

Joint Testimony of the
Connecticut Insurance Department
And

The Department of Economic and Community Development
Public Hearing of
The Insurance and Real Estate Committee

February 26, 2015

S.B. 755 - AN ACT REQUIRING THE INSURANCE COMMISSIONER TO STUDY AND REPORT ON THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS' INTERSTATE INSURANCE PRODUCT REGULATION COMPACT.

Chairmen Crisco and Megna, Ranking Members, and Members of the Committee, the Insurance Department (CID) and the Department of Economic and Community Development (DECD) appreciate the opportunity to submit written testimony on S.B. 755, An Act Requiring The Insurance Commissioner To Study And Report On The National Association Of Insurance Commissioners' Interstate Insurance Product Regulation Compact.

This bill would require the Insurance Commissioner to study the National Association of Insurance Commissioners' Interstate Insurance Product Regulation Compact ("Compact") and submit a report, not later than January 1, 2016, to the Insurance Committee, in accordance with the provisions of section 11-4a of the general statutes. Such report shall examine the impact of entering into said compact on the insurance market in the state, including, but not limited to, changes in product development and time frames for new products to be marketed in the state, effects on consumer protections and innovation in the state, any insurance products unique to the state that may be affected by entering into said compact and effects on the regulatory process in the state.

While the Insurance Department is happy to undertake such a study, we believe that this proposal has been fully vetted since legislation to adopt the Compact was first considered by the General

Assembly nine years ago. The CID and DECD respectfully contend that instead of legislation to authorize a study of the Compact, the General Assembly should in this session consider and adopt legislation for Connecticut's entry into the Compact for life and annuity products.

Joining the Compact would enable the State of Connecticut to enter a successful initiative which implements speed-to-market regulatory decisions to meet the demands of the ever-evolving insurance marketplace while continuing to uphold a regulator's most important responsibility -- to protect consumers.

The Compact provides a central point of electronic filing for insurance products, including life insurance, annuities, disability income, and long-term care insurance. (The Compact does not apply to major medical or other health insurance, except for disability and long term care insurance, and Connecticut is only interested in joining with respect to life and annuity products.) These products are reviewed for compliance with Uniform Standards that are embedded with a high level of consumer protection accepted by Compact Members through an open and transparent deliberative process. Thus, the Compact affords insurers the ability to make one filing under one set of national standards for one approval that is valid in all Member states. For insurers and their customers, this efficiency ensures more competitive and sound insurance products.

BACKGROUND

The Compact reflects the efforts of the National Association of Insurance Commissioners (NAIC), with the support of the National Conference of State Legislators (NCSL) and the National Conference of Insurance Legislators (NCOIL), to modernize state-based insurance regulation and promote regulatory uniformity.

The vehicle of an interstate compact provides states with the ability to act collaboratively and jointly while maintaining state sovereignty. Connecticut belongs to more than 29 interstate compacts to date. By joining the Compact, Connecticut would be continuing our beneficial tradition of working cooperatively with other states to address issues of national concern.

As a proactive initiative to implement more efficient insurance regulation at the state level, the Compact was created by state insurance commissioners and legislators to leverage the best of the state system into a national approach. The successful launch of the Compact throughout the U.S. advances the vital objective of insurance regulatory modernization while also effectively responding to ongoing calls in the U.S. Congress for the creation of a federal insurance regulator. The Compact gives insurers the speed-to-market results for which they have been advocating at the federal level while continuing to protect consumers under the time-tested regulatory expertise of the states. Last year, over 180 companies utilized the Compact's speed-to-market platform.

To date, there are 44 Members of the Compact, representing over sixty percent (60%) of premium volume nationwide in the Compact's authorized product lines.

COMPACT GOVERNANCE

The Compact became operational when 26 states had joined by May 2006. During its inaugural meeting in June 2006, the Compact created the Interstate Insurance Product Regulation Commission ("Commission") to govern the activities of the Compact. The Commission includes one member from each Compact state, each with an equal vote. The Commission's Management Committee of 14 Members manages the activities of the Commission. The Management Committee includes one Member from each of the six (6) largest states, four (4) Members from mid-sized states with over 2% premium volume, and one Member from four (4) smaller states with less than 2% premium each representing the NAIC regional zones.

Connecticut, with 2.05% of the premium volume in the U.S., would fall into the second-tier of Compact states under this representational governing structure, and may have a seat on the Management Committee through an annual rotational process of the second-tier states.

As part of its structure, the Commission also has a Legislative Committee, which oversees the developments of the Compact. The Legislative Committee has eight (8) state legislators as Members – four (4) appointed by the National Conference of State Legislatures (NCSL) and four (4) appointed by the National Conference of Insurance Legislators (NCOIL).

The Commission Office and staff are managed by an Executive Director and are based in Washington, DC. The Commission Office handles the day-to-day operations of the Compact, including its uniform standard-setting procedures, central product filing platform and review processes with a professional review staff from the state regulatory ranks, and reporting to Member state legislatures.

Rules and operating procedures which govern the operations of the Commission are made through an open, public participation process that conforms to the Model State Administrative Procedure Act.

TRANSPARENT UNIFORM STANDARDS

Uniform Standards are adopted by the Commission membership through a transparent public process with input from all constituencies – including regulators, legislators, consumers, and industry. In advance of consideration for adoption, the Commission provides written notice to all Member state legislatures of the intent to adopt new uniform standards, so that state legislatures are consistently kept informed of the Compact's standard-setting process. Therefore,

upon becoming a Member, the Connecticut Legislature would be kept fully apprised of Compact developments.

In order to be adopted, a uniform standard must receive approval by two-thirds of the Commission's Management Committee and two-thirds majority of all the Member states of the full Commission – ensuring a wide degree of support for national standards.

As of 2015, there are over 90 uniform standards available for insurance companies to file, including all of the standards for the individual life product line and several annuity standards. In summer 2010 the full suite of individual long term care insurance standards was adopted. The IIPRC also plans to adopt and implement group life and group long-term care insurance standards for filing companies to utilize.

ENSURING STATES' RIGHTS AND REMEDIES

In line with ensuring state sovereignty and regulatory prerogatives, the Compact provides compacting states with a mechanism to “opt out” or reject product standards developed by the Commission in two ways. First, a state may enact legislation opting out of any uniform standard at any time. Second, a state may also opt-out by regulation through notice provided to the Commission that the state has found the standard does not provide reasonable protections to the citizens of the state, given the conditions in that state. It is noteworthy that to date, no state has opted-out of a Compact standard which may be viewed as attributable to the benefits of the Compact's Member state consensus process for decision-making at the Commission.

