

SECOND REGULAR SESSION

# SENATE BILL NO. 783

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LOUDON.

Pre-filed December 1, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

3684S.011

## AN ACT

To amend chapter 374, RSMo, by adding thereto three new sections relating to the Interstate Insurance Product Regulation Compact.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 374, RSMo, is amended by adding thereto three new sections, to be known as sections 374.350, 374.351, and 374.352, to read as follows:

**374.350. Sections 374.350 to 374.352 may be cited as the "Interstate Insurance Product Regulation Compact".**

**374.351. The Interstate Insurance Product Regulation Compact is intended to help States join together to establish an interstate compact to regulate designated insurance products. Pursuant to terms and conditions of this Act, the State of Missouri seeks to join with other States and establish the Interstate Insurance Product Regulation Compact, and thus become a member of the Interstate Insurance Product Regulation Commission. The Director of the Department of Insurance, Financial and Professional Regulation is hereby designated to serve as the representative of this State to the Commission.**

**374.352. The State of Missouri ratifies, approves, and adopts the following interstate compact:**

### ARTICLE I. PURPOSES

**The purposes of this Compact are, through means of joint and cooperative action among the Compacting States:**

**1. To promote and protect the interest of consumers of individual and group annuity, life insurance, disability income and long-term care insurance products;**

**2. To develop uniform standards for insurance products covered**

10 under the Compact;

11 3. To establish a central clearinghouse to receive and provide  
12 prompt review of insurance products covered under the Compact and,  
13 in certain cases, advertisements related thereto, submitted by insurers  
14 authorized to do business in one or more Compacting States;

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

17 5. To improve coordination of regulatory resources and expertise  
18 between state insurance departments regarding the setting of uniform  
19 standards and review of insurance products covered under the  
20 Compact;

21 6. To create the Interstate Insurance Product Regulation  
22 Commission; and

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

## 25 ARTICLE II. DEFINITIONS

26 For purposes of this Compact:

27 1. "Advertisement" means any material designed to create public  
28 interest in a Product, or induce the public to purchase, increase,  
29 modify, reinstate, borrow on, surrender, replace or retain a policy, as  
30 more specifically defined in the Rules and Operating Procedures of the  
31 Commission.

32 2. "Bylaws" mean those bylaws established by the Commission for  
33 its governance, or for directing or controlling the Commission's actions  
34 or conduct.

35 3. "Compacting State" means any State which has enacted this  
36 Compact legislation and which has not withdrawn pursuant to Article  
37 XIV, Section 1, or been terminated pursuant to Article XIV, Section 2.

38 4. "Commission" means the "Interstate Insurance Product  
39 Regulation Commission" established by this Compact.

40 5. "Commissioner" means the chief insurance regulatory official  
41 of a State including, but not limited to commissioner, superintendent,  
42 director or administrator.

43 6. "Domiciliary State" means the state in which an Insurer is  
44 incorporated or organized; or, in the case of an alien Insurer, its state  
45 of entry.

46 7. "Insurer" means any entity licensed by a State to issue

47 contracts of insurance for any of the lines of insurance covered by this  
48 Act.

49 8. "Member" means the person chosen by a Compacting State as  
50 its representative to the Commission, or his or her designee.

51 9. "Non-compacting State" means any State which is not at the  
52 time a Compacting State.

53 10. "Operating Procedures" mean procedures promulgated by the  
54 Commission implementing a Rule, Uniform Standard or a provision of  
55 this Compact.

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

62 12. "Rule" means a statement of general or particular  
63 applicability and future effect promulgated by the Commission,  
64 including a Uniform Standard developed pursuant to Article VII of this  
65 Compact, designed to implement, interpret, or prescribe law or policy  
66 or describing the organization, procedure, or practice requirements of  
67 the Commission, which shall have the force and effect of law in the  
68 Compacting States.

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

71 14. "Third-Party Filer" means an entity that submits a Product  
72 filing to the Commission on behalf of an Insurer.

