve
307 as secretary to the commission, but shall not be a member of the
308 commission. The executive director shall hire and supervise such other
309 staff as may be authorized by the commission.

310 Section C. Legislative and Advisory Committees

311 1. A legislative committee comprising state legislators or their
312 designees shall be established to monitor the operations of, and make
313 recommendations to, the commission, including the management
314 committee; provided that the manner of selection and term of any
315 legislative committee member shall be as set forth in the bylaws. Prior
316 to the adoption by the commission of any uniform standard, revision
317 to the bylaws, annual budget or other significant matter as may be
318 provided in the bylaws, the management committee shall consult with
319 and report to the legislative committee.

320 2. The commission shall establish two advisory committees, one of
321 which shall comprise consumer representatives independent of the
322 insurance industry, and the other comprising insurance industry
323 representatives.

324 3. The commission may establish additional advisory committees as
325 its bylaws may provide for the carrying out of its functions.

326 Section D. Corporate Records of the Commission

327 The commission shall maintain its corporate books and records in
328 accordance with the bylaws.

329 Section E. Qualified Immunity, Defense and Indemnification

330 1. The members, officers, executive director, employees and
331 representatives of the commission shall be immune from suit and
332 liability, either personally or in their official capacity, for any claim for
333 damage to or loss of property or personal injury or other civil liability
334 caused by or arising out of any actual or alleged act, error or omission

335 that occurred, or that the person against whom the claim is made had a
336 reasonable basis for believing occurred within the scope of commission
337 employment, duties or responsibilities; provided, that nothing in this
338 paragraph shall be construed to protect any such person from suit or
339 liability for any damage, loss, injury or liability caused by the
340 intentional or wilful and wanton misconduct of that person.

341 2. The commission shall defend any member, officer, executive
342 director, employee or representative of the commission in any civil
343 action seeking to impose liability arising out of any actual or alleged
344 act, error or omission that occurred within the scope of commission
345 employment, duties or responsibilities, or that the person against
346 whom the claim is made had a reasonable basis for believing occurred
347 within the scope of commission employment, duties or responsibilities;
348 provided, that nothing herein shall be construed to prohibit that
349 person from retaining counsel; and provided further, that the actual or
350 alleged act, error or omission did not result from that person's
351 intentional or wilful and wanton misconduct.

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

362

ARTICLE VI

363

MEETINGS AND ACTS OF THE COMMISSION

364 1. The commission shall meet and take such actions as are consistent
365 with the provisions of this compact and the bylaws.

366 2. Each member of the commission shall have the right and power
367 to cast a vote to which that compacting state is entitled and to
368 participate in the business and affairs of the commission. A member
369 shall vote in person or by such other means as provided in the bylaws.
370 The bylaws may provide for members' participation in meetings by
371 telephone or other means of communication.

372 3. The commission shall meet at least once during each calendar
373 year. Additional meetings shall be held as set forth in the bylaws.

374 ARTICLE VII

375 RULES AND OPERATING PROCEDURES: RULEMAKING
376 FUNCTIONS OF THE COMMISSION AND OPTING OUT OF
377 UNIFORM STANDARDS

378 1. The commission shall promulgate reasonable rules, including
379 uniform standards, and operating procedures in order to effectively
380 and efficiently achieve the purposes of this compact. Notwithstanding
381 the foregoing, in the event the commission exercises its rulemaking
382 authority in a manner that is beyond the scope of the purposes of this
383 compact, or the powers granted hereunder, then such an action by the
384 commission shall be invalid and have no force and effect.

385 2. Rules and operating procedures shall be made pursuant to a
386 rulemaking process that conforms to the Model State Administrative
387 Procedure Act of 1981 as amended, as may be appropriate to the
388 operations of the commission. Before the commission adopts a uniform
389 standard, the commission shall give written notice to the relevant state
390 legislative committees in each compacting state responsible for
391 insurance issues of its intention to adopt the uniform standard. The
392 commission in adopting a uniform standard shall consider fully all
393 submitted materials and issue a concise explanation of its decision.