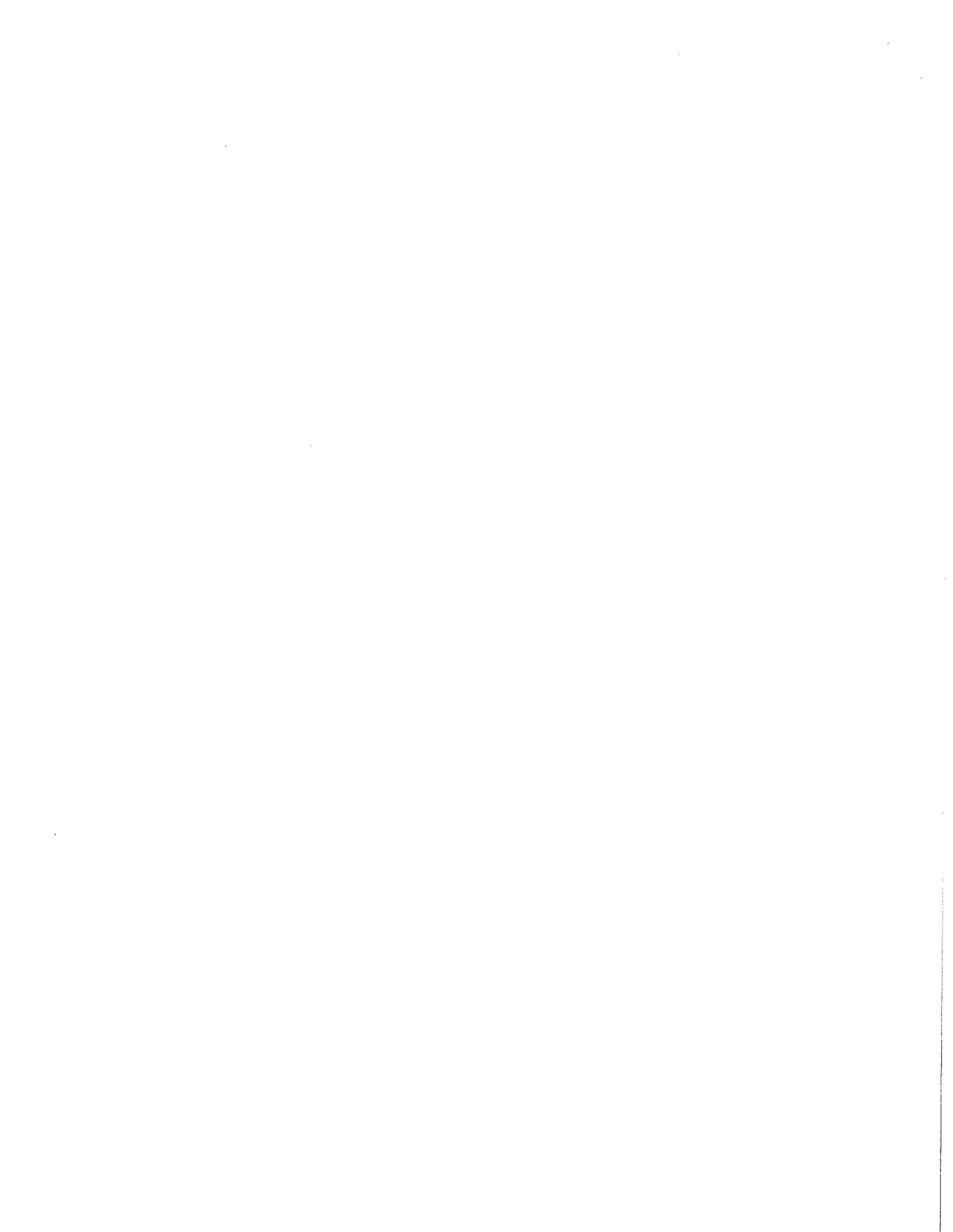
While the Compact provides a central point of filing under national standards, Member state insurance departments continue to oversee market regulation activities in their respective states and continue to record and mediate consumer complaints, including those with respect to Compact-approved products. The Commission does provide assistance to state insurance departments in determining whether a violation of a uniform standard had occurred.

But it should be highlighted that with Compact membership, the rights and remedies afforded the citizens of Connecticut will remain under the purview of the Connecticut Legislature and Department of Insurance. The Compact legislation specifically preserves such existing rights and remedies by expressly providing that “...no action taken by the Commission shall abrogate or restrict: (i) the access of any person to state courts; (ii) remedies available under state law related to breach of contract, tort, or other laws not specifically directed to the content of the Product; (iii) state law relating to the construction of insurance contracts; or (iv) the authority of the attorney general of the state including, but not limited to maintaining any actions or proceedings, as authorized by law.” Thus, the Compact framework enables speed-to-market while continuing to have the states respond to concerns locally – ensuring consumer protection as the hallmark of state-based regulation.

CONCLUSION

The Connecticut Insurance Department has undertaken a careful and considered analysis of the potential benefits for Connecticut in joining the Insurance Compact. With its professional product review processes, the high level of consumer protection in its uniform standards, and transparency and accountability to its Member states and the public, we believe that consumers, industry and the Department would benefit from Compact membership. The Commission has been operational since late 2007, and has received and reviewed product filings with speed-to-market results. Member insurance departments have obtained the advantages of central review efficiencies without sacrificing state filing fees or premium taxes. And consumers in Member states have continued to be protected. Additionally, on a national level, Compact states have demonstrated that the states can best ensure a robust insurance sector without the need for federal oversight.

Though the CID and DECD do not oppose passage of S.B. 755, as noted above, we urge this Committee instead to consider and support legislation to authorize Connecticut's entry in the Compact and join with other states in modernizing insurance regulation for the benefit of all consumers. We have attached language for your consideration.





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

Be it enacted by the Senate and House of Representatives in General Assembly
convened:

Section 1. (NEW) (Effective July 1, 2014):

ARTICLE I

PURPOSES

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

1. To promote and protect the interest of consumers of individual and group annuity, life insurance, disability income and long-term care insurance products;
2. To develop uniform standards for insurance products covered under the compact;
3. To establish a central clearinghouse to receive and provide prompt review of insurance products covered under the compact and, in certain cases, advertisements related thereto, submitted by insurers authorized to do business in one or more compacting states;
4. To give appropriate regulatory approval to those product filings and advertisements satisfying the applicable uniform standard;
5. To improve coordination of regulatory resources and expertise between state insurance departments regarding the setting of uniform standards and review of insurance products covered under the compact;
6. To create the Interstate Insurance Product Regulation Commission; and
7. To perform these and such other related functions as may be consistent with the state regulation of the business of insurance.

