

By Senator Smith

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1 A bill to be entitled
2 An act relating to the Interstate Insurance Product
3 Regulation Compact; providing legislative findings and
4 intent; providing purposes; providing definitions;
5 providing for establishment of an Interstate Insurance
6 Product Regulation Commission; providing
7 responsibilities of the commission; specifying the
8 commission as an instrumentality of the compacting
9 states; providing for venue; specifying the commission
10 as a separate, not-for-profit entity; providing powers
11 of the commission; providing for organization of the
12 commission; providing for membership, voting, and
13 bylaws; designating the Commissioner of Insurance
14 Regulation as the representative of this state on the
15 commission; providing for a management committee,
16 officers, and personnel of the commission; providing
17 authority of the management committee; providing for
18 legislative and advisory committees; providing for
19 qualified immunity, defense, and indemnification of
20 members, officers, employees, and representatives of
21 the commission; providing for meetings and acts of the
22 commission; providing rules and operating procedures;
23 providing rulemaking functions of the commission;
24 providing for opting out of uniform standards;
25 providing procedures and requirements; providing for
26 commission records and enforcement; authorizing the
27 commission to adopt rules; providing for disclosure of
28 certain information; specifying that certain records,
29 data, or information of the commission in possession

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30 of the Office of Insurance Regulation is subject to
31 ch. 119, F.S.; requiring the commission to monitor for
32 compliance; providing for dispute resolution;
33 providing for product filing and approval; requiring
34 the commission to establish filing and review
35 processes and procedures; providing for review of
36 commission decisions regarding filings; providing for
37 finance of commission activities; providing for
38 payment of expenses; authorizing the commission to
39 collect filing fees for certain purposes; providing
40 for approval of a commission budget; exempting the
41 commission from all taxation; prohibiting the
42 commission from pledging the credit of any compacting
43 states without authority; requiring the commission to
44 keep complete accurate accounts, provide for audits,
45 and make annual reports to the Governors and
46 Legislatures of compacting states; providing for
47 effective date and amendment of the compact; providing
48 for withdrawal from the compact, default by compacting
49 states, and dissolution of the compact; providing
50 severability and construction; providing for binding
51 effect of compact and other laws; exercising the
52 state's right in accordance with the compact to
53 prospectively opt out of all uniform standards in the
54 compact involving long-term care insurance products;
55 providing application; providing an appropriation;
56 providing an effective date.

57
58 Be It Enacted by the Legislature of the State of Florida:

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59
60 Section 1. Legislative findings; intent.—

61 (1) The Legislature finds that the financial services
62 marketplace has changed significantly in recent years and that
63 asset-based insurance products, which include life insurance,
64 annuities, disability income insurance, and long-term care
65 insurance, now compete directly with other retirement and estate
66 planning instruments that are sold by banks and securities
67 firms.

68 (2) The Legislature further finds that the increased
69 mobility of the population and the risks borne by these asset-
70 based products are not local in nature.

71 (3) The Legislature further finds that the Interstate
72 Insurance Product Regulation Compact Model adopted by the
73 National Association of Insurance Commissioners and endorsed by
74 the National Conference of Insurance Legislators and the
75 National Conference of State Legislatures is designed to address
76 these market changes by providing a uniform set of product
77 standards and a single source for filing of new products.

78 (4) The Legislature further finds that the product
79 standards that have been developed provide a high level of
80 consumer protection. Further, it is noted that the Interstate
81 Insurance Product Regulation Compact Model includes a mechanism
82 for opting out of any product standard that the state determines
83 would not reasonably protect its citizens. With respect to long-
84 term care insurance, the Legislature understands that the
85 compact does not intend to develop a uniform standard for rate
86 increase filings, thereby leaving the authority over long-term
87 care rate increases with the state. The state relies on that

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88 understanding in adopting this legislation. The state, pursuant
89 to the terms and conditions of this act, seeks to join with
90 other states and establish the Interstate Insurance Product
91 Regulation Compact, and thus become a member of the Interstate
92 Insurance Product Regulation Commission. The Commissioner of
93 Insurance Regulation is hereby designated to serve as the
94 representative of this state on the commission.

95 Section 2. Interstate Insurance Product Regulation
96 Compact.—The Interstate Insurance Product Regulation Compact is
97 hereby enacted into law and entered into by this state with all
98 states legally joining therein in the form substantially as
99 follows:

100
101 Interstate Insurance Product Regulation Compact

102
103 Preamble

104
105 This compact is intended to help states join together to
106 establish an interstate compact to regulate designated insurance
107 products. Pursuant to terms and conditions of this compact, this
108 state seeks to join with other states and establish the
109 Interstate Insurance Product Regulation Compact and thus become
110 a member of the Interstate Insurance Product Regulation
111 Commission.

112
113 Article I

114
115 PURPOSES.—The purposes of this compact are, through means
116 of joint and cooperative action among the compacting states, to:

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117 (1) Promote and protect the interest of consumers of
118 individual and group annuity, life insurance, disability income,
119 and long-term care insurance products.

120 (2) Develop uniform standards for insurance products
121 covered under the compact.

122 (3) Establish a central clearinghouse to receive and
123 provide prompt review of insurance products covered under the
124 compact and, in certain cases, advertisements related thereto,
125 submitted by insurers authorized to do business in one or more
126 compacting states.

127 (4) Give appropriate regulatory approval to those product
128 filings and advertisements satisfying the applicable uniform
129 standard.