394 3. A uniform standard shall become effective ninety days after its
395 promulgation by the commission or such later date as the commission
396 may determine; provided, however, that a compacting state may opt

397 out of a uniform standard as provided in this article. "Opt out" shall be
398 defined as any action by a compacting state to decline to adopt or
399 participate in a promulgated uniform standard. All other rules and
400 operating procedures, and amendments thereto, shall become effective
401 as of the date specified in each rule, operating procedure or
402 amendment.

403 4. A compacting state may opt out of a uniform standard, either by
404 legislation or regulation duly promulgated by the Insurance
405 Department under the compacting state's administrative procedure
406 act. If a compacting state elects to opt out of a uniform standard by
407 regulation, it must (a) give written notice to the commission no later
408 than ten business days after the uniform standard is promulgated, or
409 at the time the state becomes a compacting state, and (b) find that the
410 uniform standard does not provide reasonable protections to the
411 citizens of the state, given the conditions in the state. The
412 commissioner shall make specific findings of fact and conclusions of
413 law, based on a preponderance of the evidence, detailing the
414 conditions in the state which warrant a departure from the uniform
415 standard and determining that the uniform standard would not
416 reasonably protect the citizens of the state. The commissioner must
417 consider and balance the following factors and find that the conditions
418 in the state and needs of the citizens of the state outweigh: (I) The
419 intent of the legislature to participate in, and the benefits of, an
420 interstate agreement to establish national uniform consumer
421 protections for the products subject to this compact; and (II) the
422 presumption that a uniform standard adopted by the commission
423 provides reasonable protections to consumers of the relevant product.
424 Notwithstanding the foregoing, a compacting state may, at the time of
425 its enactment of this compact, prospectively opt out of all uniform
426 standards involving long-term care insurance products by expressly
427 providing for such opt out in the enacted compact, and such an opt out
428 shall not be treated as a material variance in the offer or acceptance of
429 any state to participate in this compact. Such an opt out shall be
430 effective at the time of enactment of this compact by the compacting

431 state and shall apply to all existing uniform standards involving long-
432 term care insurance products and those subsequently promulgated.

433 5. If a compacting state elects to opt out of a uniform standard, the
434 uniform standard shall remain applicable in the compacting state
435 electing to opt out until such time the opt out legislation is enacted into
436 law or the regulation opting out becomes effective. Once the opt out of
437 a uniform standard by a compacting state becomes effective as
438 provided under the laws of that state, the uniform standard shall have
439 no further force and effect in that state unless and until the legislation
440 or regulation implementing the opt out is repealed or otherwise
441 becomes ineffective under the laws of the state. If a compacting state
442 opts out of a uniform standard after the uniform standard has been
443 made effective in that state, the opt out shall have the same prospective
444 effect as provided under Article XIV for withdrawals.

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

461 7. Not later than thirty days after a rule or operating procedure is
462 promulgated, any person may file a petition for judicial review of the
463 rule or operating procedure; provided, that the filing of such a petition

464 shall not stay or otherwise prevent the rule or operating procedure
465 from becoming effective unless the court finds that the petitioner has a
466 substantial likelihood of success. The court shall give deference to the
467 actions of the commission consistent with applicable law and shall not
468 find the rule or operating procedure to be unlawful if the rule or
469 operating procedure represents a reasonable exercise of the
470 commission's authority.

471

ARTICLE VIII

472

COMMISSION RECORDS AND ENFORCEMENT

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

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

495 3. The commission shall monitor compacting states for compliance

496 with duly adopted bylaws, rules, including uniform standards, and
497 operating procedures. The commission shall notify any non-complying
498 compacting state in writing of its noncompliance with commission
499 bylaws, rules or operating procedures. If a non-complying compacting
500 state fails to remedy its noncompliance within the time specified in the
501 notice of noncompliance, the compacting state shall be deemed to be in
502 default as set forth in Article XIV.

503 4. The commissioner of any state in which an insurer is authorized
504 to do business, or is conducting the business of insurance, shall
505 continue to exercise the commissioner's authority to oversee the
506 market regulation of the activities of the insurer in accordance with the
507 provisions of the state's law. The commissioner's enforcement of
508 compliance with the compact is governed by the following provisions:

509 a. With respect to the commissioner's market regulation of a product
510 or advertisement that is approved or certified to the commission, the
511 content of the product or advertisement shall not constitute a violation
512 of the provisions, standards or requirements of the compact except
513 upon a final order of the commission, issued at the request of a
514 commissioner after prior notice to the insurer and an opportunity for
515 hearing before the commission.