ARTICLE II

DEFINITIONS



For purposes of this compact:

1. "Advertisement" means any material designed to create public interest in a product, or induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy, as more specifically defined in the rules and operating procedures of the commission.
2. "Bylaws" mean those bylaws established by the commission for its governance, or for directing or controlling the commission's actions or conduct.
3. "Compacting state" means any state which has enacted this Compact legislation and which has not withdrawn pursuant to Article XIV, Section A, or been terminated pursuant to Article XIV, Section B.
4. "Commission" means the "Interstate Insurance Product Regulation Commission" established by this compact.
5. "Commissioner" means the chief insurance regulatory official of a state including, but not limited to, commissioner, superintendent, director or administrator.
6. "Domiciliary State" means the state in which an Insurer is incorporated or organized; or, in the case of an alien insurer, its state of entry.
7. "Insurer" means any entity licensed by a state to issue contracts of insurance for any of the lines of insurance covered by this compact.
8. "Member" means the person chosen by a compacting state as its representative to the commission, or the member's designee.
9. "Non-Compacting state" means any state which is not at the time a compacting state.
10. "Operating Procedures" mean procedures promulgated by the commission implementing a rule, uniform standard or a provision of this compact.
11. "Product" means the form of a policy or contract, including any application, endorsement, or related form which is attached to and made a part of the policy or contract, and any evidence of coverage or certificate, for an individual or group annuity, life insurance, disability income or long-term care insurance product that an Insurer is authorized to issue.



12. "Rule" means a statement of general or particular applicability and future effect promulgated by the commission, including a uniform standard developed pursuant to Article VII of this compact, designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of the commission, which shall have the force and effect of law in the compacting states.

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

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

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

ARTICLE III

ESTABLISHMENT OF THE INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION AND VENUE

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

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

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



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

ARTICLE IV

POWERS OF THE INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION

The commission shall have the following powers:

1. To promulgate rules, pursuant to Article VII of this compact, which shall have the force and effect of law and shall be binding in the compacting states to the extent and in the manner provided in this compact;
2. To exercise its rule-making authority and establish reasonable uniform standards for products covered under the compact, and advertisement related thereto, which shall have the force and effect of law and shall be binding in the compacting states, but only for those products filed with the commission, provided, that a compacting state shall have the right to opt out of such uniform standard pursuant to Article VII, to the extent and in the manner provided in this compact, and, provided further, that any uniform standard established by the commission for long-term care insurance products may provide the same or greater protections for consumers as, but shall not provide less than, those protections set forth in the National Association of Insurance Commissioners' Long-Term Care Insurance Model Act and Long-Term Care Insurance Model Regulation, respectively, adopted as of 2001. The commission shall consider whether any subsequent amendments to the National Association of Insurance Commissioners Long-Term Care Insurance Model Act or Long-Term Care Insurance Model Regulation adopted by the National Association of Insurance Commissioners require amending of the uniform standards established by the commission for long-term care insurance products;
3. To receive and review in an expeditious manner products filed with the commission, and rate filings for disability income and long-term care insurance products, and give approval of those products and rate filings that satisfy the applicable uniform standard, where such approval shall have the force and effect of law and be binding on the compacting states to the extent and in the manner provided in the compact;
4. To receive and review in an expeditious manner advertisement relating to long-term care insurance products for which uniform standards have been adopted by the commission, and give approval to all advertisement that satisfies the applicable uniform standard. For any product covered under this compact,



other than long-term care insurance products, the commission shall have the authority to require an insurer to submit all or any part of its advertisement with respect to that product for review or approval prior to use, if the commission determines that the nature of the product is such that an advertisement of the product could have the capacity or tendency to mislead the public. The actions of the commission as provided in this section shall have the force and effect of law and shall be binding in the compacting states to the extent and in the manner provided in the compact;

5. To exercise its rule-making authority and designate products and advertisement that may be subject to a self-certification process without the need for prior approval by the commission;
6. To promulgate operating procedures, pursuant to Article VII of this compact, which shall be binding in the compacting states to the extent and in the manner provided in this compact;
7. To bring and prosecute legal proceedings or actions in its name as the commission; provided, that the standing of any state insurance department to sue or be sued under applicable law shall not be affected;
8. To issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence;
9. To establish and maintain offices;
10. To purchase and maintain insurance and bonds;
11. To borrow, accept or contract for services of personnel, including, but not limited to, employees of a compacting state;
12. To hire employees, professionals or specialists, and elect or appoint officers, and to fix their compensation, define their duties and give them appropriate authority to carry out the purposes of the compact, and determine their qualifications; and to establish the commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation and qualifications of personnel;
13. To accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the commission shall strive to avoid any appearance of impropriety;



14. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the commission shall strive to avoid any appearance of impropriety;
15. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;
16. To remit filing fees to compacting states as may be set forth in the bylaws, rules or operating procedures;
17. To enforce compliance by compacting states with rules, uniform standards, operating procedures and bylaws;
18. To provide for dispute resolution among compacting states;
19. To advise compacting states on issues relating to Insurers domiciled or doing business in non-compacting jurisdictions, consistent with the purposes of this compact;
20. To provide advice and training to those personnel in state insurance departments responsible for product review, and to be a resource for state insurance departments;
21. To establish a budget and make expenditures;
22. To borrow money;
23. To appoint committees, including advisory committees comprising members, state insurance regulators, state legislators or their representatives, insurance industry and consumer representatives, and such other interested persons as may be designated in the bylaws;
24. To provide and receive information from, and to cooperate with law enforcement agencies;
25. To adopt and use a corporate seal; and
26. To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of the business of insurance.

ARTICLE V



ORGANIZATION OF THE COMMISSION

Section A. Membership, Voting and Bylaws

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

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

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

a. Establishing the fiscal year of the commission;

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

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

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



- e. Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the commission;
 - f. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the commission;
 - g. Promulgating a code of ethics to address permissible and prohibited activities of commission members and employees; and
 - h. Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the compact after the payment or reserving of all of its debts and obligations.
4. The commission shall publish its bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the compacting states.

Section B. Management Committee, Officers and Personnel

1. A management committee comprising no more than fourteen members shall be established as follows:
 - a. One member from each of the six compacting states with the largest premium volume for individual and group annuities, life, disability income and long-term care insurance products, determined from the records of the National Association of Insurance Commissioners for the prior year;
 - b. Four members from those compacting states with at least two per cent of the market based on the premium volume described above, other than the six compacting states with the largest premium volume, selected on a rotating basis as provided in the bylaws; and
 - c. Four members from those compacting states with less than two per cent of the market, based on the premium volume described above, with one selected from each of the four zone regions of the National Association of Insurance Commissioners as provided in the bylaws.
2. The management committee shall have such authority and duties as may be set forth in the bylaws, including, but not limited to:



- a. Managing the affairs of the commission in a manner consistent with the bylaws and purposes of the commission;
 - b. Establishing and overseeing an organizational structure within, and appropriate procedures for, the commission to provide for the creation of uniform standards and other rules, receipt and review of product filings, administrative and technical support functions, review of decisions regarding the disapproval of a product filing, and the review of elections made by a compacting state to opt out of a uniform standard; provided that a uniform standard shall not be submitted to the compacting states for adoption unless approved by two-thirds of the members of the management committee;
 - c. Overseeing the offices of the commission; and
 - d. Planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the commission.
3. The commission shall elect annually officers from the management committee, with each having such authority and duties, as may be specified in the bylaws.
 4. The management committee may, subject to the approval of the commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the commission may deem appropriate. The executive director shall serve as secretary to the commission, but shall not be a member of the commission. The executive director shall hire and supervise such other staff as may be authorized by the commission.