130 (5) Improve coordination of regulatory resources and
131 expertise between state insurance departments regarding the
132 setting of uniform standards and review of insurance products
133 covered under the compact.

134 (6) Create the Interstate Insurance Product Regulation
135 Commission.

136 (7) Perform these and such other related functions as may
137 be consistent with the state regulation of the business of
138 insurance.

139
140 Article II
141

142 DEFINITIONS.—For purposes of this compact:

143 (1) "Advertisement" means any material designed to create
144 public interest in a product, or induce the public to purchase,
145 increase, modify, reinstate, borrow on, surrender, replace, or

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146 retain a policy, as more specifically defined in the rules and
147 operating procedures of the commission adopted as of December
148 31, 2011, and subsequent amendments thereto if the methodology
149 remains substantially consistent.

150 (2) "Bylaws" means those bylaws adopted by the commission
151 as of December 31, 2011, and subsequent amendments thereto if
152 the methodology remains substantially consistent, for its
153 governance or for directing or controlling the commission's
154 actions or conduct.

155 (3) "Compacting state" means any state which has enacted
156 this compact legislation and which has not withdrawn pursuant to
157 subsection (1) of Article XIV or been terminated pursuant to
158 subsection (2) of Article XIV.

159 (4) "Commission" means the "Interstate Insurance Product
160 Regulation Commission" established by this compact.

161 (5) "Commissioner" means the chief insurance regulatory
162 official of a state, including, but not limited to,
163 commissioner, superintendent, director, or administrator. For
164 purposes of this compact, the Commissioner of Insurance
165 Regulation is the chief insurance regulatory official of this
166 state.

167 (6) "Domiciliary state" means the state in which an insurer
168 is incorporated or organized or, in the case of an alien
169 insurer, its state of entry.

170 (7) "Insurer" means any entity licensed by a state to issue
171 contracts of insurance for any of the lines of insurance covered
172 by this compact.

173 (8) "Member" means the person chosen by a compacting state
174 as its representative to the commission, or his or her designee.

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175 (9) "Noncompacting state" means any state which is not at
176 the time a compacting state.

177 (10) "Operating procedures" means procedures adopted by the
178 commission as of December 31, 2011, and subsequent amendments
179 thereto if the methodology remains substantially consistent,
180 implementing a rule, uniform standard, or provision of this
181 compact.

182 (11) "Product" means the form of a policy or contract,
183 including any application, endorsement, or related form which is
184 attached to and made a part of the policy or contract, and any
185 evidence of coverage or certificate, for an individual or group
186 annuity, life insurance, disability income, or long-term care
187 insurance product that an insurer is authorized to issue.

188 (12) "Rule" means a statement of general or particular
189 applicability and future effect adopted by the commission as of
190 December 31, 2011, and subsequent amendments thereto if the
191 methodology remains substantially consistent, including a
192 uniform standard developed pursuant to Article VII, designed to
193 implement, interpret, or prescribe law or policy or describing
194 the organization, procedure, or practice requirements of the
195 commission, which shall have the force and effect of law in the
196 compacting states.

197 (13) "State" means any state, district, or territory of the
198 United States.

199 (14) "Third-party filer" means an entity that submits a
200 product filing to the commission on behalf of an insurer.

201 (15) "Uniform standard" means a standard adopted by the
202 commission as of December 31, 2011, and subsequent amendments
203 thereto if the methodology remains substantially consistent, for

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204 a product line pursuant to Article VII and shall include all of
205 the product requirements in aggregate; provided, each uniform
206 standard shall be construed, whether express or implied, to
207 prohibit the use of any inconsistent, misleading, or ambiguous
208 provisions in a product and the form of the product made
209 available to the public shall not be unfair, inequitable, or
210 against public policy as determined by the commission.

211
212 Article III

213
214 COMMISSION; ESTABLISHMENT; VENUE.—

215 (1) The compacting states hereby create and establish a
216 joint public agency known as the Interstate Insurance Product
217 Regulation Commission. Pursuant to Article IV, the commission
218 has the power to develop uniform standards for product lines,
219 receive and provide prompt review of products filed with the
220 commission, and give approval to those product filings
221 satisfying applicable uniform standards; provided, it is not
222 intended for the commission to be the exclusive entity for
223 receipt and review of insurance product filings. Nothing in this
224 article shall prohibit any insurer from filing its product in
225 any state in which the insurer is licensed to conduct the
226 business of insurance and any such filing shall be subject to
227 the laws of the state where filed.

228 (2) The commission is a body corporate and politic and an
229 instrumentality of the compacting states.

230 (3) The commission is solely responsible for its
231 liabilities, except as otherwise specifically provided in this
232 compact.

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

237 (5) The commission is a not-for-profit entity, separate and
238 distinct from the individual compacting states.

239
240 Article IV

241
242 POWERS.—The commission shall have the following powers to:

243 (1) Adopt rules, pursuant to Article VII, which shall have
244 the force and effect of law and shall be binding in the
245 compacting states to the extent and in the manner provided in
246 this compact.