516 b. Before a commissioner may bring an action for violation of any
517 provision, standard or requirement of the compact relating to the
518 content of an advertisement not approved or certified to the
519 commission, the commission, or an authorized commission officer or
520 employee, must authorize the action. However, authorization
521 pursuant to this paragraph does not require notice to the insurer,
522 opportunity for hearing or disclosure of requests for authorization or
523 records of the commission's action on such requests.

524 ARTICLE IX

525 DISPUTE RESOLUTION

526 The commission shall attempt, upon the request of a member, to

527 resolve any disputes or other issues that are subject to this compact
528 and which may arise between two or more compacting states, or
529 between compacting states and non-compacting states, and the
530 commission shall promulgate an operating procedure providing for
531 resolution of such disputes.

532 **ARTICLE X**

533 **PRODUCT FILING AND APPROVAL**

534 1. Insurers and third-party filers seeking to have a product
535 approved by the commission shall file the product with, and pay
536 applicable filing fees to, the commission. Nothing in this compact shall
537 be construed to restrict or otherwise prevent an insurer from filing its
538 product with the insurance department in any state wherein the
539 insurer is licensed to conduct the business of insurance, and such filing
540 shall be subject to the laws of the states where filed.

541 2. The commission shall establish appropriate filing and review
542 processes and procedures pursuant to commission rules and operating
543 procedures. Notwithstanding any provision herein to the contrary, the
544 commission shall promulgate rules to establish conditions and
545 procedures under which the commission will provide public access to
546 product filing information. In establishing such rules, the commission
547 shall consider the interests of the public in having access to such
548 information, as well as protection of personal medical and financial
549 information and trade secrets, that may be contained in a product
550 filing or supporting information.

551 3. Any product approved by the commission may be sold or
552 otherwise issued in those compacting states for which the insurer is
553 legally authorized to do business.

554 **ARTICLE XI**

555 **REVIEW OF COMMISSION DECISIONS REGARDING FILINGS**

556 1. Not later than thirty days after the commission has given notice of

557 a disapproved product or advertisement filed with the commission,
558 the insurer or third party filer whose filing was disapproved may
559 appeal the determination to a review panel appointed by the
560 commission. The commission shall promulgate rules to establish
561 procedures for appointing such review panels and provide for notice
562 and hearing. An allegation that the commission, in disapproving a
563 product or advertisement filed with the commission, acted arbitrarily,
564 capriciously, or in a manner that is an abuse of discretion or otherwise
565 not in accordance with the law, is subject to judicial review in
566 accordance with Article III, section 4.

567 2. The commission shall have authority to monitor, review and
568 reconsider products and advertisement subsequent to their filing or
569 approval upon a finding that the product does not meet the relevant
570 uniform standard. Where appropriate, the commission may withdraw
571 or modify its approval after proper notice and hearing, subject to the
572 appeal process in section 1 of this article.

573 ARTICLE XII

574 FINANCE

575 1. The commission shall pay or provide for the payment of the
576 reasonable expenses of its establishment and organization. To fund the
577 cost of its initial operations, the commission may accept contributions
578 and other forms of funding from the National Association of Insurance
579 Commissioners, compacting states and other sources. Contributions
580 and other forms of funding from other sources shall be of such a
581 nature that the independence of the commission concerning the
582 performance of its duties shall not be compromised.

583 2. The commission shall collect a filing fee from each insurer and
584 third party filer filing a product with the commission to cover the cost
585 of the operations and activities of the commission and its staff in a total
586 amount sufficient to cover the commission's annual budget.

587 3. The commission's budget for a fiscal year shall not be approved

588 until it has been subject to notice and comment as set forth in Article
589 VII of this compact.

590 4. The commission shall be exempt from all taxation in and by the
591 compacting states.

592 5. The commission shall not pledge the credit of any compacting
593 state, except by and with the appropriate legal authority of that
594 compacting state.

