

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 the establishment of an Interstate  
6           Insurance 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 the 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  
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; authorizing the Office of  
56 | Insurance Regulation to adopt rules to implement this

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57 | act and opt out of certain uniform standards;  
58 | providing an effective date.

59 |  
60 | Be It Enacted by the Legislature of the State of Florida:

61 |  
62 | Section 1. Legislative findings; intent.-

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

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

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

80 | (4) The Legislature further finds that the product  
81 | standards that have been developed provide a high level of  
82 | consumer protection. Further, it is noted that the Interstate  
83 | Insurance Product Regulation Compact Model includes a mechanism  
84 | for opting out of any product standard that the state determines

85 would not reasonably protect its citizens. With respect to long-  
 86 term care insurance, the Legislature understands that the  
 87 compact does not intend to develop a uniform standard for rate  
 88 increase filings, thereby leaving the authority over long-term  
 89 care rate increases with the state. The state relies on that  
 90 understanding in adopting this legislation. The state, pursuant  
 91 to the terms and conditions of this act, seeks to join with  
 92 other states and establish the Interstate Insurance Product  
 93 Regulation Compact, and thus become a member of the Interstate  
 94 Insurance Product Regulation Commission. The Commissioner of  
 95 Insurance Regulation is hereby designated to serve as the  
 96 representative of this state on the commission.

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

102  
 103 Interstate Insurance Product Regulation Compact

104  
 105 Preamble

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

113 Commission.

115 Article I

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

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

122 (2) Develop uniform standards for insurance products  
123 covered under the compact.

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

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

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

136 (6) Create the Interstate Insurance Product Regulation  
137 Commission.

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

141  
142 Article II  
143

144 DEFINITIONS.—For purposes of this compact:

145 (1) "Advertisement" means any material designed to create  
146 public interest in a product, or induce the public to purchase,  
147 increase, modify, reinstate, borrow on, surrender, replace, or  
148 retain a policy, as more specifically defined in the rules and  
149 operating procedures of the commission adopted as of December  
150 31, 2011, and subsequent amendments thereto if the methodology  
151 remains substantially consistent.

152 (2) "Bylaws" means those bylaws adopted by the commission  
153 as of March 1, 2013, for its governance or for directing or  
154 controlling the commission's actions or conduct.

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

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, the  
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  
168 insurer 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  
171 issue contracts of insurance for any of the lines of insurance  
172 covered 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.

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

177 (10) "Office" means the Office of Insurance Regulation of  
178 the Department of Financial Services.

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

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

190 (13) "Rule" means a statement of general or particular  
191 applicability and future effect adopted by the commission as of  
192 March 1, 2013, and subsequent amendments thereto if the  
193 methodology remains substantially consistent, including a  
194 uniform standard developed pursuant to Article VII of this  
195 compact, designed to implement, interpret, or prescribe law or  
196 policy or describe the organization, procedure, or practice

197 requirements of the commission, which shall have the force and  
 198 effect of law in the compacting states.

199 (14) "State" means any state, district, or territory of  
 200 the United States.

201 (15) "Third-party filer" means an entity that submits a  
 202 product filing to the commission on behalf of an insurer.

203 (16) "Uniform standard" means a standard adopted by the  
 204 commission as of March 1, 2013, and subsequent amendments  
 205 thereto if the methodology remains substantially consistent, for  
 206 a product line pursuant to Article VII of this compact and shall  
 207 include all of the product requirements in aggregate; provided,  
 208 each uniform standard shall be construed, whether express or  
 209 implied, to prohibit the use of any inconsistent, misleading, or  
 210 ambiguous provisions in a product and the form of the product  
 211 made available to the public shall not be unfair, inequitable,  
 212 or against public policy as determined by the commission.

