



# House of Representatives

General Assembly

**File No. 396**

February Session, 2016

Substitute House Bill No. 5051

*House of Representatives, April 4, 2016*

The Committee on Insurance and Real Estate reported through REP. MEGNA of the 97th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***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:

1 Section 1. (NEW) (*Effective July 1, 2016*) Pursuant to terms and  
2 conditions of this compact, the state of Connecticut seeks to join with  
3 other states and establish the Interstate Insurance Product Regulation  
4 Compact, and thus become a member of the Interstate Insurance  
5 Product Regulation Commission. The Insurance Commissioner is  
6 hereby designated to serve as the representative of this state to the  
7 commission.

8 ARTICLE I

9 PURPOSES

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



41           2. "Bylaws" mean those bylaws established by the commission for  
42 its governance, or for directing or controlling the commission's  
43 actions or conduct.

44           3. "Compacting state" means any state which has enacted this  
45 compact legislation and which has not withdrawn pursuant to  
46 Article XIV, section 1 of this compact, or been terminated pursuant  
47 to Article XIV, section 2 of this compact.

48           4. "Commission" means the Interstate Insurance Product  
49 Regulation Commission established by this compact.

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

53           6. "Domiciliary state" means the state in which an insurer is  
54 incorporated or organized; or, in the case of an alien insurer, its state  
55 of entry.

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

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

61           9. "Non-compacting state" means any state which is not at the  
62 time a compacting state.

63           10. "Operating procedures" mean procedures promulgated by the  
64 commission implementing a rule, uniform standard or a provision  
65 of this compact.

66           11. "Product" means the form of a policy or contract, including  
67 any application, endorsement, or related form which is attached to  
68 and made a part of the policy or contract, and any evidence of  
69 coverage or certificate, for an individual or group annuity, life

70 insurance, disability income or long-term care insurance product  
71 that an insurer is authorized to issue.

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

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

81 14. "Third-party filer" means an entity that submits a product  
82 filing to the commission on behalf of an Insurer.

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

92 ARTICLE III

93 ESTABLISHMENT OF THE COMMISSION AND VENUE

94 1. The compacting states hereby create and establish a joint public  
95 agency known as the Interstate Insurance Product Regulation  
96 Commission. Pursuant to Article IV of this compact, the commission  
97 will have the power to develop uniform standards for product lines,  
98 receive and provide prompt review of products filed therewith, and  
99 give approval to those product filings satisfying applicable uniform  
100 standards; provided, it is not intended for the commission to be the

101 exclusive entity for receipt and review of insurance product filings.  
102 Nothing herein shall prohibit any insurer from filing its product in  
103 any state wherein the insurer is licensed to conduct the business of  
104 insurance; and any such filing shall be subject to the laws of the  
105 state where filed.

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

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

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

115 ARTICLE IV

116 POWERS OF THE COMMISSION

117 The commission shall have the following powers:

118 1. To promulgate rules, pursuant to Article VII of this compact,  
119 which shall have the force and effect of law and shall be binding in  
120 the compacting states to the extent and in the manner provided in  
121 this compact;

122 2. To exercise its rulemaking authority and establish reasonable  
123 uniform standards for products covered under the compact, and  
124 advertisement related thereto, which shall have the force and effect  
125 of law and shall be binding in the compacting states, but only for  
126 those products filed with the commission, provided, that a  
127 compacting state shall have the right to opt out of such uniform  
128 standard pursuant to Article VII of this compact, to the extent and in  
129 the manner provided in this compact, and, provided further, that  
130 any uniform standard established by the commission for long-term