Section C. Legislative and Advisory Committees

1. A legislative committee comprising state legislators or their designees shall be established to monitor the operations of, and make recommendations to, the commission, including the management committee; provided that the manner of selection and term of any legislative committee member shall be as set forth in the bylaws. Prior to the adoption by the commission of any uniform standard, revision to the bylaws, annual budget or other significant matter as may be provided in the bylaws, the management committee shall consult with and report to the legislative committee.
2. The commission shall establish two advisory committees, one of which shall comprise consumer representatives independent of the insurance industry, and the other comprising insurance industry representatives.



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

Section D. Corporate Records of the Commission

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

Section E. Qualified Immunity, Defense and Indemnification

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

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

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



MEETINGS AND ACTS OF THE COMMISSION

1. The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.
2. Each member of the commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the commission. A member shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for members' participation in meetings by telephone or other means of communication.
3. The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

ARTICLE VII

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

1. The commission shall promulgate reasonable rules, including uniform standards, and operating procedures in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force and effect.
2. Rules and operating procedures shall be made pursuant to a rulemaking process that conforms to the Model State Administrative Procedure Act of 1981 as amended, as may be appropriate to the operations of the commission. Before the commission adopts a uniform standard, the commission shall give written notice to the relevant state legislative committees in each compacting state responsible for insurance issues of its intention to adopt the uniform standard. The commission in adopting a uniform standard shall consider fully all submitted materials and issue a concise explanation of its decision.
3. A uniform standard shall become effective ninety days after its promulgation by the commission or such later date as the commission may determine; provided, however, that a compacting state may opt out of a uniform standard as provided in this article. "Opt out" shall be defined as any action by a compacting state to decline to adopt or participate in a promulgated uniform standard. All other rules and operating procedures, and amendments thereto, shall become effective as of the date specified in each rule, operating procedure or amendment.



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

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

6. If a compacting state has formally initiated the process of opting out of a uniform standard by regulation, and while the regulatory opt out is pending, the compacting state may petition the commission, at least fifteen days before the effective date of the uniform standard, to stay the effectiveness of the uniform standard in that state. The commission may grant a stay if it determines the



regulatory opt out is being pursued in a reasonable manner and there is a likelihood of success. If a stay is granted or extended by the commission, the stay or extension thereof may postpone the effective date by up to ninety days, unless affirmatively extended by the commission; provided, a stay may not be permitted to remain in effect for more than one year unless the compacting state can show extraordinary circumstances which warrant a continuance of the stay, including, but not limited to, the existence of a legal challenge which prevents the compacting state from opting out. A stay may be terminated by the commission upon notice that the rulemaking process has been terminated.

7. Not later than thirty days after a rule or operating procedure is promulgated, any person may file a petition for judicial review of the rule or operating procedure; provided, that the filing of such a petition shall not stay or otherwise prevent the rule or operating procedure from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission consistent with applicable law and shall not find the rule or operating procedure to be unlawful if the rule or operating procedure represents a reasonable exercise of the commission's authority.

ARTICLE VIII

COMMISSION RECORDS AND ENFORCEMENT

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

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



3. The commission shall monitor compacting states for compliance with duly adopted bylaws, rules, including uniform standards, and operating procedures. The commission shall notify any non-complying compacting state in writing of its noncompliance with commission bylaws, rules or operating procedures. If a non-complying compacting state fails to remedy its noncompliance within the time specified in the notice of noncompliance, the compacting state shall be deemed to be in default as set forth in Article XIV.

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

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

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

ARTICLE IX

DISPUTE RESOLUTION

The commission shall attempt, upon the request of a member, to resolve any disputes or other issues that are subject to this compact and which may arise between two or more compacting states, or between compacting states and non-compacting states, and the commission shall promulgate an operating procedure providing for resolution of such disputes.

ARTICLE X

PRODUCT FILING AND APPROVAL



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

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

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

ARTICLE XI

REVIEW OF COMMISSION DECISIONS REGARDING FILINGS

1. Not later than thirty days after the commission has given notice of a disapproved product or advertisement filed with the commission, the insurer or third party filer whose filing was disapproved may appeal the determination to a review panel appointed by the commission. The commission shall promulgate rules to establish procedures for appointing such review panels and provide for notice and hearing. An allegation that the commission, in disapproving a product or advertisement filed with the commission, acted arbitrarily, capriciously, or in a manner that is an abuse of discretion or otherwise not in accordance with the law, is subject to judicial review in accordance with Article III, section 4.

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

ARTICLE XII



FINANCE

1. The commission shall pay or provide for the payment of the reasonable expenses of its establishment and organization. To fund the cost of its initial operations, the commission may accept contributions and other forms of funding from the National Association of Insurance Commissioners, compacting states and other sources. Contributions and other forms of funding from other sources shall be of such a nature that the independence of the commission concerning the performance of its duties shall not be compromised.
2. The commission shall collect a filing fee from each insurer and third party filer filing a product with the commission to cover the cost of the operations and activities of the commission and its staff in a total amount sufficient to cover the commission's annual budget.
3. The commission's budget for a fiscal year shall not be approved until it has been subject to notice and comment as set forth in Article VII of this compact.
4. The commission shall be exempt from all taxation in and by the compacting states.
5. The commission shall not pledge the credit of any compacting state, except by and with the appropriate legal authority of that compacting state.
6. The commission shall keep complete and accurate accounts of all its internal receipts, including grants and donations, and disbursements of all funds under its control. The internal financial accounts of the commission shall be subject to the accounting procedures established under its bylaws. The financial accounts and reports including the system of internal controls and procedures of the commission shall be audited annually by an independent certified public accountant. Upon the determination of the commission, but no less frequently than every three years, the review of the independent auditor shall include a management and performance audit of the commission. The commission shall make an annual report to the governor and legislature of the compacting states, which shall include a report of the independent audit. The commission's internal accounts shall not be confidential and such materials may be shared with the commissioner of any compacting state upon request provided, however, that any work papers related to any internal or independent audit and any information regarding the privacy of individuals and insurers' proprietary information, including trade secrets, shall remain confidential.
7. No compacting state shall have any claim to or ownership of any property held by or vested in the commission or to any commission funds held pursuant to the provisions of this compact.