247 (2) Exercise its rulemaking authority and establish
248 reasonable uniform standards for products covered under the
249 compact, and advertisement related thereto, which shall have the
250 force and effect of law and shall be binding in the compacting
251 states, but only for those products filed with the commission;
252 provided a compacting state shall have the right to opt out of
253 such uniform standard pursuant to Article VII to the extent and
254 in the manner provided in this compact and any uniform standard
255 established by the commission for long-term care insurance
256 products may provide the same or greater protections for
257 consumers as, but shall not provide less than, those protections
258 set forth in the National Association of Insurance
259 Commissioners' Long-Term Care Insurance Model Act and Long-Term
260 Care Insurance Model Regulation, respectively, adopted as of
261 2001. The commission shall consider whether any subsequent

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262 amendments to the National Association of Insurance
263 Commissioners' Long-Term Care Insurance Model Act or Long-Term
264 Care Insurance Model Regulation adopted by the National
265 Association of Insurance Commissioners require amending of the
266 uniform standards established by the commission for long-term
267 care insurance products.

268 (3) Receive and review in an expeditious manner products
269 filed with the commission and rate filings for disability income
270 and long-term care insurance products and give approval of those
271 products and rate filings that satisfy the applicable uniform
272 standard, and such approval shall have the force and effect of
273 law and be binding on the compacting states to the extent and in
274 the manner provided in the compact.

275 (4) Receive and review in an expeditious manner
276 advertisement relating to long-term care insurance products for
277 which uniform standards have been adopted by the commission, and
278 give approval to all advertisement that satisfies the applicable
279 uniform standard. For any product covered under this compact,
280 other than long-term care insurance products, the commission
281 shall have the authority to require an insurer to submit all or
282 any part of its advertisement with respect to that product for
283 review or approval prior to use, if the commission determines
284 that the nature of the product is such that an advertisement of
285 the product could have the capacity or tendency to mislead the
286 public. The actions of the commission as provided in this
287 subsection shall have the force and effect of law and shall be
288 binding in the compacting states to the extent and in the manner
289 provided in the compact.

290 (5) Exercise its rulemaking authority and designate

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291 products and advertisement that may be subject to a self-
292 certification process without the need for prior approval by the
293 commission.

294 (6) Adopt operating procedures, pursuant to Article VII,
295 which shall be binding in the compacting states to the extent
296 and in the manner provided in this compact.

297 (7) Bring and prosecute legal proceedings or actions in its
298 name as the commission; provided the standing of any state
299 insurance department to sue or be sued under applicable law
300 shall not be affected.

301 (8) Issue subpoenas requiring the attendance and testimony
302 of witnesses and the production of evidence.

303 (9) Establish and maintain offices.

304 (10) Purchase and maintain insurance and bonds.

305 (11) Borrow, accept, or contract for services of personnel,
306 including, but not limited to, employees of a compacting state.

307 (12) Hire employees, professionals, or specialists; elect
308 or appoint officers and fix their compensation, define their
309 duties, give them appropriate authority to carry out the
310 purposes of the compact, and determine their qualifications; and
311 establish the commission's personnel policies and programs
312 relating to, among other things, conflicts of interest, rates of
313 compensation, and qualifications of personnel.

314 (13) Accept any and all appropriate donations and grants of
315 money, equipment, supplies, materials, and services and to
316 receive, use, and dispose of the same; provided at all times the
317 commission shall strive to avoid any appearance of impropriety.

318 (14) Lease, purchase, and accept appropriate gifts or
319 donations of, or otherwise to own, hold, improve, or use, any

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320 property, real, personal, or mixed; provided at all times the
321 commission shall strive to avoid any appearance of impropriety.

322 (15) Sell, convey, mortgage, pledge, lease, exchange,
323 abandon, or otherwise dispose of any property, real, personal,
324 or mixed.

325 (16) Remit filing fees to compacting states as may be set
326 forth in the bylaws, rules, or operating procedures.

327 (17) Enforce compliance by compacting states with rules,
328 uniform standards, operating procedures, and bylaws.

329 (18) Provide for dispute resolution among compacting
330 states.

331 (19) Advise compacting states on issues relating to
332 insurers domiciled or doing business in noncompacting
333 jurisdictions, consistent with the purposes of this compact.

334 (20) Provide advice and training to those personnel in
335 state insurance departments responsible for product review and
336 to be a resource for state insurance departments.

337 (21) Establish a budget and make expenditures.

338 (22) Borrow money.

339 (23) Appoint committees, including advisory committees,
340 comprising members, state insurance regulators, state
341 legislators or their representatives, insurance industry and
342 consumer representatives, and such other interested persons as
343 may be designated in the bylaws.

344 (24) Provide and receive information from and to cooperate
345 with law enforcement agencies.

346 (25) Adopt and use a corporate seal.

347 (26) Perform such other functions as may be necessary or
348 appropriate to achieve the purposes of this compact consistent

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349 with the state regulation of the business of insurance.

351 Article V

352 ORGANIZATION.—

353 (1) Membership; voting; bylaws.—

354 (a)1. Each compacting state shall have and be limited to
355 one member. Each member shall be qualified to serve in that
356 capacity pursuant to applicable law of the compacting state. Any
357 member may be removed or suspended from office as provided by
358 the law of the state from which he or she is appointed. Any
359 vacancy occurring in the commission shall be filled in
360 accordance with the laws of the compacting state in which the
361 vacancy exists. Nothing in this article shall be construed to
362 affect the manner in which a compacting state determines the
363 election or appointment and qualification of its own
364 commissioner.

365 2. The Commissioner of Insurance Regulation is hereby
366 designated to serve as the representative of this state on the
367 commission.