131 care insurance products may provide the same or greater  
132 protections for consumers as, but shall not provide less than, those  
133 protections set forth in the National Association of Insurance  
134 Commissioners' Long-Term Care Insurance Model Act and Long-  
135 Term Care Insurance Model Regulation, respectively, adopted as of  
136 2001. The commission shall consider whether any subsequent  
137 amendments to the National Association of Insurance  
138 Commissioners' Long-Term Care Insurance Model Act or Long-  
139 Term Care Insurance Model Regulation adopted by the National  
140 Association of Insurance Commissioners require amending of the  
141 uniform standards established by the commission for long-term care  
142 insurance products;

143 3. To receive and review in an expeditious manner products filed  
144 with the commission, and rate filings for disability income and long-  
145 term care insurance products, and give approval of those products  
146 and rate filings that satisfy the applicable uniform standard, where  
147 such approval shall have the force and effect of law and be binding  
148 on the compacting states to the extent and in the manner provided  
149 in the compact;

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

164 5. To exercise its rulemaking authority and designate products  
165 and advertisement that may be subject to a self-certification process  
166 without the need for prior approval by the commission;

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

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

174 8. To issue subpoenas requiring the attendance and testimony of  
175 witnesses and the production of evidence;

176 9. To establish and maintain offices;

177 10. To purchase and maintain insurance and bonds;

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

180 12. To hire employees, professionals or specialists, and elect or  
181 appoint officers, and to fix their compensation, define their duties  
182 and give them appropriate authority to carry out the purposes of  
183 the compact, and determine their qualifications; and to establish the  
184 commission's personnel policies and programs relating to, among  
185 other things, conflicts of interest, rates of compensation and  
186 qualifications of personnel;

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

191 14. To lease, purchase, accept appropriate gifts or donations of, or  
192 otherwise to own, hold, improve or use, any property, real, personal

193 or mixed; provided that at all times the commission shall strive to  
194 avoid any appearance of impropriety;

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

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

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

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

202 19. To advise compacting states on issues relating to insurers  
203 domiciled or doing business in non-compacting jurisdictions,  
204 consistent with the purposes of this compact;

205 20. To provide advice and training to those personnel in state  
206 insurance departments responsible for product review, and to be a  
207 resource for state insurance departments;

208 21. To establish a budget and make expenditures;

209 22. To borrow money;

210 23. To appoint committees, including advisory committees  
211 comprising members, state insurance regulators, state legislators or  
212 their representatives, insurance industry and consumer  
213 representatives, and such other interested persons as may be  
214 designated in the bylaws;

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

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

218 26. To perform such other functions as may be necessary or  
219 appropriate to achieve the purposes of this compact consistent with

220 the state regulation of the business of insurance.

221 ARTICLE V

222 ORGANIZATION OF THE COMMISSION

223 Section 1. Membership, Voting and Bylaws

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

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

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

244 (i) Establishing the fiscal year of the commission;

245 (ii) Providing reasonable procedures for appointing and electing  
246 members, as well as holding meetings, of the management  
247 committee;

248 (iii) Providing reasonable standards and procedures: (I) For the

249 establishment and meetings of other committees, and (II) governing  
250 any general or specific delegation of any authority or function of the  
251 commission;

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

264 (v) Establishing the titles, duties and authority and reasonable  
265 procedures for the election of the officers of the commission;

266 (vi) Providing reasonable standards and procedures for the  
267 establishment of the personnel policies and programs of the  
268 commission. Notwithstanding any civil service or other similar laws  
269 of any compacting state, the bylaws shall exclusively govern the  
270 personnel policies and programs of the commission;

271 (vii) Promulgating a code of ethics to address permissible and  
272 prohibited activities of commission members and employees; and

273 (viii) Providing a mechanism for winding up the operations of  
274 the commission and the equitable disposition of any surplus funds  
275 that may exist after the termination of the compact after the  
276 payment and/or reserving of all of its debts and obligations.

277 d. The commission shall publish its bylaws in a convenient form  
278 and file a copy thereof and a copy of any amendment thereto, with  
279 the appropriate agency or officer in each of the compacting states.