213  
 214 Article III

215  
 216 COMMISSION; ESTABLISHMENT; VENUE.—

217 (1) The compacting states hereby create and establish a  
 218 joint public agency known as the Interstate Insurance Product  
 219 Regulation Commission. Pursuant to Article IV of this compact,  
 220 the commission has the power to develop uniform standards for  
 221 product lines, receive and provide prompt review of products  
 222 filed with the commission, and give approval to those product  
 223 filings satisfying applicable uniform standards; provided, it is  
 224 not intended for the commission to be the exclusive entity for

225 receipt and review of insurance product filings. Nothing in this  
226 article shall prohibit any insurer from filing its product in  
227 any state in which the insurer is licensed to conduct the  
228 business of insurance and any such filing shall be subject to  
229 the laws of the state where filed.

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

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

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

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

#### 241 242 Article IV

243  
244 POWERS.—The commission shall have the following powers to:

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

249 (2) Exercise its rulemaking authority and establish  
250 reasonable uniform standards for products covered under the  
251 compact, and advertisement related thereto, which shall have the  
252 force and effect of law and shall be binding in the compacting

253 states, but only for those products filed with the commission;  
 254 provided a compacting state shall have the right to opt out of  
 255 such uniform standard pursuant to Article VII to the extent and  
 256 in the manner provided in this compact and any uniform standard  
 257 established by the commission for long-term care insurance  
 258 products may provide the same or greater protections for  
 259 consumers as, but shall provide at least, those protections set  
 260 forth in the National Association of Insurance Commissioners'  
 261 Long-Term Care Insurance Model Act and Long-Term Care Insurance  
 262 Model Regulation, respectively, adopted as of 2001. The  
 263 commission shall consider whether any subsequent amendments to  
 264 the National Association of Insurance Commissioners' Long-Term  
 265 Care Insurance Model Act or Long-Term Care Insurance Model  
 266 Regulation adopted by the National Association of Insurance  
 267 Commissioners require amending of the uniform standards  
 268 established by the commission for long-term care insurance  
 269 products.

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

277 (4) Receive and review in an expeditious manner  
 278 advertisement relating to long-term care insurance products for  
 279 which uniform standards have been adopted by the commission, and  
 280 give approval to all advertisement that satisfies the applicable

281 uniform standard. For any product covered under this compact,  
282 other than long-term care insurance products, the commission  
283 shall have the authority to require an insurer to submit all or  
284 any part of its advertisement with respect to that product for  
285 review or approval prior to use, if the commission determines  
286 that the nature of the product is such that an advertisement of  
287 the product could have the capacity or tendency to mislead the  
288 public. The actions of the commission as provided in this  
289 subsection shall have the force and effect of law and shall be  
290 binding in the compacting states to the extent and in the manner  
291 provided in the compact.

292 (5) Exercise its rulemaking authority and designate  
293 products and advertisement that may be subject to a self-  
294 certification process without the need for prior approval by the  
295 commission.

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

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

303 (8) Issue subpoenas requiring the attendance and testimony  
304 of witnesses and the production of evidence.

305 (9) Establish and maintain offices.

306 (10) Purchase and maintain insurance and bonds.

307 (11) Borrow, accept, or contract for services of  
308 personnel, including, but not limited to, employees of a

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309 compacting state.

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

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

321 (14) Lease, purchase, and accept appropriate gifts or  
322 donations of, or otherwise to own, hold, improve, or use, any  
323 property, real, personal, or mixed; provided at all times the  
324 commission shall strive to avoid any appearance of impropriety.

325 (15) Sell, convey, mortgage, pledge, lease, exchange,  
326 abandon, or otherwise dispose of any property, real, personal,  
327 or mixed.

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

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

332 (18) Provide for dispute resolution among compacting  
333 states.

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

337 (20) Provide advice and training to those personnel in  
338 state insurance departments responsible for product review and  
339 to be a resource for state insurance departments.

340 (21) Establish a budget and make expenditures.

341 (22) Borrow money.

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

347 (24) Provide and receive information from and to cooperate  
348 with law enforcement agencies.

349 (25) Adopt and use a corporate seal.

350 (26) Perform such other functions as may be necessary or  
351 appropriate to achieve the purposes of this compact consistent  
352 with the state regulation of the business of insurance.