368 (b) Each member shall be entitled to one vote and shall
369 have an opportunity to participate in the governance of the
370 commission in accordance with the bylaws. Notwithstanding any
371 other provision of this article, no action of the commission
372 with respect to the adoption of a uniform standard shall be
373 effective unless two-thirds of the members vote in favor of such
374 action.

375 (c) The commission shall, by a majority of the members,
376 prescribe bylaws to govern its conduct as may be necessary or
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378 appropriate to carry out the purposes and exercise the powers of
379 the compact, including, but not limited to:

380 1. Establishing the fiscal year of the commission.

381 2. Providing reasonable procedures for appointing and
382 electing members, as well as holding meetings, of the management
383 committee.

384 3. Providing reasonable standards and procedures:

385 a. For the establishment and meetings of other committees.

386 b. Governing any general or specific delegation of any
387 authority or function of the commission.

388 4. Providing reasonable procedures for calling and
389 conducting meetings of the commission that consist of a majority
390 of commission members, ensuring reasonable advance notice of
391 each such meeting, and providing for the right of citizens to
392 attend each such meeting with enumerated exceptions designed to
393 protect the public's interest, the privacy of individuals, and
394 insurers' proprietary information, including, but not limited
395 to, trade secrets. The commission may meet in camera only after
396 a majority of the entire membership votes to close a meeting in
397 total or in part. As soon as practicable, the commission must
398 make public a copy of the vote to close the meeting revealing
399 the vote of each member with no proxy votes allowed, and votes
400 taken during such meeting.

401 5. Establishing the titles, duties, and authority and
402 reasonable procedures for the election of the officers of the
403 commission.

404 6. Providing reasonable standards and procedures for the
405 establishment of the personnel policies and programs of the
406 commission. Notwithstanding any civil service or other similar

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407 laws of any compacting state, the bylaws shall exclusively
408 govern the personnel policies and programs of the commission.

409 7. Adopting a code of ethics to address permissible and
410 prohibited activities of commission members and employees.

411 8. Providing a mechanism for winding up the operations of
412 the commission and the equitable disposition of any surplus
413 funds that may exist after the termination of the compact after
414 the payment or reserving of all debts and obligations of the
415 commission.

416 (d) The commission shall publish its bylaws in a convenient
417 form and file a copy of such bylaws and a copy of any amendment
418 to such bylaws, with the appropriate agency or officer in each
419 of the compacting states.

420 (2) Management committee, officers, and personnel.—

421 (a) A management committee comprising no more than 14
422 members shall be established as follows:

423 1. One member from each of the six compacting states with
424 the largest premium volume for individual and group annuities,
425 life, disability income, and long-term care insurance products,
426 determined from the records of the National Association of
427 Insurance Commissioners for the prior year.

428 2. Four members from those compacting states with at least
429 2 percent of the market based on the premium volume described
430 above, other than the six compacting states with the largest
431 premium volume, selected on a rotating basis as provided in the
432 bylaws.

433 3. Four members from those compacting states with less than
434 2 percent of the market, based on the premium volume described
435 above, with one selected from each of the four zone regions of

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436 the National Association of Insurance Commissioners as provided
437 in the bylaws.

438 (b) The management committee shall have such authority and
439 duties as may be set forth in the bylaws, including, but not
440 limited to:

441 1. Managing the affairs of the commission in a manner
442 consistent with the bylaws and purposes of the commission.

443 2. Establishing and overseeing an organizational structure
444 within, and appropriate procedures for, the commission to
445 provide for the creation of uniform standards and other rules,
446 receipt and review of product filings, administrative and
447 technical support functions, review of decisions regarding the
448 disapproval of a product filing, and the review of elections
449 made by a compacting state to opt out of a uniform standard;
450 provided a uniform standard shall not be submitted to the
451 compacting states for adoption unless approved by two-thirds of
452 the members of the management committee.

453 3. Overseeing the offices of the commission.

454 4. Planning, implementing, and coordinating communications
455 and activities with other state, federal, and local government
456 organizations in order to advance the goals of the commission.

457 (c) The commission shall elect annually officers from the
458 management committee, with each having such authority and duties
459 as may be specified in the bylaws.

460 (d) The management committee may, subject to the approval
461 of the commission, appoint or retain an executive director for
462 such period, upon such terms and conditions, and for such
463 compensation as the commission may deem appropriate. The
464 executive director shall serve as secretary to the commission

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465 but shall not be a member of the commission. The executive
466 director shall hire and supervise such other staff as may be
467 authorized by the commission.

468 (3) Legislative and advisory committees.-

469 (a) A legislative committee comprised of state legislators
470 or their designees shall be established to monitor the
471 operations of and make recommendations to the commission,
472 including the management committee; provided the manner of
473 selection and term of any legislative committee member shall be
474 as set forth in the bylaws. Prior to the adoption by the
475 commission of any uniform standard, revision to the bylaws,
476 annual budget, or other significant matter as may be provided in
477 the bylaws, the management committee shall consult with and
478 report to the legislative committee.

479 (b) The commission shall establish two advisory committees,
480 one comprising consumer representatives independent of the
481 insurance industry and the other comprising insurance industry
482 representatives.

483 (c) The commission may establish additional advisory
484 committees as the bylaws may provide for the carrying out of
485 commission functions.

486 (4) Corporate records of the commission.-The commission
487 shall maintain its corporate books and records in accordance
488 with the bylaws.