280 Section 2. Management Committee, Officers and Personnel

281 a. A management committee comprising no more than fourteen  
282 members shall be established as follows:

283 (i) One member from each of the six compacting states with the  
284 largest premium volume for individual and group annuities, life,  
285 disability income and long-term care insurance products,  
286 determined from the records of the National Association of  
287 Insurance Commissioners for the prior year;

288 (ii) Four members from those compacting states with at least two  
289 per cent of the market based on the premium volume described  
290 above, other than the six compacting states with the largest  
291 premium volume, selected on a rotating basis as provided in the  
292 bylaws; and

293 (iii) Four members from those compacting states with less than  
294 two per cent of the market, based on the premium volume described  
295 above, with one selected from each of the four zone regions of the  
296 National Association of Insurance Commissioners as provided in  
297 the bylaws.

298 b. The management committee shall have such authority and  
299 duties as may be set forth in the bylaws, including, but not limited  
300 to:

301 (i) Managing the affairs of the commission in a manner consistent  
302 with the bylaws and purposes of the commission;

303 (ii) Establishing and overseeing an organizational structure  
304 within, and appropriate procedures for, the commission to provide  
305 for the creation of uniform standards and other rules, receipt and  
306 review of product filings, administrative and technical support  
307 functions, review of decisions regarding the disapproval of a  
308 product filing, and the review of elections made by a compacting  
309 state to opt out of a uniform standard; provided that a uniform  
310 standard shall not be submitted to the compacting states for

311 adoption unless approved by two-thirds of the members of the  
312 management committee;

313 (iii) Overseeing the offices of the commission; and

314 (iv) Planning, implementing, and coordinating communications  
315 and activities with other state, federal and local government  
316 organizations in order to advance the goals of the commission.

317 c. The commission shall elect annually officers from the  
318 management committee, with each having such authority and  
319 duties, as may be specified in the bylaws.

320 d. The management committee may, subject to the approval of  
321 the commission, appoint or retain an executive director for such  
322 period, upon such terms and conditions and for such compensation  
323 as the commission may deem appropriate. The executive director  
324 shall serve as secretary to the commission, but shall not be a  
325 member of the commission. The executive director shall hire and  
326 supervise such other staff as may be authorized by the commission.

327 Section 3. Legislative and Advisory Committees

328 a. A legislative committee comprising state legislators or their  
329 designees shall be established to monitor the operations of, and  
330 make recommendations to, the commission, including the  
331 management committee; provided that the manner of selection and  
332 term of any legislative committee member shall be as set forth in the  
333 bylaws. Prior to the adoption by the commission of any uniform  
334 standard, revision to the bylaws, annual budget or other significant  
335 matter as may be provided in the bylaws, the management  
336 committee shall consult with and report to the legislative  
337 committee.

338 b. The commission shall establish two advisory committees, one  
339 of which shall comprise consumer representatives independent of  
340 the insurance industry, and the other comprising insurance industry  
341 representatives.

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

344 Section 4. Corporate Records of the Commission

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

347 Section 5. Qualified Immunity, Defense and Indemnification

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

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

371 c. The commission shall indemnify and hold harmless any  
372 member, officer, executive director, employee or representative of

373 the commission for the amount of any settlement or judgment  
374 obtained against that person arising out of any actual or alleged act,  
375 error or omission that occurred within the scope of commission  
376 employment, duties or responsibilities, or that such person had a  
377 reasonable basis for believing occurred within the scope of  
378 commission employment, duties or responsibilities, provided, that  
379 the actual or alleged act, error or omission did not result from the  
380 intentional or wilful and wanton misconduct of that person.

381 ARTICLE VI

382 MEETINGS AND ACTS OF THE COMMISSION

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

385 2. Each member of the commission shall have the right and  
386 power to cast a vote to which that compacting state is entitled and  
387 to participate in the business and affairs of the commission. A  
388 member shall vote in person or by such other means as provided in  
389 the bylaws. The bylaws may provide for members' participation in  
390 meetings by telephone or other means of communication.