ARTICLE XIII

COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

1. Any state is eligible to become a compacting state.
2. The compact shall become effective and binding upon legislative enactment of the compact into law by two compacting states; provided, the commission shall become effective for purposes of adopting uniform standards for, reviewing, and giving approval or disapproval of, products filed with the commission that satisfy applicable uniform standards only after twenty-six states are compacting states or, alternatively, by states representing greater than forty per cent of the premium volume for life insurance, annuity, disability income and long-term care insurance products, based on records of the National Association of Insurance Commissioners for the prior year. Thereafter, it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state.
3. Amendments to the compact may be proposed by the commission for enactment by the compacting states. No amendment shall become effective and binding upon the commission and the compacting states unless and until all compacting states enact the amendment into law.

ARTICLE XIV

WITHDRAWAL, DEFAULT AND DISSOLUTION

Section A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided, that a compacting state may withdraw from the compact by enacting a statute specifically repealing the statute which enacted the compact into law.
2. The effective date of withdrawal is the effective date of the repealing statute. However, the withdrawal shall not apply to any product filings approved or self-certified, or any advertisement of such products, on the date the repealing statute becomes effective, except by mutual agreement of the commission and the withdrawing state unless the approval is rescinded by the withdrawing state as provided in subdivision 5 of this section.



3. The commissioner of the withdrawing state shall immediately notify the management committee in writing upon the introduction of legislation repealing this compact in the withdrawing state.
4. The commission shall notify the other compacting states of the introduction of such legislation within ten days after its receipt of notice thereof.
5. The withdrawing state is responsible for all obligations, duties and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal, except to the extent those obligations may have been released or relinquished by mutual agreement of the commission and the withdrawing state. The commission's approval of products and advertisement prior to the effective date of withdrawal shall continue to be effective and be given full force and effect in the withdrawing state, unless formally rescinded by the withdrawing state in the same manner as provided by the laws of the withdrawing state for the prospective disapproval of products or advertisement previously approved under state law.
6. Reinstatement following withdrawal of any compacting state shall occur upon the effective date of the withdrawing state reenacting the compact.

Section B. Default

1. If the commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, the bylaws or duly promulgated rules or operating procedures, then, after notice and hearing as set forth in the bylaws, all rights, privileges and benefits conferred by this compact on the defaulting state shall be suspended from the effective date of default as fixed by the commission. The grounds for default include, but are not limited to, failure of a compacting state to perform its obligations or responsibilities, and any other grounds designated in commission rules. The commission shall immediately notify the defaulting state in writing of the defaulting state's suspension pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination.
2. Product approvals by the commission or product self-certifications, or any advertisement in connection with such product, that are in force on the effective date of termination shall remain in force in the defaulting state in the same manner as if the defaulting state had withdrawn voluntarily pursuant to section 1 of this article.



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

Section C. Dissolution of Compact

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

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

ARTICLE XV

SEVERABILITY AND CONSTRUCTION

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

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

ARTICLE XVI

BINDING EFFECT OF COMPACT AND OTHER LAWS

Section A. Other Laws

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

2. For any product approved or certified to the commission, the rules, uniform standards and any other requirements of the commission shall constitute the exclusive provisions applicable to the content, approval and certification of such products. For advertisement that is subject to the commission's authority, any rule, uniform standard or other requirement of the commission which governs the content of the advertisement shall constitute the exclusive provision that a commissioner may apply to the content of the advertisement. Notwithstanding the foregoing, no action taken by the commission shall abrogate or restrict: (a) The access of any person to state courts; (b) remedies available under state law



related to breach of contract, tort, or other laws not specifically directed to the content of the product; (c) state law relating to the construction of insurance contracts; or (d) the authority of the attorney general of the state, including, but not limited to, maintaining any actions or proceedings, as authorized by law.

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

Section B. Binding Effect of this Compact

1. All lawful actions of the commission, including all rules and operating procedures promulgated by the commission, are binding upon the compacting states.

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

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

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

APPENDIX A

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



SUMMARY:

This bill (1) adopts the National Association of Insurance Commissioners' (NAIC) Interstate Insurance Product Regulation Compact and (2) makes the insurance commissioner Connecticut's representative to the national authority that it creates, the Interstate Insurance Product Regulation Commission.

The compact enables state insurance regulators to develop uniform national standards for individual and group annuity, life insurance, disability income, and long-term care insurance products. It is expected that Connecticut will initially limit participation to life insurance and annuity products. It establishes a centralized, electronic product filing process. An insurer may still submit a product filing to the Insurance Department for its consideration in accordance with Connecticut's laws. The commission collects filing fees from insurers and remits to member states their portion of them.

The commission reviews product filings for compliance with the uniform standards and, if appropriate, approves them within 60 days. Insurers may sell commission-approved products in each compacting state in which the insurer is licensed to operate. Currently, insurers must obtain a separate approval from each state.

The compact outlines the commission's purposes, powers, organizational structure, rulemaking procedures and requirements, and financial requirements and controls. It requires open meetings, public inspection of the commission's official records, and an ethics code for the commission and its employees.

A compacting state may (1) opt out of a uniform standard, through regulation or legislation, if it determines that the standard does not provide reasonable protections for its citizens; (2) withdraw from the compact by repealing the adopting statute; or (3) be terminated from it if the commission finds it is not in compliance with the compact.

A compacting state retains its authority to perform market conduct examinations of insurance companies and respond to consumer complaints, including exams and complaints relating to commission-approved products.

The compact specifies that the commission's rules, uniform standards, and other requirements exclusively apply to commission-approved products. Otherwise, the commission's actions do not abrogate or restrict (1) a person's access to state courts; (2) remedies under state law for breach of contract, tort, or other laws not directed at a product's content; (3) state law on interpreting insurance contracts; or (d) an attorney general's authority under law.

Under the compact, judicial proceedings by or against the commission must be brought solely and exclusively in a court of competent jurisdiction where the commission's principal office is located (currently Washington, D.C.).



INTERSTATE INSURANCE PRODUCT REGULATION COMPACT

Article I – Purpose

The compact states that its purposes are, through joint and cooperative action among the compacting states, to:

1. promote and protect consumers' interests in certain insurance products (i.e., individual and group annuity, life insurance, disability income, and long-term care insurance);
2. develop uniform standards for these insurance products;
3. establish a central clearinghouse to receive and promptly review filings, including, in certain cases, advertisements, related to these insurance products from insurers authorized to do business in one or more compacting states;
4. give appropriate regulatory approval to product filings and advertisements satisfying the applicable uniform standards;
5. improve the coordination of regulatory resources and expertise between state insurance departments through establishing uniform standards;
6. create the Interstate Insurance Product Regulation Commission; and
7. perform these and such other related functions consistent with the state regulation insurance.