489 (5) Qualified immunity, defense and indemnification.-

490 (a) The members, officers, executive director, employees,
491 and representatives of the commission shall be immune from suit
492 and liability, either personally or in their official capacity,
493 for any claim for damage to or loss of property or personal

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494 injury or other civil liability caused by or arising out of any
495 actual or alleged act, error, or omission that occurred, or that
496 the person against whom the claim is made had a reasonable basis
497 for believing occurred within the scope of commission
498 employment, duties, or responsibilities; provided nothing in
499 this paragraph shall be construed to protect any such person
500 from suit or liability for any damage, loss, injury, or
501 liability caused by the intentional or willful and wanton
502 misconduct of that person.

503 (b) The commission shall defend any member, officer,
504 executive director, employee, or representative of the
505 commission in any civil action seeking to impose liability
506 arising out of any actual or alleged act, error, or omission
507 that occurred within the scope of commission employment, duties,
508 or responsibilities, or that the person against whom the claim
509 is made had a reasonable basis for believing occurred within the
510 scope of commission employment, duties, or responsibilities;
511 provided nothing in this article shall be construed to prohibit
512 that person from retaining his or her own counsel and the actual
513 or alleged act, error, or omission did not result from that
514 person's intentional or willful and wanton misconduct.

515 (c) The commission shall indemnify and hold harmless any
516 member, officer, executive director, employee, or representative
517 of the commission for the amount of any settlement or judgment
518 obtained against that person arising out of any actual or
519 alleged act, error, or omission that occurred within the scope
520 of commission employment, duties, or responsibilities, or that
521 such person had a reasonable basis for believing occurred within
522 the scope of commission employment, duties, or responsibilities;

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523 provided the actual or alleged act, error, or omission did not
524 result from the intentional or willful and wanton misconduct of
525 that person.

526 Article VI

527 MEETINGS; ACTS.—

529 (1) The commission shall meet and take such actions as are
530 consistent with the provisions of this compact and the bylaws.

531 (2) Each member of the commission shall have the right and
532 power to cast a vote to which that compacting state is entitled
533 and to participate in the business and affairs of the
534 commission. A member shall vote in person or by such other means
535 as provided in the bylaws. The bylaws may provide for members'
536 participation in meetings by telephone or other means of
537 communication.

538 (3) The commission shall meet at least once during each
539 calendar year. Additional meetings shall be held as set forth in
540 the bylaws.

541 Article VII

542 RULES AND OPERATING PROCEDURES; RULEMAKING FUNCTIONS OF THE

543 COMMISSION; OPTING OUT OF UNIFORM STANDARDS.—

544 (1) Rulemaking authority.—The commission shall adopt
545 reasonable rules, including uniform standards, and operating
546 procedures in order to effectively and efficiently achieve the
547 purposes of this compact. Notwithstanding such requirement, if
548 the commission exercises its rulemaking authority in a manner

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552 that is beyond the scope of the purposes of this compact or the
553 powers granted under this compact, such action by the commission
554 shall be invalid and have no force and effect.

555 (2) Rulemaking procedure.—Rules and operating procedures
556 shall be made pursuant to a rulemaking process that conforms to
557 the Model State Administrative Procedure Act of 1981, as
558 amended, as may be appropriate to the operations of the
559 commission. Before the commission adopts a uniform standard, the
560 commission shall give written notice to the relevant state
561 legislative committees in each compacting state responsible for
562 insurance issues of its intention to adopt the uniform standard.
563 The commission in adopting a uniform standard shall consider
564 fully all submitted materials and issue a concise explanation of
565 its decision.

566 (3) Effective date and opt out of a uniform standard.—A
567 uniform standard shall become effective 90 days after its
568 adoption by the commission or such later date as the commission
569 may determine; provided a compacting state may opt out of a
570 uniform standard as provided in this article. The term "opt out"
571 means any action by a compacting state to decline to adopt or
572 participate in an adopted uniform standard. All other rules and
573 operating procedures, and amendments thereto, shall become
574 effective as of the date specified in each rule, operating
575 procedure, or amendment.

576 (4) Opt out procedure.—

577 (a) A compacting state may opt out of a uniform standard by
578 legislation or regulation adopted by the Office of Insurance
579 Regulation of the Financial Services Commission under such
580 state's Administrative Procedure Act. For purposes of this

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581 compact and this state, the Office of Insurance Regulation of
582 the Department of Financial Services constitutes this state's
583 agency for purposes of this subsection. If a compacting state
584 elects to opt out of a uniform standard by regulation, such
585 state must:

586 1. Give written notice to the commission no later than 10
587 business days after the uniform standard is adopted, or at the
588 time the state becomes a compacting state.

589 2. Find that the uniform standard does not provide
590 reasonable protections to the citizens of the state, given the
591 conditions in the state.

592 (b) The commissioner shall make specific findings of fact
593 and conclusions of law, based on a preponderance of the
594 evidence, detailing the conditions in the state which warrant a
595 departure from the uniform standard and determining that the
596 uniform standard would not reasonably protect the citizens of
597 the state. The commissioner must consider and balance the
598 following factors and find that the conditions in the state and
599 needs of the citizens of the state outweigh:

600 1. The intent of the Legislature to participate in, and the
601 benefits of, an interstate agreement to establish national
602 uniform consumer protections for the products subject to this
603 compact.

604 2. The presumption that a uniform standard adopted by the
605 commission provides reasonable protections to consumers of the
606 relevant product.