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

393 ARTICLE VII

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

397 1. The commission shall promulgate reasonable rules, including  
398 uniform standards, and operating procedures in order to effectively  
399 and efficiently achieve the purposes of this compact.  
400 Notwithstanding the foregoing, in the event the commission  
401 exercises its rulemaking authority in a manner that is beyond the  
402 scope of the purposes of this compact, or the powers granted

403 hereunder, then such an action by the commission shall be invalid  
404 and have no force and effect.

405 2. Rules and operating procedures shall be made pursuant to a  
406 rulemaking process that conforms to the Model State  
407 Administrative Procedure Act of 1981 as amended, as may be  
408 appropriate to the operations of the commission. Before the  
409 commission adopts a uniform standard, the commission shall give  
410 written notice to the relevant state legislative committees in each  
411 compacting state responsible for insurance issues of its intention to  
412 adopt the uniform standard. The commission in adopting a uniform  
413 standard shall consider fully all submitted materials and issue a  
414 concise explanation of its decision.

415 3. A uniform standard shall become effective ninety days after its  
416 promulgation by the commission or such later date as the  
417 commission may determine; provided, however, that a compacting  
418 state may opt out of a uniform standard as provided in this article.  
419 "Opt out" shall be defined as any action by a compacting state to  
420 decline to adopt or participate in a promulgated uniform standard.  
421 All other rules and operating procedures, and amendments thereto,  
422 shall become effective as of the date specified in each rule, operating  
423 procedure or amendment.

424 4. A compacting state may opt out of a uniform standard, either  
425 by legislation or regulation duly promulgated by the Insurance  
426 Department under the compacting state's administrative procedure  
427 act. If a compacting state elects to opt out of a uniform standard by  
428 regulation, it must:

429 a. Give written notice to the commission no later than ten  
430 business days after the uniform standard is promulgated, or at the  
431 time the state becomes a compacting state; and

432 b. Find that the uniform standard does not provide reasonable  
433 protections to the citizens of the state, given the conditions in the  
434 state. The commissioner shall make specific findings of fact and

435 conclusions of law, based on a preponderance of the evidence,  
436 detailing the conditions in the state which warrant a departure from  
437 the uniform standard and determining that the uniform standard  
438 would not reasonably protect the citizens of the state. The  
439 commissioner must consider and balance the following factors and  
440 find that the conditions in the state and needs of the citizens of the  
441 state outweigh: (i) The intent of the legislature to participate in, and  
442 the benefits of, an interstate agreement to establish national uniform  
443 consumer protections for the products subject to this compact; and  
444 (ii) the presumption that a uniform standard adopted by the  
445 commission provides reasonable protections to consumers of the  
446 relevant product. Notwithstanding the foregoing, a compacting  
447 state may, at the time of its enactment of this compact, prospectively  
448 opt out of all uniform standards involving long-term care insurance  
449 products by expressly providing for such opt out in the enacted  
450 compact, and such an opt out shall not be treated as a material  
451 variance in the offer or acceptance of any state to participate in this  
452 compact. Such an opt out shall be effective at the time of enactment  
453 of this compact by the compacting state and shall apply to all  
454 existing uniform standards involving long-term care insurance  
455 products and those subsequently promulgated.

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



502 commission may promulgate additional rules under which it may  
503 make available to federal and state agencies, including law  
504 enforcement agencies, records and information otherwise exempt  
505 from disclosure, and may enter into agreements with such agencies  
506 to receive or exchange information or records subject to  
507 nondisclosure and confidentiality provisions.