595 6. The commission shall keep complete and accurate accounts of all
596 its internal receipts, including grants and donations, and
597 disbursements of all funds under its control. The internal financial
598 accounts of the commission shall be subject to the accounting
599 procedures established under its bylaws. The financial accounts and
600 reports including the system of internal controls and procedures of the
601 commission shall be audited annually by an independent certified
602 public accountant. Upon the determination of the commission, but no
603 less frequently than every three years, the review of the independent
604 auditor shall include a management and performance audit of the
605 commission. The commission shall make an annual report to the
606 governor and legislature of the compacting states, which shall include
607 a report of the independent audit. The commission's internal accounts
608 shall not be confidential and such materials may be shared with the
609 commissioner of any compacting state upon request provided,
610 however, that any work papers related to any internal or independent
611 audit and any information regarding the privacy of individuals and
612 insurers' proprietary information, including trade secrets, shall remain
613 confidential.

614 7. No compacting state shall have any claim to or ownership of any
615 property held by or vested in the commission or to any commission
616 funds held pursuant to the provisions of this compact.

617 ARTICLE XIII

618 COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

619 1. Any state is eligible to become a compacting state.

620 2. The compact shall become effective and binding upon legislative
621 enactment of the compact into law by two compacting states;
622 provided, the commission shall become effective for purposes of
623 adopting uniform standards for, reviewing, and giving approval or
624 disapproval of, products filed with the commission that satisfy
625 applicable uniform standards only after twenty-six states are
626 compacting states or, alternatively, by states representing greater than
627 forty per cent of the premium volume for life insurance, annuity,
628 disability income and long-term care insurance products, based on
629 records of the National Association of Insurance Commissioners for
630 the prior year. Thereafter, it shall become effective and binding as to
631 any other compacting state upon enactment of the compact into law by
632 that state.

633 3. Amendments to the compact may be proposed by the commission
634 for enactment by the compacting states. No amendment shall become
635 effective and binding upon the commission and the compacting states
636 unless and until all compacting states enact the amendment into law.

637 ARTICLE XIV

638 WITHDRAWAL, DEFAULT AND DISSOLUTION

639 Section A. Withdrawal

640 1. Once effective, the compact shall continue in force and remain
641 binding upon each and every compacting state; provided, that a
642 compacting state may withdraw from the compact by enacting a
643 statute specifically repealing the statute which enacted the compact
644 into law.

645 2. The effective date of withdrawal is the effective date of the
646 repealing statute. However, the withdrawal shall not apply to any
647 product filings approved or self-certified, or any advertisement of such
648 products, on the date the repealing statute becomes effective, except by

649 mutual agreement of the commission and the withdrawing state unless
650 the approval is rescinded by the withdrawing state as provided in
651 subdivision 5 of this section.

652 3. The commissioner of the withdrawing state shall immediately
653 notify the management committee in writing upon the introduction of
654 legislation repealing this compact in the withdrawing state.

655 4. The commission shall notify the other compacting states of the
656 introduction of such legislation within ten days after its receipt of
657 notice thereof.

658 5. The withdrawing state is responsible for all obligations, duties
659 and liabilities incurred through the effective date of withdrawal,
660 including any obligations, the performance of which extend beyond
661 the effective date of withdrawal, except to the extent those obligations
662 may have been released or relinquished by mutual agreement of the
663 commission and the withdrawing state. The commission's approval of
664 products and advertisement prior to the effective date of withdrawal
665 shall continue to be effective and be given full force and effect in the
666 withdrawing state, unless formally rescinded by the withdrawing state
667 in the same manner as provided by the laws of the withdrawing state
668 for the prospective disapproval of products or advertisement
669 previously approved under state law.

670 6. Reinstatement following withdrawal of any compacting state
671 shall occur upon the effective date of the withdrawing state reenacting
672 the compact.