353  
354 Article V

355  
356 ORGANIZATION.—

357 (1) Membership; voting; bylaws.—

358 (a)1. Each compacting state shall have and be limited to  
359 one member. Each member shall be qualified to serve in that  
360 capacity pursuant to applicable law of the compacting state. Any  
361 member may be removed or suspended from office as provided by  
362 the law of the state from which he or she is appointed. Any  
363 vacancy occurring in the commission shall be filled in  
364 accordance with the laws of the compacting state in which the

365 vacancy exists. Nothing in this article shall be construed to  
366 affect the manner in which a compacting state determines the  
367 election or appointment and qualification of its own  
368 commissioner.

369 2. The Commissioner of Insurance Regulation is hereby  
370 designated to serve as the representative of this state on the  
371 commission.

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

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

383 1. Establishing the fiscal year of the commission.

384 2. Providing reasonable procedures for appointing and  
385 electing members, as well as holding meetings, of the management  
386 committee.

387 3. Providing reasonable standards and procedures:

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

389 b. Governing any general or specific delegation of any  
390 authority or function of the commission.

391 4. Providing reasonable procedures for calling and  
392 conducting meetings of the commission that consist of a majority

393 of commission members, ensuring reasonable advance notice of  
394 each such meeting, and providing for the right of citizens to  
395 attend each such meeting with enumerated exceptions designed to  
396 protect the public's interest, the privacy of individuals, and  
397 insurers' proprietary information, including, but not limited  
398 to, trade secrets. The commission may meet in camera only after  
399 a majority of the entire membership votes to close a meeting in  
400 total or in part. As soon as practicable, the commission must  
401 make public a copy of the vote to close the meeting revealing  
402 the vote of each member with no proxy votes allowed, and votes  
403 taken during such meeting. All notices of commission meetings,  
404 including instructions for public participation, received by the  
405 Office shall be published in the Florida Administrative  
406 Register.

407 5. Establishing the titles, duties, and authority and  
408 reasonable procedures for the election of the officers of the  
409 commission.

410 6. Providing reasonable standards and procedures for the  
411 establishment of the personnel policies and programs of the  
412 commission. Notwithstanding any civil service or other similar  
413 laws of any compacting state, the bylaws shall exclusively  
414 govern the personnel policies and programs of the commission.

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

417 8. Providing a mechanism for winding up the operations of  
418 the commission and the equitable disposition of any surplus  
419 funds that may exist after the termination of the compact after  
420 the payment or reserving of all debts and obligations of the

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421 commission.

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

426 (2) Management committee, officers, and personnel.-

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

429 1. One member from each of the six compacting states with  
430 the largest premium volume for individual and group annuities,  
431 life, disability income, and long-term care insurance products,  
432 determined from the records of the National Association of  
433 Insurance Commissioners for the prior year.

434 2. Four members from those compacting states with at least  
435 2 percent of the market based on the premium volume described  
436 above, other than the six compacting states with the largest  
437 premium volume, selected on a rotating basis as provided in the  
438 bylaws.

439 3. Four members from those compacting states with less  
440 than 2 percent of the market, based on the premium volume  
441 described above, with one selected from each of the four zone  
442 regions of the National Association of Insurance Commissioners  
443 as provided in the bylaws.

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

447 1. Managing the affairs of the commission in a manner  
448 consistent with the bylaws and purposes of the commission.

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

459       3. Overseeing the offices of the commission.

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

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

466       (d) The management committee may, subject to the approval  
467 of the commission, appoint or retain an executive director for  
468 such period, upon such terms and conditions, and for such  
469 compensation as the commission may deem appropriate. The  
470 executive director shall serve as secretary to the commission  
471 but shall not be a member of the commission. The executive  
472 director shall hire and supervise such other staff as may be  
473 authorized by the commission.

474       (3) Legislative and advisory committees.-

475       (a) A legislative committee comprised of state legislators  
476 or their designees shall be established to monitor the

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477 operations of and make recommendations to the commission,  
478 including the management committee; provided the manner of  
479 selection and term of any legislative committee member shall be  
480 as set forth in the bylaws. Prior to the adoption by the  
481 commission of any uniform standard, revision to the bylaws,  
482 annual budget, or other significant matter as may be provided in  
483 the bylaws, the management committee shall consult with and  
484 report to the legislative committee.