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

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

530 4. The commissioner of any state in which an insurer is  
531 authorized to do business, or is conducting the business of  
532 insurance, shall continue to exercise the commissioner's authority to  
533 oversee the market regulation of the activities of the insurer in  
534 accordance with the provisions of the state's law. The

535 commissioner's enforcement of compliance with the compact is  
536 governed by the following provisions:

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

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

552 ARTICLE IX

553 DISPUTE RESOLUTION

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

560 ARTICLE X

561 PRODUCT FILING AND APPROVAL

562 1. Insurers and third-party filers seeking to have a product  
563 approved by the commission shall file the product with, and pay  
564 applicable filing fees to, the commission. Nothing in this compact

565 shall be construed to restrict or otherwise prevent an insurer from  
566 filing its product with the insurance department in any state  
567 wherein the insurer is licensed to conduct the business of insurance,  
568 and such filing shall be subject to the laws of the states where filed.

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

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

582 ARTICLE XI

583 REVIEW OF COMMISSION DECISIONS REGARDING FILINGS

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





658 than forty per cent of the premium volume for life insurance,  
659 annuity, disability income and long-term care insurance products,  
660 based on records of the National Association of Insurance  
661 Commissioners for the prior year. Thereafter, it shall become  
662 effective and binding as to any other compacting state upon  
663 enactment of the compact into law by that state.

664 3. Amendments to the compact may be proposed by the  
665 commission for enactment by the compacting states. No amendment  
666 shall become effective and binding upon the commission and the  
667 compacting states unless and until all compacting states enact the  
668 amendment into law.

#### 669 ARTICLE XIV

#### 670 WITHDRAWAL, DEFAULT AND TERMINATION

##### 671 Section 1. Withdrawal

672 a. Once effective, the compact shall continue in force and remain  
673 binding upon each and every compacting state; provided, that a  
674 compacting state may withdraw from the compact ("withdrawing  
675 state") by enacting a statute specifically repealing the statute which  
676 enacted the compact into law.

677 b. The effective date of withdrawal is the effective date of the  
678 repealing statute. However, the withdrawal shall not apply to any  
679 product filings approved or self-certified, or any advertisement of  
680 such products, on the date the repealing statute becomes effective,  
681 except by mutual agreement of the commission and the  
682 withdrawing state unless the approval is rescinded by the  
683 withdrawing state as provided in paragraph e. of this section.

684 c. The commissioner of the withdrawing state shall immediately  
685 notify the management committee in writing upon the introduction  
686 of legislation repealing this compact in the withdrawing state.

687 d. The commission shall notify the other compacting states of the

688 introduction of such legislation within ten days after its receipt of  
689 notice thereof.

690 e. The withdrawing state is responsible for all obligations, duties  
691 and liabilities incurred through the effective date of withdrawal,  
692 including any obligations, the performance of which extend beyond  
693 the effective date of withdrawal, except to the extent those  
694 obligations may have been released or relinquished by mutual  
695 agreement of the commission and the withdrawing state. The  
696 commission's approval of products and advertisement prior to the  
697 effective date of withdrawal shall continue to be effective and be  
698 given full force and effect in the withdrawing state, unless formally  
699 rescinded by the withdrawing state in the same manner as provided  
700 by the laws of the withdrawing state for the prospective  
701 disapproval of products or advertisement previously approved  
702 under state law.

703 f. Reinstatement following withdrawal of any compacting state  
704 shall occur upon the effective date of the withdrawing state  
705 reenacting the compact.

706 Section 2. Default

707 a. If the commission determines that any compacting state has at  
708 any time defaulted ("defaulting state") in the performance of any of  
709 its obligations or responsibilities under this compact, the bylaws or  
710 duly promulgated rules or operating procedures, then, after notice  
711 and hearing as set forth in the bylaws, all rights, privileges and  
712 benefits conferred by this compact on the defaulting state shall be  
713 suspended from the effective date of default as fixed by the  
714 commission. The grounds for default include, but are not limited to,  
715 failure of a compacting state to perform its obligations or  
716 responsibilities, and any other grounds designated in commission  
717 rules. The commission shall immediately notify the defaulting state  
718 in writing of the defaulting state's suspension pending a cure of the  
719 default. The commission shall stipulate the conditions and the time  
720 period within which the defaulting state must cure its default. If the

721 defaulting state fails to cure the default within the time period  
722 specified by the commission, the defaulting state shall be terminated  
723 from the compact and all rights, privileges and benefits conferred by  
724 this compact shall be terminated from the effective date of  
725 termination.