673 Section B. Default

674 1. If the commission determines that any compacting state has at
675 any time defaulted in the performance of any of its obligations or
676 responsibilities under this compact, the bylaws or duly promulgated
677 rules or operating procedures, then, after notice and hearing as set
678 forth in the bylaws, all rights, privileges and benefits conferred by this
679 compact on the defaulting state shall be suspended from the effective

680 date of default as fixed by the commission. The grounds for default
681 include, but are not limited to, failure of a compacting state to perform
682 its obligations or responsibilities, and any other grounds designated in
683 commission rules. The commission shall immediately notify the
684 defaulting state in writing of the defaulting state's suspension pending
685 a cure of the default. The commission shall stipulate the conditions and
686 the time period within which the defaulting state must cure its default.
687 If the defaulting state fails to cure the default within the time period
688 specified by the commission, the defaulting state shall be terminated
689 from the compact and all rights, privileges and benefits conferred by
690 this compact shall be terminated from the effective date of termination.

691 2. Product approvals by the commission or product self-
692 certifications, or any advertisement in connection with such product,
693 that are in force on the effective date of termination shall remain in
694 force in the defaulting state in the same manner as if the defaulting
695 state had withdrawn voluntarily pursuant to section 1 of this article.

696 3. Reinstatement following termination of any compacting state
697 requires a reenactment of the compact.

698 Section C. Dissolution of Compact

699 1. The compact dissolves effective upon the date of the withdrawal
700 or default of the compacting state which reduces membership in the
701 compact to one compacting state.

702 2. Upon the dissolution of this compact, the compact becomes null
703 and void and shall be of no further force or effect, and the business and
704 affairs of the commission shall be wound up and any surplus funds
705 shall be distributed in accordance with the bylaws.

706 ARTICLE XV

707 SEVERABILITY AND CONSTRUCTION

708 1. The provisions of this compact shall be severable; and if any
709 phrase, clause, sentence or provision is deemed unenforceable, the

710 remaining provisions of the compact shall be enforceable.

711 2. The provisions of this compact shall be liberally construed to
712 effectuate its purposes.

713 ARTICLE XVI

714 BINDING EFFECT OF COMPACT AND OTHER LAWS

715 Section A. Other Laws

716 1. Nothing herein prevents the enforcement of any other law of a
717 compacting state, except as provided in subdivision 2 of this section.

718 2. For any product approved or certified to the commission, the
719 rules, uniform standards and any other requirements of the
720 commission shall constitute the exclusive provisions applicable to the
721 content, approval and certification of such products. For advertisement
722 that is subject to the commission's authority, any rule, uniform
723 standard or other requirement of the commission which governs the
724 content of the advertisement shall constitute the exclusive provision
725 that a commissioner may apply to the content of the advertisement.
726 Notwithstanding the foregoing, no action taken by the commission
727 shall abrogate or restrict: (a) The access of any person to state courts;
728 (b) remedies available under state law related to breach of contract,
729 tort, or other laws not specifically directed to the content of the
730 product; (c) state law relating to the construction of insurance
731 contracts; or (d) the authority of the attorney general of the state,
732 including, but not limited to, maintaining any actions or proceedings,
733 as authorized by law.

734 3. All insurance products filed with individual states shall be subject
735 to the laws of those states.

736 Section B. Binding Effect of this Compact

737 1. All lawful actions of the commission, including all rules and
738 operating procedures promulgated by the commission, are binding

739 upon the compacting states.

740 2. All agreements between the commission and the compacting
741 states are binding in accordance with their terms.

742 3. Upon the request of a party to a conflict over the meaning or
743 interpretation of commission actions, and upon a majority vote of the
744 compacting states, the commission may issue advisory opinions
745 regarding the meaning or interpretation in dispute.

746 4. In the event any provision of this compact exceeds the
747 constitutional limits imposed on the legislature of any compacting
748 state, the obligations, duties, powers or jurisdiction sought to be
749 conferred by that provision upon the commission shall be ineffective
750 as to that compacting state, and those obligations, duties, powers or
751 jurisdiction shall remain in the compacting state and shall be exercised
752 by the agency thereof to which those obligations, duties, powers or
753 jurisdiction are delegated by law in effect at the time this compact
754 becomes effective.

755 APPENDIX A

756 Pursuant to terms and conditions of this compact, the state of
757 Connecticut seeks to join with other states and establish the Interstate
758 Insurance Product Regulation Compact, and thus become a member of
759 the Interstate Insurance Product Regulation Commission. The
760 Insurance Commissioner is hereby designated to serve as the
761 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