Article II – Definitions

The compact defines "advertisement" as any material designed to create public interest in a product, or induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace, or retain a policy.

"Operating procedures" are procedures that the commission promulgates to implement a rule, uniform standard, or compact provision.

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

A "rule" is a statement the commission promulgates, including a uniform standard, (1) designed to implement, interpret, or prescribe law or policy or (2) describing the commission's organization, procedure, or practice requirements. According to the compact, a rule has the force and effect of law in the compacting states.



A "uniform standard" is a standard the commission adopts for a product line. It must include all of the product requirements in aggregate. The compact requires that (1) each uniform standard be construed as prohibiting the use of any inconsistent, misleading, or ambiguous product provisions and (2) the product form made available to the public not be unfair, inequitable, or against public policy, as determined by the commission.

Article III – Interstate Insurance Product Regulation Commission and Venue

The compact creates, as a joint public agency and instrumentality of the compacting states, the Interstate Insurance Product Regulation Commission (commission) to develop uniform standards for product lines, receive and promptly review product filings insurers submit, and approve product filings satisfying applicable uniform standards. The compact specifies that the commission is not intended to be the only entity for receiving and reviewing product filings. An insurer may file its product in any state in which it is licensed to operate, and any such filings are subject to the state's laws where filed.

The compact makes the commission solely responsible for its liabilities except as it otherwise specifically provides.

Under the compact, judicial proceedings by or against the commission must be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located (currently Washington, D.C.).

Article IV – Commission Powers

The compact grants the commission the power to:

1. promulgate rules that have the force and effect of law and will be binding in the compacting states in accordance with the compact;
2. exercise its rule-making authority and establish reasonable uniform standards for products covered under the compact, and related advertisements, provided that (a) a compacting state has the right to opt out of a uniform standard and (b) any uniform standard for long-term care insurance must provide the same or greater protections for consumers as those in the NAIC's Long-Term Care Insurance Model Act and Long-Term Care Insurance Model Regulation adopted in 2001, and the commission must consider whether any subsequent amendments to the model act or regulation require the commission to amend its uniform standards for long-term care insurance products;
3. receive and expeditiously review (a) products insurers file with the commission, (b) rate filings for disability income and long-term care insurance products, and (c) advertisements relating to long-term care insurance products for which the commission has adopted uniform standards, and approve those that satisfy the applicable uniform standards;
4. for any product covered under the compact, other than long-term care insurance, require an insurer to submit all or any part of its advertisement with respect to that



product for review or approval before it is used if the commission determines a product's advertisement could have the capacity or tendency to mislead the public;

5. exercise its rule-making authority and designate products and advertisement that may be subject to a self-certification process without the need for the commission's prior approval;
6. promulgate operating procedures;
7. bring and prosecute legal proceedings or actions in its name as the commission, provided that any state insurance department's standing to sue or be sued is not affected;
8. issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence;
9. establish and maintain offices;
10. purchase and maintain insurance and bonds;
11. borrow, accept, or contract for personnel, including a compacting state's employees;
12. hire employees, professionals, or specialists, elect or appoint officers, fix their compensation, define their duties and give them appropriate authority to carry out the compact's purposes, and determine their qualifications;
13. establish the commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and personnel qualifications;
14. accept, receive, use, and dispose of appropriate donations and grants of money, equipment, supplies, material, and services, provided that the commission strive to avoid any appearance of impropriety;
15. lease, purchase, accept appropriate gifts or donations of, own, hold, improve, or use any property (real, personal, or mixed), provided that the commission strive to avoid any appearance of impropriety, and sell, convey, mortgage, pledge, lease, exchange, abandon, or dispose of the property;
16. remit filing fees to compacting states;
17. enforce compacting states compliance with rules, uniform standards, operating procedures, and bylaws;
18. provide for dispute resolution among compacting states;



19. advise compacting states on issues relating to insurers domiciled or doing business in non-compacting jurisdictions, consistent with the purposes of the compact;
20. provide advice and training to state insurance department personnel responsible for product review and be a resource for state insurance departments;
21. establish a budget, make expenditures, and borrow money;
22. appoint committees, including advisory committees;
23. provide and receive information from, and cooperate with law enforcement agencies;
24. adopt and use a corporate seal; and
25. perform other functions as necessary or appropriate to achieve the compact's purposes consistent with state insurance regulation.

Article V – Compact Governance

The commission includes one person from each member state (usually the insurance commissioner), each with an equal vote.

Commission Bylaws. The commission must write bylaws to govern its conduct. It must publish its bylaws in a convenient form and file them, and any amendments, with each compacting state.

The bylaws must:

1. establish the commission's fiscal year;
2. provide reasonable procedures for holding meetings of, and appointing and electing, management committee members and other committees;
3. provide reasonable standards and procedures governing the commission's general or specific delegation of authority or function;
4. provide reasonable procedures for calling and conducting commission meetings;
5. establish the titles, duties, authority, and reasonable procedures for electing the commission's officers;
6. provide reasonable standards and procedures for establishing the commission's personnel policies and programs;
7. promulgate a code of ethics to address permissible and prohibited activities of commission members and employees; and



8. provide a mechanism for winding up the commission's operations and the equitable disposition of any surplus funds existing after the compact's termination and after paying or reserving debts and obligations.

With respect to meetings, the bylaw's procedures for calling and conducting commission meetings must (1) require a majority of commission members, (2) ensure reasonable advance notice of each meeting, and (3) provide citizens the right to attend each meeting, with enumerated exceptions to protect the public's interest, people's privacy, and insurers' proprietary information. The commission may meet in camera only after a majority of the entire membership votes to close a meeting in whole or in part. As soon as practicable, it must make public (1) a copy of the vote to close the meeting identifying each member's vote (no proxy votes are allowed) and (2) votes taken during the closed meeting.

Management Committee. Under the commission's by-laws, a 14-person management committee manages the commission's activities. It includes one person from (1) the six largest member states, (2) four midsized member states with over 2% national premium volume, and (3) four smaller member states with less than 2% national premium volume. (Connecticut has 2.05% of national premium volume and so would be a midsized state.)

The management committee is authorized to:

1. manage the commission's affairs consistent with the commission's bylaws and purposes;
2. establish and oversee the commission's organizational structure and appropriate procedures for (a) creating uniform standards, for which two-thirds of the management committee must vote, and other rules, (b) receiving and reviewing product filings, (c) administrative and technical support functions, (d) reviewing decisions to disapprove a product filing, and (e) reviewing elections a compacting state makes to opt out of a uniform standard;
3. overseeing the commission's offices; and
4. planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations to advance the goals of the commission.