485 (b) The commission shall establish two advisory  
486 committees, one comprising consumer representatives independent  
487 of the insurance industry and the other comprising insurance  
488 industry representatives.

489 (c) The commission may establish additional advisory  
490 committees as the bylaws may provide for the carrying out of  
491 commission functions.

492 (4) Corporate records of the commission.—The commission  
493 shall maintain its corporate books and records in accordance  
494 with the bylaws.

495 (5) Qualified immunity, defense and indemnification.—

496 (a) The members, officers, executive director, employees,  
497 and representatives of the commission shall be immune from suit  
498 and liability, either personally or in their official capacity,  
499 for any claim for damage to or loss of property or personal  
500 injury or other civil liability caused by or arising out of any  
501 actual or alleged act, error, or omission that occurred, or that  
502 the person against whom the claim is made had a reasonable basis  
503 for believing occurred within the scope of commission  
504 employment, duties, or responsibilities; provided nothing in

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505 this paragraph shall be construed to protect any such person  
506 from suit or liability for any damage, loss, injury, or  
507 liability caused by the intentional or willful and wanton  
508 misconduct of that person.

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

521 (c) The commission shall indemnify and hold harmless any  
522 member, officer, executive director, employee, or representative  
523 of the commission for the amount of any settlement or judgment  
524 obtained against that person arising out of any actual or  
525 alleged act, error, or omission that occurred within the scope  
526 of commission employment, duties, or responsibilities, or that  
527 such person had a reasonable basis for believing occurred within  
528 the scope of commission employment, duties, or responsibilities;  
529 provided the actual or alleged act, error, or omission did not  
530 result from the intentional or willful and wanton misconduct of  
531 that person.

532

Article VI

MEETINGS; ACTS.—

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

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

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

Article VII

RULES AND OPERATING PROCEDURES; RULEMAKING FUNCTIONS OF THE COMMISSION; OPTING OUT OF UNIFORM STANDARDS.—

(1) Rulemaking authority.—The commission shall adopt reasonable rules, including uniform standards, and operating procedures in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding such requirement, if the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact or the powers granted under this compact, such action by the commission shall be invalid and have no force and effect.

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

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

582       (4) Opt out procedure.—

583       (a) A compacting state may opt out of a uniform standard  
584 by legislation or regulation adopted by the office under such  
585 state's Administrative Procedure Act. For purposes of this  
586 compact and this state, the Office of the Department of  
587 Financial Services constitutes this state's agency for purposes  
588 of this subsection. If a compacting state elects to opt out of a

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589 uniform standard by regulation, such state must:

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

593 2. Find that the uniform standard does not provide  
594 reasonable protections to the citizens of the state, given the  
595 conditions in the state.

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

604 1. The intent of the Legislature to participate in, and  
605 the benefits of, an interstate agreement to establish national  
606 uniform consumer protections for the products subject to this  
607 compact.

608 2. The presumption that a uniform standard adopted by the  
609 commission provides reasonable protections to consumers of the  
610 relevant product.

611  
612 Notwithstanding this subsection, a compacting state may, at the  
613 time of its enactment of this compact, prospectively opt out of  
614 all uniform standards involving long-term care insurance  
615 products by expressly providing for such opt out in the enacted  
616 compact, and such an opt out shall not be treated as a material

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617 variance in the offer or acceptance of any state to participate  
618 in this compact. Such an opt out shall be effective at the time  
619 of enactment of this compact by the compacting state and shall  
620 apply to all existing uniform standards involving long-term care  
621 insurance products and those subsequently adopted.

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

636 (6) Stay of uniform standard.—If a compacting state has  
637 formally initiated the process of opting out of a uniform  
638 standard by regulation, and while the regulatory opt out is  
639 pending, the compacting state may petition the commission, at  
640 least 15 days before the effective date of the uniform standard,  
641 to stay the effectiveness of the uniform standard in that state.  
642 The commission may grant a stay if the commission determines the  
643 regulatory opt out is being pursued in a reasonable manner and  
644 there is a likelihood of success. If a stay is granted or

645 extended by the commission, the stay or extension thereof may  
 646 postpone the effective date by up to 90 days, unless  
 647 affirmatively extended by the commission; provided a stay may  
 648 not be permitted to remain in effect for more than 1 year unless  
 649 the compacting state can show extraordinary circumstances which  
 650 warrant a continuance of the stay, including, but not limited  
 651 to, the existence of a legal challenge which prevents the  
 652 compacting state from opting out. A stay may be terminated by  
 653 the commission upon notice that the rulemaking process has been  
 654 terminated.