607
608 Notwithstanding this subsection, a compacting state may, at the
609 time of its enactment of this compact, prospectively opt out of

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610 all uniform standards involving long-term care insurance
611 products by expressly providing for such opt out in the enacted
612 compact, and such an opt out shall not be treated as a material
613 variance in the offer or acceptance of any state to participate
614 in this compact. Such an opt out shall be effective at the time
615 of enactment of this compact by the compacting state and shall
616 apply to all existing uniform standards involving long-term care
617 insurance products and those subsequently adopted.

618 (5) Effect of opting out.—If a compacting state elects to
619 opt out of a uniform standard, the uniform standard shall remain
620 applicable in the compacting state electing to opt out until
621 such time the opt out legislation is enacted into law or the
622 regulation opting out becomes effective. Once the opt out of a
623 uniform standard by a compacting state becomes effective as
624 provided under the laws of that state, the uniform standard
625 shall have no further force and effect in that state unless and
626 until the legislation or regulation implementing the opt out is
627 repealed or otherwise becomes ineffective under the laws of the
628 state. If a compacting state opts out of a uniform standard
629 after the uniform standard has been made effective in that
630 state, the opt out shall have the same prospective effect as
631 provided under Article XIV for withdrawals.

632 (6) Stay of uniform standard.—If a compacting state has
633 formally initiated the process of opting out of a uniform
634 standard by regulation, and while the regulatory opt out is
635 pending, the compacting state may petition the commission, at
636 least 15 days before the effective date of the uniform standard,
637 to stay the effectiveness of the uniform standard in that state.
638 The commission may grant a stay if the commission determines the

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639 regulatory opt out is being pursued in a reasonable manner and
640 there is a likelihood of success. If a stay is granted or
641 extended by the commission, the stay or extension thereof may
642 postpone the effective date by up to 90 days, unless
643 affirmatively extended by the commission; provided a stay may
644 not be permitted to remain in effect for more than 1 year unless
645 the compacting state can show extraordinary circumstances which
646 warrant a continuance of the stay, including, but not limited
647 to, the existence of a legal challenge which prevents the
648 compacting state from opting out. A stay may be terminated by
649 the commission upon notice that the rulemaking process has been
650 terminated.

651 (7) Judicial review.—Not later than 30 days after a rule or
652 operating procedure is adopted, any person may file a petition
653 for judicial review of the rule or operating procedure; provided
654 the filing of such a petition shall not stay or otherwise
655 prevent the rule or operating procedure from becoming effective
656 unless the court finds that the petitioner has a substantial
657 likelihood of success. The court shall give deference to the
658 actions of the commission consistent with applicable law and
659 shall not find the rule or operating procedure to be unlawful if
660 the rule or operating procedure represents a reasonable exercise
661 of the commission's authority.

662 Article VIII

663 COMMISSION RECORDS AND ENFORCEMENT.—

664
665
666 (1) The commission shall adopt rules establishing
667 conditions and procedures for public inspection and copying of

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668 its information and official records, except such information
669 and records involving the privacy of individuals and insurers'
670 trade secrets. The commission may adopt additional rules under
671 which the commission may make available to federal and state
672 agencies, including law enforcement agencies, records and
673 information otherwise exempt from disclosure and may enter into
674 agreements with such agencies to receive or exchange information
675 or records subject to nondisclosure and confidentiality
676 provisions.

677 (2) Except as to privileged records, data, and information,
678 the laws of any compacting state pertaining to confidentiality
679 or nondisclosure shall not relieve any compacting state
680 commissioner of the duty to disclose any relevant records, data,
681 or information to the commission; provided disclosure to the
682 commission shall not be deemed to waive or otherwise affect any
683 confidentiality requirement; and further provided, except as
684 otherwise expressly provided in this compact, the commission
685 shall not be subject to the compacting state's laws pertaining
686 to confidentiality and nondisclosure with respect to records,
687 data, and information in its possession. Confidential
688 information of the commission shall remain confidential after
689 such information is provided to any commissioner; however, all
690 requests from the public to inspect or copy records, data, or
691 information of the commission received by and in the possession
692 of the Office of Insurance Regulation shall be subject to
693 chapter 119, Florida Statutes.

694 (3) The commission shall monitor compacting states for
695 compliance with duly adopted bylaws, rules, uniform standards,
696 and operating procedures. The commission shall notify any

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697 noncomplying compacting state in writing of its noncompliance
698 with commission bylaws, rules, or operating procedures. If a
699 noncomplying compacting state fails to remedy its noncompliance
700 within the time specified in the notice of noncompliance, the
701 compacting state shall be deemed to be in default as set forth
702 in Article XIV.

703 (4) The commissioner of any state in which an insurer is
704 authorized to do business or is conducting the business of
705 insurance shall continue to exercise his or her authority to
706 oversee the market regulation of the activities of the insurer
707 in accordance with the provisions of the state's law. The
708 commissioner's enforcement of compliance with the compact is
709 governed by the following provisions:

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

718 (b) Before a commissioner may bring an action for violation
719 of any provision, standard, or requirement of the compact
720 relating to the content of an advertisement not approved or
721 certified to the commission, the commission, or an authorized
722 commission officer or employee, must authorize the action.
723 However, authorization pursuant to this paragraph does not
724 require notice to the insurer, opportunity for hearing, or
725 disclosure of requests for authorization or records of the

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726 commission's action on such requests.