726 b. Product approvals by the commission or product self-  
727 certifications, or any advertisement in connection with such  
728 product, that are in force on the effective date of termination shall  
729 remain in force in the defaulting state in the same manner as if the  
730 defaulting state had withdrawn voluntarily pursuant to section 1 of  
731 this article.

732 c. Reinstatement following termination of any compacting state  
733 requires a reenactment of the compact.

734 Section 3. Dissolution of Compact

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

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

742 ARTICLE XV

743 SEVERABILITY AND CONSTRUCTION

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

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

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## ARTICLE XVI

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## BINDING EFFECT OF COMPACT AND OTHER LAWS

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## Section 1. Other Laws

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

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b. 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:

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(i) The access of any person to state courts;

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(ii) Remedies available under state law related to breach of contract, tort, or other laws not specifically directed to the content of the product;

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(iii) State law relating to the construction of insurance contracts;  
or

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(iv) The authority of the attorney general of the state, including, but not limited to, maintaining any actions or proceedings, as authorized by law.

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

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## Section 2. Binding Effect of this Compact

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a. All lawful actions of the commission, including all rules and

777 operating procedures promulgated by the commission, are binding  
778 upon the compacting states.

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

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

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

794 ARTICLE XVII

795 STATE OF CONNECTICUT OPT OUT

796 In accordance with the provisions of Article VII, section 4 of this  
797 compact, the state of Connecticut opts out of all existing and  
798 prospective uniform standards involving long-term care insurance  
799 products, all existing uniform standards involving life insurance  
800 products and all existing uniform standards involving disability  
801 income insurance products in order to preserve the state's statutory  
802 requirements governing these insurance products.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2016	New section

**INS**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

**Explanation**

The bill, which adopts the Interstate Insurance Product Regulation Compact, will create a more streamlined and efficient process for the Insurance Department but does not result in a fiscal impact.

**The Out Years**

**State Impact:** None

**Municipal Impact:** None

**OLR Bill Analysis**

**sHB 5051**

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

**SUMMARY:**

This bill adopts the National Association of Insurance Commissioner's Interstate Insurance Product Regulation Compact and makes the insurance commissioner Connecticut's representative to the multi-state public entity that it creates, the Interstate Insurance Product Regulation Commission.

Through the commission, compacting states develop uniform national product standards for life insurance, annuities, disability income, and long-term care insurance products. The compact establishes a centralized filing process for insurers to use for these insurance products. The commission reviews product filings and makes regulatory decisions about them according to the uniform standards. Insurers may sell commission-approved products in each compacting state in which the insurer is licensed to operate. The commission collects filing fees from the insurers and remits to compacting states their portion of them.

A compacting state may opt out of a uniform product standard through legislation or regulation if it determines that the standard does not provide reasonable protections for its citizens. Under the bill, Connecticut opts out of existing and prospective uniform standards for long-term care insurance products, and existing uniform standards for life and disability income insurance products. Thus, Connecticut currently seeks to adopt the compact for annuity products only.

The compact outlines the commission's purposes, powers,

organizational structure, rulemaking procedures, and financial requirements. 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 retains its authority to perform market conduct examinations of insurers and respond to consumer complaints, including those relating to commission-approved products. The commission's actions do not abrogate or restrict a person's access to state courts; remedies under state law for breach of contract, tort, or other laws not directed at a product's content; state law on interpreting insurance contracts; or an attorney general's authority under law.