The commission annually elects officers from the management committee. The management committee may, subject to the commission's approval, appoint or retain an executive director on terms and conditions and for compensation as the commission deems appropriate. The executive director (1) is the commission's secretary, (2) is not a commission member, and (3) must hire and supervise other staff that the commission authorizes.

Legislative Committee. The commission must establish a legislative committee. According to its bylaws, the committee is composed of eight state legislators, four



appointed by the National Conference of State Legislators (NCSL) and four by the National Conference of Insurance Legislators (NCOIL).

The legislative committee monitors the commission's operations and makes recommendations to it and its management committee. The compact requires the management committee to consult with and report to the legislative committee before adopting any uniform standard, revision to the bylaws, annual budget, or other significant matter that may be provided for in the bylaws.

Advisory Committees. The commission must establish two advisory committees that provide feedback on the commission's proposed and adopted uniform standards, rules, and operating procedures. One committee must consist of consumer representatives and the other of insurance industry representatives.

The compact authorizes the commission to create other advisory committee as its bylaws may provide to carry out its functions.

Qualified Immunity, Defense, and Indemnification. With respect to any civil action against any commission member, officer, executive director, employee, or representative for damage to, loss of property, personal injury, or other civil liability caused by or arising out of such a person's actual or alleged act, error, or omission that occurred, or that the person had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities, the compact:

1. grants such person immunity,
2. requires the commission to defend him or her, and
3. requires the commission to indemnify and hold him or her harmless for any settlement or judgment amount obtained against him or her.

These immunity, defense, and hold harmless provisions do not apply to any damage, loss, injury, or liability caused by the person's intentional or willful and wanton misconduct.

Article VI – Meetings

The commission must meet and take actions consistent with the compact and bylaws. Each commission member has the right and power to vote and participate in the commission's business and affairs. A member must vote in person or by other means the bylaws permit. The bylaws may provide for members' participation in meetings by telephone or other means. The commission must meet at least once a year and additionally as the bylaws may require.

Article VII – Rulemaking and Opting Out of Uniform Standards



The commission must adopt reasonable rules, including uniform standards, and operating procedures to effectively and efficiently achieve the compact's purposes. If an action exceeds the compact's scope, it is invalid and has no force and effect. Rules and operating procedures must conform to the Model State Administrative Procedure Act.

Before the commission adopts a uniform standard, it must give each compacting state's legislative committee with insurance jurisdiction written notice of its intention to adopt it. It must consider fully all submitted material when adopting a standard and issue a concise explanation of its decision. A uniform standard is effective 90 days after the commission adopts it, unless the commission sets a later effective date.

Opt Out. A compacting state may opt out of (i.e., decline to adopt or participate in) a uniform standard through legislation or Insurance Department regulation.

If opting out by regulation, the compacting state must (1) give the commission written notice within 10 days after the commission adopted the standard or at the time the state first joined the compact and (2) find that the uniform standard does not provide reasonable protections to state's citizens. The insurance commissioner must issue specific findings and conclusions, based on a preponderance of the evidence, (1) detailing the state's conditions that warrant a departure from the uniform standard and (2) determining that the uniform standard would not reasonably protect the state's citizens. The commissioner must consider and balance the following factors and find that the state's conditions and its citizen's needs outweigh the (1) legislature's intent to participate in the interstate agreement and (2) presumption that an adopted uniform standard provides reasonable protections to consumers.

A compacting state may, at the time it enacts and joins the compact, prospectively opt out of all uniform standards involving long-term care insurance (existing and any subsequently promulgated) by expressly providing for it in the enacted compact.

If a compacting state elects to opt out of a uniform standard, the uniform standard is applicable until the opt-out legislation is enacted into law or regulation is effective. Once the opt out is effective, the standard has no further force and effect in that state unless and until the opt-out legislation or regulation is repealed or otherwise becomes ineffective under the state's laws. If a compacting state opts out of a uniform standard after the uniform standard takes effect in that state, the opt out has the same prospective effect as Article XIV provides for withdrawals (see below).

If a compacting state has formally initiated the opt-out process by regulation, it may petition the commission, at least 15 days before the uniform standard's effective date, to stay the effectiveness of the uniform standard in that state. The commission may grant a stay if it determines the regulatory opt out is being pursued in a reasonable manner and there is a likelihood of success. If a stay is granted, the commission may postpone the effective date for up to 90 days. It may extend a stay, but the compact prohibits a stay from remaining in effect for more than one year unless the compacting state can show extraordinary circumstances, including, an existing legal challenge that prevents the



state from opting out. The commission may end a stay upon notice that the rulemaking process has been terminated.

Within 30 days after the commission adopts a rule or operating procedure, anyone may file a petition for judicial review of it. But the petition does not stay or otherwise prevent the rule or operating procedure from taking effect unless the court finds that the petitioner has a substantial likelihood of success. The court must (1) give deference to the commission's actions consistent with applicable law and (2) not find the rule or operating procedure to be unlawful if it represents a reasonable exercise of the commission's authority.

Article VIII – Commission Records and Enforcement

The commission must adopt rules establishing conditions and procedures for public inspection and copying of its information and official records, except for information and records involving a person's privacy and an insurer's trade secrets. The commission may adopt rules under which it may (1) give federal and state agencies records and information otherwise exempt from disclosure, and (2) enter into agreements with the agencies to receive information subject to nondisclosure and confidentiality provisions.

Except for privileged records, data, and information, the laws of any compacting state on confidentiality or nondisclosure do not relieve any compacting state's insurance commissioner of the duty to disclose any relevant records, data, or information to the commission. Disclosure to the commission does not waive or otherwise affect any confidentiality requirement. Except as the compact otherwise expressly provides, the commission is not subject to the compacting state's laws on confidentiality and nondisclosure with respect to records, data, and information in its possession. The commission's confidential information remains confidential after disclosure to an insurance commissioner.

The commission must monitor compacting states for compliance with duly adopted bylaws, rules, uniform standards, and operating procedures. The commission must notify any non-complying compacting state in writing of any noncompliance. If a non-complying compacting state fails to comply within the time specified in the notice, the compacting state is in default (see Article XIV).

A state's insurance commissioner retains his or her authority to examine and investigate an insurer's activities in the market according to state law.

An insurance commissioner is prohibited from citing an insurer for a violation of the compact provisions, standards, or requirements:

1. unless he or she has obtained from the commission a final order, issued at the commissioner's request, after notice to the insurer and an opportunity for hearing before the commission and



2. relating to the content of an advertisement the commission did not approve or certify, unless the commission, or an authorized commission officer or employee, authorizes the action, but this authorization does not require notice to the insurer, opportunity for hearing, or disclosure of authorization requests or the commission's action on such requests.