727
728 Article IX

729
730 DISPUTE RESOLUTION.—The commission shall attempt, upon the
731 request of a member, to resolve any disputes or other issues
732 that are subject to this compact and which may arise between two
733 or more compacting states, or between compacting states and
734 noncompacting states, and the commission shall adopt an
735 operating procedure providing for resolution of such disputes.

736
737 Article X

738
739 PRODUCT FILING AND APPROVAL.—

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

748 (2) The commission shall establish appropriate filing and
749 review processes and procedures pursuant to commission rules and
750 operating procedures. Notwithstanding any provision of this
751 article, the commission shall adopt rules to establish
752 conditions and procedures under which the commission will
753 provide public access to product filing information. In
754 establishing such rules, the commission shall consider the

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755 interests of the public in having access to such information, as
756 well as protection of personal medical and financial information
757 and trade secrets, that may be contained in a product filing or
758 supporting information.

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

762

763 Article XI

764

765 REVIEW OF COMMISSION DECISIONS REGARDING FILINGS.—

766 (1) Not later than 30 days after the commission has given
767 notice of a disapproved product or advertisement filed with the
768 commission, the insurer or third-party filer whose filing was
769 disapproved may appeal the determination to a review panel
770 appointed by the commission. The commission shall adopt rules to
771 establish procedures for appointing such review panels and
772 provide for notice and hearing. An allegation that the
773 commission, in disapproving a product or advertisement filed
774 with the commission, acted arbitrarily, capriciously, or in a
775 manner that is an abuse of discretion or otherwise not in
776 accordance with the law, is subject to judicial review in
777 accordance with subsection (4) of Article III.

778 (2) The commission shall have authority to monitor, review,
779 and reconsider products and advertisement subsequent to their
780 filing or approval upon a finding that the product does not meet
781 the relevant uniform standard. Where appropriate, the commission
782 may withdraw or modify its approval after proper notice and
783 hearing, subject to the appeal process in subsection (1).

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Article XIIFINANCE.—

(1) The commission shall pay or provide for the payment of the reasonable expenses of the commission's establishment and organization. To fund the cost of the commission's 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 commission 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 the budget has been subject to notice and comment as set forth in Article VII.

(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

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813 donations, and disbursements of all funds under its control. The
814 internal financial accounts of the commission shall be subject
815 to the accounting procedures established under its bylaws. The
816 financial accounts and reports including the system of internal
817 controls and procedures of the commission shall be audited
818 annually by an independent certified public accountant. Upon the
819 determination of the commission, but no less frequently than
820 every 3 years, the review of the independent auditor shall
821 include a management and performance audit of the commission.
822 The commission shall make an annual report to the Governor and
823 the presiding officers of the Legislature of the compacting
824 states, which shall include a report of the independent audit.
825 The commission's internal accounts shall not be confidential and
826 such materials may be shared with the commissioner of any
827 compacting state upon request; provided any work papers related
828 to any internal or independent audit and any information
829 regarding the privacy of individuals and insurers' proprietary
830 information, including trade secrets, shall remain confidential.

831 (7) No compacting state shall have any claim to or
832 ownership of any property held by or vested in the commission or
833 to any commission funds held pursuant to the provisions of this
834 compact.

836 Article XIII

838 COMPACTING STATES, EFFECTIVE DATE, AMENDMENT.—

839 (1) Any state is eligible to become a compacting state.

840 (2) The compact shall become effective and binding upon
841 legislative enactment of the compact into law by two compacting

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842 states; provided the commission shall become effective for
843 purposes of adopting uniform standards for, reviewing, and
844 giving approval or disapproval of, products filed with the
845 commission that satisfy applicable uniform standards only after
846 26 states are compacting states or, alternatively, by states
847 representing greater than 40 percent of the premium volume for
848 life insurance, annuity, disability income, and long-term care
849 insurance products, based on records of the National Association
850 of Insurance Commissioners for the prior year. Thereafter, the
851 compact shall become effective and binding as to any other
852 compacting state upon enactment of the compact into law by that
853 state.

854 (3) Amendments to the compact may be proposed by the
855 commission for enactment by the compacting states. No amendment
856 shall become effective and binding upon the commission and the
857 compacting states unless and until all compacting states enact
858 the amendment into law.

860 Article XIV

862 WITHDRAWAL; DEFAULT; DISSOLUTION.—

863 (1) Withdrawal.—

864 (a) Once effective, the compact shall continue in force and
865 remain binding upon each and every compacting state; provided a
866 compacting state may withdraw from the compact by enacting a law
867 specifically repealing the law which enacted the compact into
868 law.

869 (b) The effective date of withdrawal is the effective date
870 of the repealing law. However, the withdrawal shall not apply to

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871 any product filings approved or self-certified, or any
872 advertisement of such products, on the date the repealing law
873 becomes effective, except by mutual agreement of the commission
874 and the withdrawing state unless the approval is rescinded by
875 the withdrawing state as provided in paragraph (e).

876 (c) The commissioner of the withdrawing state shall
877 immediately notify the management committee in writing upon the
878 introduction of legislation repealing this compact in the
879 withdrawing state.

880 (d) The commission shall notify the other compacting states
881 of the introduction of such legislation within 10 days after the
882 commission's receipt of notice of such legislation.