Judicial proceedings by or against the commission must be brought in a court of competent jurisdiction where the commission's principle office is located (i.e., Washington, D.C.).

EFFECTIVE DATE: July 1, 2016

## **INTERSTATE INSURANCE PRODUCT REGULATION COMPACT**

### ***Article I — Purposes***

The compact's purposes are, through joint and cooperative action of compacting states, to:

1. promote and protect consumers' interests in individual and group annuity, life insurance, disability income, and long-term care insurance products;
2. develop uniform standards for these insurance products;
3. establish a central clearinghouse to receive and promptly review product filings from insurers authorized to do business in one or more compacting states;
4. give appropriate regulatory approval to filings satisfying the applicable uniform standards;
5. improve the coordination of regulatory resources and expertise

between state insurance departments;

6. create the Interstate Insurance Product Regulation Commission;  
and
7. perform these and other related functions that are consistent with the state regulation of insurance.

**Article II — Definitions**

Under the compact, a “product” is a policy or contract form, including any application, endorsement, or related form attached to and made a part of the policy or contract, and any evidence of coverage or certificate an insurer is authorized to issue.

A “uniform standard” is a standard the commission adopts for a product line. It must include all the product requirements in aggregate. Each uniform standard must be construed to prohibit any inconsistent, misleading, or ambiguous provisions. The product form made available to the public must not be unfair, inequitable, or against public policy, as determined by the commission.

**Article III — Establishment of the Commission and Venue**

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

The compact makes the commission solely liable for its liabilities except as it otherwise 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 commission's principal office is located (i.e., Washington, D.C.).

***Article IV — Powers of the Commission***

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 rulemaking authority and establish reasonable uniform product standards and related advertisements, but (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 if subsequent amendments to them require the commission to amend its long-term care uniform standards;
3. receive and expeditiously review (a) product filings, (b) rate filings for disability income and long-term care insurance products, and (c) advertisements for 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 for that product for review or approval before it is used if the commission determines a product's advertisement could mislead the public;
5. exercise its rulemaking authority and designate products and advertisements that may be self-certified without the need for the commission's prior approval;

6. promulgate operating procedures;
7. bring and prosecute legal proceedings or actions, as long as a 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 and elect or appoint officers; fix their compensation, define their duties, 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 qualifications;
14. accept, receive, use, and dispose of appropriate donations and grants of money, equipment, supplies, material, and services, while avoiding any appearance of impropriety;
15. lease, purchase, accept as gifts or donations, own, hold, improve, or use any property (real, personal, or mixed), while avoiding any appearance of impropriety, and sell, convey, mortgage, pledge, lease, exchange, abandon, or dispose of 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;
20. provide advice and training to state insurance department personnel responsible for product review and be a resource for the 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 — Organization of the Commission**

The commission includes one person from each compacting state (usually the insurance commissioner), each with an equal vote. The commission can adopt a uniform standard only if at least two-thirds of the members vote in favor of it.

**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 members of, a management committee and other committees;

3. provide reasonable standards and procedures to govern the delegation of the commission's authority;
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 its debts and obligations.

The bylaw's procedures for calling and conducting commission meetings must (1) require a majority of commission members to conduct a meeting; (2) ensure reasonable advance notice of each meeting; and (3) provide the public the right to attend each meeting, with 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 a copy of the vote to close the meeting, identifying each member's vote (no proxy votes are allowed), and votes taken during the closed meeting.

**Management Committee.** Under the commission's bylaws, a 14-member management committee manages the commission's activities. It includes one person from (1) the six largest compacting states based on national premium volume, (2) four compacting states with at least 2% national premium volume, and (3) four compacting states with less

than 2% national premium volume.

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 and 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. oversee the commission's offices; and
4. plan, implement, and coordinate 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 the commission deems appropriate. The executive director must serve as the commission's secretary and hire and supervise other staff that the commission authorizes. He or she cannot be a commission member.