Article IX – Dispute Resolution

The commission must attempt, upon a member's request, to resolve any disputes or other issues that are subject to the compact and arise between two or more compacting states, or between compacting states and non-compacting states. It must adopt an operating procedure for resolving such disputes.

Article X – Product Filing and Approval

Insurers seeking the commission's approval for a product must file the product with, and pay applicable filing fees to, the commission. The compact does not prevent an insurer from filing its product with a state's insurance department for its review and determination under the state's laws.

The commission must (1) establish appropriate filing and review processes and procedures and (2) adopt rules for public access to product filing information. In establishing such rules, the commission must consider the public's interests in having access, along with the protection of personal medical and financial information and trade secrets.

An insurer may sell and issue any product the commission approves in those compacting states in which it is legally authorized to do business.

Article XI – Review of Commission's Filing Decisions

Within 30 days after the commission has given an insurer notice of a disapproved product or advertisement, the insurer may appeal the determination to a review panel the commission appoints. The commission must adopt rules to establish procedures for appointing review panels and provide for notice and hearing.

An allegation that the commission, when disapproving a product or advertisement, acted arbitrarily or capriciously, abused discretion, or did not act in accordance with law, is subject to judicial review in accordance with Article III (see above).

The commission has authority to monitor, review, and reconsider products and advertisements after their filing or approval if it finds that the product does not meet the relevant uniform standards. Where appropriate, the commission may withdraw or modify its approval after proper notice and hearing and subject to the appeal.

Article XII – Finance



The commission must pay, or provide for the payment of, the reasonable expenses of its establishment and organization. To fund the cost of its initial operations, the commission may accept contributions and other forms of funding from the NAIC, compacting states, and other sources. But in accepting contributions, the commission's independence in performing its duties must not be compromised.

The commission must collect a filing fee for each product filing submitted to it to cover the cost of its operations and activities in a total amount sufficient to cover its annual budget.

The commission's fiscal year budget will not be approved until it has been subject to notice and comment as provided for in Article VII (see above). The commission is exempt from all taxation in and by the compacting states. It is prohibited from pledging any compacting state's credit, except with the state's appropriate legal authorization.

The commission must keep complete, accurate internal financial accounts for receipts and disbursements of all funds under its control. They are subject to the accounting procedures its bylaws establish. An independent certified accountant must annually audit the commission's financial accounts and reports, including internal controls and procedures. At least every three years, the accountant's report must include a commission management and performance audit.

The commission must report annually to the governor and legislature of each compacting state. The report must include the independent audit's findings.

The commission's internal accounts are not confidential and may be shared with a compacting state's insurance commissioner upon request. But work papers related to an internal or independent audit and any information regarding a person's privacy and insurer's proprietary information remain confidential.

A compacting state does not have a claim to or ownership of any commission property or funds.

Article XIII – Effective Date and Amendment

Any state, district, or U.S. territory may become a compacting state.

The compact is effective and binding when two states enact it into law. For purposes of adopting uniform standards and reviewing, approving, or disapproving product filings, the commission is effective only after 26 states, or states representing 40% of the premium volume for life insurance, annuity, disability income, and long-term care insurance products, have become compact states. After that, it is effective and binding as to any other compacting state when that state enacts the compact into law.

The commission may propose compact amendments for the compacting states' enactment. No amendment can become effective and binding unless and until all compacting states enact it into law.



Article XIV – Withdrawal, Default and Dissolution

Withdrawal. Once effective, the compact continues in force and remains binding on each compacting state. A state may withdraw from the compact by repealing the statute that enacted it into law. The effective date of withdrawal is the effective date of the repealing statute.

The insurance commissioner of the withdrawing state must immediately notify the management committee in writing when legislation is introduced to repeal the compact in the withdrawing state, and the commission must notify the other compacting states within 10 days of receiving the notice.

The withdrawing state is responsible for all obligations, duties, and liabilities incurred through the effective date of withdrawal. The commission's approval of products and advertisements before the withdrawal continues to be effective and be given full force and effect in the withdrawing state, unless the withdrawing state formally rescinds the approval in the same manner as provided for in the state's laws.

A state may reenact the compact into law to reinstate the compact after its withdrawal.

Default. If the commission determines that any compacting state has defaulted in the performance of any of its obligations or responsibilities under the compact, bylaws, rules, or operating procedures, then, after notice and hearing, all rights, privileges, and benefits the compact conferred on the defaulting state are suspended. The grounds for default include failure to perform obligations or responsibilities and any other grounds designated in commission rules. The commission must immediately notify the defaulting state in writing of its suspension pending a cure of the default. The commission must provide the conditions and the deadline by which the defaulting state must cure its default. If the defaulting state fails to, it is terminated from the compact and all rights, privileges, and benefits the compact conferred are terminated.

Product approvals and certifications, and related advertisements, that are in force on the termination date remain in force in the defaulting state in the same manner as if the state had voluntarily withdrawn from the compact.

A state may reenact the compact into law to reinstate the compact after its termination.

Compact Dissolution. The compact dissolves on the date a compacting state withdraws or defaults, thereby reducing the compact membership to one compacting state.

Upon the compact's dissolution, the compact becomes null and void and has no further force or effect. The commission must wind up its business and affairs and distribute any surplus funds in accordance with the bylaws.

Article XV – Severability and Construction



The compact's provisions are (1) severable and (2) to be liberally construed to effectuate its purposes. If any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions remain enforceable.

Article XVI – Binding Effect of Compact and Other Laws

The compact does not prevent the enforcement of any compacting state's laws, except that, for (1) products the commission approves or certifies and (2) advertisements subject to its authority, the commission's rules, uniform standards, and any other requirements are the exclusive provisions applicable to each.

Except for products and advertisements, no commission action abrogates or restricts (1) anyone's access to state courts; (2) remedies available under state law related to breach of contract, tort, or other laws not specifically directed to a product's content; (3) state law relating to the construction of insurance contracts; or (4) a state's attorney general's authority, including maintaining any actions or proceedings as the law permits.

All insurance products filed with individual states are subject to the laws of those states.

The commission's lawful actions, including adopted rules and operating procedures, are binding on the compacting states. All agreements between the commission and the compacting states are binding in accordance with their terms.

The commission may issue advisory opinions on the meaning or interpretation of a commission action that is in dispute, upon the request of someone involved in a conflict over the action.

If any compact provision conferring obligations, duties, powers, or jurisdiction on the commission exceeds a compacting state legislature's constitutional limits, the provision is ineffective as to that state and those obligations, duties, powers, or jurisdiction shall remain in the compacting state.