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

666  
 667 Article VIII  
 668

669 COMMISSION RECORDS AND ENFORCEMENT.—

670 (1) The commission shall adopt rules establishing  
 671 conditions and procedures for public inspection and copying of  
 672 its information and official records, except such information

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

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

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

701 noncomplying compacting state in writing of its noncompliance  
702 with commission bylaws, rules, or operating procedures. If a  
703 noncomplying compacting state fails to remedy its noncompliance  
704 within the time specified in the notice of noncompliance, the  
705 compacting state shall be deemed to be in default as set forth  
706 in Article XIV of this compact.

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

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

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

729 disclosure of requests for authorization or records of the  
730 commission's action on such requests.

731

732 Article IX

733

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

740

741 Article X

742

743 PRODUCT FILING AND APPROVAL.—

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

752 (2) The commission shall establish appropriate filing and  
753 review processes and procedures pursuant to commission rules and  
754 operating procedures. Notwithstanding any provision of this  
755 article, the commission shall adopt rules to establish  
756 conditions and procedures under which the commission will

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757 provide public access to product filing information. In  
758 establishing such rules, the commission shall consider the  
759 interests of the public in having access to such information, as  
760 well as protection of personal medical and financial information  
761 and trade secrets, that may be contained in a product filing or  
762 supporting information.

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

766  
767 Article XI  
768

769 REVIEW OF COMMISSION DECISIONS REGARDING FILINGS.—

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

782 (2) The commission shall have authority to monitor,  
783 review, and reconsider products and advertisement subsequent to  
784 their filing or approval upon a finding that the product does

785 not meet the relevant uniform standard. Where appropriate, the  
 786 commission may withdraw or modify its approval after proper  
 787 notice and hearing, subject to the appeal process in subsection  
 788 (1).

790 Article XII

792 FINANCE.—

793 (1) The commission shall pay or provide for the payment of  
 794 the reasonable expenses of the commission's establishment and  
 795 organization. To fund the cost of the commission's initial  
 796 operations, the commission may accept contributions and other  
 797 forms of funding from the National Association of Insurance  
 798 Commissioners, compacting states, and other sources.  
 799 Contributions and other forms of funding from other sources  
 800 shall be of such a nature that the independence of the  
 801 commission concerning the performance of commission duties shall  
 802 not be compromised.

803 (2) The commission shall collect a filing fee from each  
 804 insurer and third-party filer filing a product with the  
 805 commission to cover the cost of the operations and activities of  
 806 the commission and its staff in a total amount sufficient to  
 807 cover the commission's annual budget.

808 (3) The commission's budget for a fiscal year shall not be  
 809 approved until the budget has been subject to notice and comment  
 810 as set forth in Article VII.

811 (4) The commission shall be exempt from all taxation in  
 812 and by the compacting states.

813       (5) The commission shall not pledge the credit of any  
814 compacting state, except by and with the appropriate legal  
815 authority of that compacting state.

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

836       (7) No compacting state shall have any claim to or  
837 ownership of any property held by or vested in the commission or  
838 to any commission funds held pursuant to the provisions of this  
839 compact.

840

Article XIII

COMPACTING STATES, EFFECTIVE DATE, AMENDMENT.—

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

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

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

Article XIV

WITHDRAWAL; DEFAULT; DISSOLUTION.—

(1) Withdrawal.—

869 (a) Once effective, the compact shall continue in force  
870 and remain binding upon each and every compacting state;  
871 provided a compacting state may withdraw from the compact by  
872 enacting a law specifically repealing the law which enacted the  
873 compact into law.