**Legislative Committee.** The commission must establish a legislative committee in accordance with its bylaws. The committee must monitor the commission's operations and make recommendations to it and its management committee. Under the compact, the management committee must 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. One committee must consist of consumer representatives and the other of insurance industry representatives.

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

**Corporate Records.** The commission must maintain corporate books and records in accordance with its bylaws.

**Qualified Immunity, Defense, and Indemnification.** With respect to any civil action against a commission member, officer, executive director, employee, or representative for damage to or loss of property, personal injury, or other civil liability caused by or arising out of the person's actual or alleged act, error, or omission that occurred, or for which there is 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 — Commission Meetings and Actions**

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

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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 regulation. Under the bill, Connecticut is opting out of certain uniform standards (see Article XVII below).

When opting out by regulation, the compacting state must (1) give the commission written notice within 10 days after the commission adopts the standard or when the state first joins the compact and (2) find that the uniform standard does not provide reasonable protections to the 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 citizens' 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 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 standard takes effect, 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 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.

**Judicial Review.** 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.

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**Article VIII — Commission Records and Enforcement**

The commission must adopt rules allowing 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 a 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 a hearing, or disclosure of authorization requests or records of the commission's actions on such requests.

### ***Article IX — Dispute Resolution***

The commission must attempt, upon a member's request, to resolve any disputes or other issues subject to the compact and arising between two or more compacting states, or between compacting 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.

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 standard. Where appropriate, the commission may withdraw or modify its approval after proper notice and hearing, subject to the above appeal process.

#### ***Article XII — Finance***

The commission must pay, or provide for 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 filing submitted to it to cover the cost of its operations and activities in an 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. 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.

The accounts are subject to 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 on 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 — Compacting States, 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 jurisdictions, or those 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 is effective and binding until all compacting states enact it into law.

### ***Article XIV — Withdrawal, Default, and Termination***

**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, and the commission must notify the other compacting states within 10 days after 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 is given full force and effect in the withdrawing state, unless the withdrawing state rescinds the approval in the same way as provided for in the state's laws for the prospective disapproval of previously approved products.

A state may reinstate the compact after its withdrawal by reenacting the compact into law.

**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 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 do so, it is terminated from the compact and all rights, privileges, and benefits the compact conferred are terminated.

Product approvals, self-certifications, and related advertisements 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 reinstate the compact after its termination by reenacting the compact into law.

**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 severable and must 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 products the commission approves or were self-certified and advertisements subject to its authority, the commission's rules, uniform standards, and any other requirements are the exclusive provisions that apply.

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 with the compacting state.

#### ***Article XVII — State of Connecticut Opt Out***

Under the bill and in accordance with Article VII, Connecticut opts out of all existing and prospective uniform standards for long-term care insurance products and all existing uniform standards for life and disability income insurance products to preserve the state's statutory requirements governing these products. Thus, Connecticut seeks to adopt the compact for annuity products only.

### **BACKGROUND**

#### ***Compacting States***

The Interstate Insurance Product Regulation Commission became operational in May 2006. As of March 2016, 44 states representing over 70% of the premium volume nationwide have joined the compact. The management committee members currently include the six largest compacting states according to premium volume (Texas, Pennsylvania, New Jersey, Illinois, Ohio, and Michigan); four states with at least 2%

of the premium volume (Massachusetts, Indiana, Maryland, and Wisconsin); and one additional state from each of four regional zones (Tennessee, Oregon, Nebraska, and New Hampshire). Additional compact members are Alabama, Alaska, Arizona, Arkansas, Colorado, Georgia, Hawaii, Idaho, Iowa, Kentucky, Louisiana, Maine, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, Oklahoma, Oregon, Puerto Rico, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Washington, West Virginia, and Wyoming.

The commission has adopted and made available on its website bylaws, an operating budget, an ethics code, uniform product standards, and operating rules.

**COMMITTEE ACTION**

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/15/2016)