883 (e) The withdrawing state is responsible for all
884 obligations, duties, and liabilities incurred through the
885 effective date of withdrawal, including any obligations, the
886 performance of which extend beyond the effective date of
887 withdrawal, except to the extent those obligations may have been
888 released or relinquished by mutual agreement of the commission
889 and the withdrawing state. The commission's approval of products
890 and advertisement prior to the effective date of withdrawal
891 shall continue to be effective and be given full force and
892 effect in the withdrawing state unless formally rescinded by the
893 withdrawing state in the same manner as provided by the laws of
894 the withdrawing state for the prospective disapproval of
895 products or advertisement previously approved under state law.

896 (f) Reinstatement following withdrawal of any compacting
897 state shall occur upon the effective date of the withdrawing
898 state reenacting the compact.

899 (2) Default.-

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900 (a) If the commission determines that any compacting state
901 has at any time defaulted in the performance of any of its
902 obligations or responsibilities under this compact, the bylaws,
903 or duly adopted rules or operating procedures, after notice and
904 hearing as set forth in the bylaws, all rights, privileges, and
905 benefits conferred by this compact on the defaulting state shall
906 be suspended from the effective date of default as fixed by the
907 commission. The grounds for default include, but are not limited
908 to, failure of a compacting state to perform its obligations or
909 responsibilities, and any other grounds designated in commission
910 rules. The commission shall immediately notify the defaulting
911 state in writing of the defaulting state's suspension pending a
912 cure of the default. The commission shall stipulate the
913 conditions and the time period within which the defaulting state
914 must cure its default. If the defaulting state fails to cure the
915 default within the time period specified by the commission, the
916 defaulting state shall be terminated from the compact and all
917 rights, privileges, and benefits conferred by this compact shall
918 be terminated from the effective date of termination.

919 (b) Product approvals by the commission or product self-
920 certifications, or any advertisement in connection with such
921 product that are in force on the effective date of termination
922 shall remain in force in the defaulting state in the same manner
923 as if the defaulting state had withdrawn voluntarily pursuant to
924 subsection (1).

925 (c) Reinstatement following termination of any compacting
926 state requires a reenactment of the compact.

927 (3) Dissolution of compact.-

928 (a) The compact dissolves effective upon the date of the

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929 withdrawal or default of the compacting state which reduces
930 membership in the compact to a single compacting state.

931 (b) Upon the dissolution of this compact, the compact
932 becomes null and void and shall be of no further force or effect
933 and the business and affairs of the commission shall be
934 concluded and any surplus funds shall be distributed in
935 accordance with the bylaws.

936

937 Article XV

938

939 SEVERABILITY; CONSTRUCTION.-

940 (1) The provisions of this compact are severable and if any
941 phrase, clause, sentence, or provision is deemed unenforceable,
942 the remaining provisions of the compact shall be enforceable.

943 (2) The provisions of this compact shall be liberally
944 construed to effectuate its purposes.

945

946 Article XVI

947

948 BINDING EFFECT OF COMPACT AND OTHER LAWS.-

949 (1) Binding effect of this compact.-

950 (a) All lawful actions of the commission, including all
951 rules and operating procedures adopted by the commission, are
952 binding upon the compacting states.

953 (b) All agreements between the commission and the
954 compacting states are binding in accordance with their terms.

955 (c) Upon the request of a party to a conflict over the
956 meaning or interpretation of commission actions, and upon a
957 majority vote of the compacting states, the commission may issue

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958 advisory opinions regarding the meaning or interpretation in
959 dispute.

960 (d) If any provision of this compact exceeds the
961 constitutional limits imposed on the Legislature of any
962 compacting state, the obligations, duties, powers, or
963 jurisdiction sought to be conferred by that provision upon the
964 commission shall be ineffective as to that compacting state and
965 those obligations, duties, powers, or jurisdiction shall remain
966 in the compacting state and shall be exercised by the agency of
967 such state to which those obligations, duties, powers, or
968 jurisdiction are delegated by law in effect at the time this
969 compact becomes effective.

970 (2) Other laws.—

971 (a) Nothing in this compact prevents the enforcement of any
972 other law of a compacting state, except as provided in paragraph
973 (b).

974 (b) For any product approved or certified to the
975 commission, the rules, uniform standards, and any other
976 requirements of the commission shall constitute the exclusive
977 provisions applicable to the content, approval, and
978 certification of such products. For advertisement that is
979 subject to the commission's authority, any rule, uniform
980 standard, or other requirement of the commission which governs
981 the content of the advertisement shall constitute the exclusive
982 provision that a commissioner may apply to the content of the
983 advertisement. Notwithstanding this paragraph, no action taken
984 by the commission shall abrogate or restrict:

985 1. The access of any person to state courts;

986 2. Remedies available under state law related to breach of

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987 contract, tort, or other laws not specifically directed to the
988 content of the product;

989 3. State law relating to the construction of insurance
990 contracts; or

991 4. The authority of the attorney general of the state,
992 including, but not limited to, maintaining any actions or
993 proceedings, as authorized by law.

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

996 Section 3. Pursuant to Article VII of the compact
997 authorized in this act, the State of Florida elects to
998 prospectively opt out of all uniform standards contained in the
999 compact involving long-term care insurance products, and such an
1000 opt out may not be treated as a material variance in the offer
1001 or acceptance of this state to participate in the compact.

1002 Section 4. The sum of \$500,000 is appropriated to the
1003 Office of Insurance Regulation from the Insurance Regulatory
1004 Trust Fund to implement this act.

1005 Section 5. This act shall take effect October 1, 2012.