874 (b) The effective date of withdrawal is the effective date  
875 of the repealing law. However, the withdrawal shall not apply to  
876 any product filings approved or self-certified, or any  
877 advertisement of such products, on the date the repealing law  
878 becomes effective, except by mutual agreement of the commission  
879 and the withdrawing state unless the approval is rescinded by  
880 the withdrawing state as provided in paragraph (e).

881 (c) The commissioner of the withdrawing state shall  
882 immediately notify the management committee in writing upon the  
883 introduction of legislation repealing this compact in the  
884 withdrawing state.

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

888 (e) The withdrawing state is responsible for all  
889 obligations, duties, and liabilities incurred through the  
890 effective date of withdrawal, including any obligations, the  
891 performance of which extend beyond the effective date of  
892 withdrawal, except to the extent those obligations may have been  
893 released or relinquished by mutual agreement of the commission  
894 and the withdrawing state. The commission's approval of products  
895 and advertisement prior to the effective date of withdrawal  
896 shall continue to be effective and be given full force and

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897 effect in the withdrawing state unless formally rescinded by the  
898 withdrawing state in the same manner as provided by the laws of  
899 the withdrawing state for the prospective disapproval of  
900 products or advertisement previously approved under state law.

901 (f) Reinstatement following withdrawal of any compacting  
902 state shall occur upon the effective date of the withdrawing  
903 state reenacting the compact.

904 (2) Default.—

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

924 (b) Product approvals by the commission or product self-

925 certifications, or any advertisement in connection with such  
926 product that are in force on the effective date of termination  
927 shall remain in force in the defaulting state in the same manner  
928 as if the defaulting state had withdrawn voluntarily pursuant to  
929 subsection (1).

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

932 (3) Dissolution of compact.—

933 (a) The compact dissolves effective upon the date of the  
934 withdrawal or default of the compacting state which reduces  
935 membership in the compact to a single compacting state.

936 (b) Upon the dissolution of this compact, the compact  
937 becomes null and void and shall be of no further force or effect  
938 and the business and affairs of the commission shall be  
939 concluded and any surplus funds shall be distributed in  
940 accordance with the bylaws.

941  
942 Article XV

943  
944 SEVERABILITY; CONSTRUCTION.—

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

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

951  
952 Article XVI

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BINDING EFFECT OF COMPACT AND OTHER LAWS.—

(1) Binding effect of this compact.—

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

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

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

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

(2) Other laws.—

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

(b) For any product approved or certified to the

981 commission, the rules, uniform standards, and any other  
 982 requirements of the commission shall constitute the exclusive  
 983 provisions applicable to the content, approval, and  
 984 certification of such products. For advertisement that is  
 985 subject to the commission's authority, any rule, uniform  
 986 standard, or other requirement of the commission which governs  
 987 the content of the advertisement shall constitute the exclusive  
 988 provision that a commissioner may apply to the content of the  
 989 advertisement. Notwithstanding this paragraph, no action taken  
 990 by the commission shall abrogate or restrict:

- 991 1. The access of any person to state courts;
- 992 2. Remedies available under state law related to breach of  
 993 contract, tort, or other laws not specifically directed to the  
 994 content of the product;
- 995 3. State law relating to the construction of insurance  
 996 contracts; or
- 997 4. The authority of the attorney general of the state,  
 998 including, but not limited to, maintaining any actions or  
 999 proceedings, as authorized by law.

1000 (c) All insurance products filed with individual states  
 1001 shall be subject to the laws of those states.

1002 Section 3. Pursuant to Article VII of the compact  
 1003 authorized in this act, this state elects to prospectively opt  
 1004 out of all uniform standards contained in the compact involving  
 1005 long-term care insurance products, and such an opt out may not  
 1006 be treated as a material variance in the offer or acceptance of  
 1007 this state to participate in the compact.

1008 Section 4. The Office of Insurance Regulation may adopt

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1009 | rules to implement this act. The office may use the rulemaking  
1010 | authority granted in this section to opt out of any new uniform  
1011 | standards adopted after the effective date of this act, pursuant  
1012 | to Article VII, until such standards are approved by the  
1013 | Legislature.

1014 |       Section 5. This act shall take effect October 1, 2013.