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

### 81 ARTICLE III. ESTABLISHMENT OF THE COMMISSION AND VENUE

82 1. The Compacting States hereby create and establish a joint  
83 public agency known as the "Interstate Insurance Product Regulation

84 Commission." Pursuant to Article IV, the Commission will have the  
85 power to develop Uniform Standards for Product lines, receive and  
86 provide prompt review of Products filed therewith, and give approval  
87 to those Product filings satisfying applicable Uniform Standards;  
88 provided, it is not intended for the Commission to be the exclusive  
89 entity for receipt and review of insurance product filings. Nothing  
90 herein shall prohibit any Insurer from filing its product in any State  
91 wherein the Insurer is licensed to conduct the business of insurance;  
92 and any such filing shall be subject to the laws of the State where filed.

93 2. The Commission is a body corporate and politic, and an  
94 instrumentality of the Compacting States.

95 3. The Commission is solely responsible for its liabilities except  
96 as otherwise specifically provided in this Compact.

97 4. Venue is proper and judicial proceedings by or against the  
98 Commission shall be brought solely and exclusively in a Court of  
99 competent jurisdiction where the principal office of the Commission is  
100 located.

#### 101 ARTICLE IV. POWERS OF THE COMMISSION

102 The Commission shall have the following powers:

103 1. To promulgate Rules, pursuant to Article VII of this Compact,  
104 which shall have the force and effect of law and shall be binding in the  
105 Compacting States to the extent and in the manner provided in this  
106 Compact;

107 2. To exercise its rulemaking authority and establish reasonable  
108 Uniform Standards for Products covered under the Compact, and  
109 Advertisement related thereto, which shall have the force and effect of  
110 law and shall be binding in the Compacting States, but only for those  
111 Products filed with the Commission, provided, that a Compacting State  
112 shall have the right to opt out of such Uniform Standard pursuant to  
113 Article VII, to the extent and in the manner provided in this Compact,  
114 and, provided further, that any Uniform Standard established by the  
115 Commission for long-term care insurance products may provide the  
116 same or greater protections for consumers as, but shall not provide less  
117 than, those protections set forth in the National Association of  
118 Insurance Commissioners' Long-Term Care Insurance Model Act and  
119 Long-Term Care Insurance Model Regulation, respectively, adopted as  
120 of 2001. The Commission shall consider whether any subsequent

121 amendments to the NAIC Long-Term Care Insurance Model Act or Long-  
122 Term Care Insurance Model Regulation adopted by the NAIC require  
123 amending of the Uniform Standards established by the Commission for  
124 long-term care insurance products;

125       3. To receive and review in an expeditious manner Products filed  
126 with the Commission, and rate filings for disability income and long-  
127 term care insurance Products, and give approval of those Products and  
128 rate filings that satisfy the applicable Uniform Standard, where such  
129 approval shall have the force and effect of law and be binding on the  
130 Compacting States to the extent and in the manner provided in the  
131 Compact;

132       4. To receive and review in an expeditious manner  
133 Advertisement relating to long-term care insurance products for which  
134 Uniform Standards have been adopted by the Commission, and give  
135 approval to all Advertisement that satisfies the applicable Uniform  
136 Standard. For any product covered under this Compact, other than  
137 long-term care insurance products, the Commission shall have the  
138 authority to require an insurer to submit all or any part of its  
139 Advertisement with respect to that product for review or approval  
140 prior to use, if the Commission determines that the nature of the  
141 product is such that an Advertisement of the product could have the  
142 capacity or tendency to mislead the public. The actions of Commission  
143 as provided in this section shall have the force and effect of law and  
144 shall be binding in the Compacting States to the extent and in the  
145 manner provided in the Compact;

146       5. To exercise its rulemaking authority and designate Products  
147 and Advertisement that may be subject to a self-certification process  
148 without the need for prior approval by the Commission.

149       6. To promulgate Operating Procedures, pursuant to Article VII  
150 of this Compact, which shall be binding in the Compacting States to the  
151 extent and in the manner provided in this Compact;

152       7. To bring and prosecute legal proceedings or actions in its  
153 name as the Commission; provided, that the standing of any state  
154 insurance department to sue or be sued under applicable law shall not  
155 be affected;

156       8. To issue subpoenas requiring the attendance and testimony of  
157 witnesses and the production of evidence;

- 158           **9. To establish and maintain offices;**
- 159           **10. To purchase and maintain insurance and bonds;**
- 160           **11. To borrow, accept or contract for services of personnel,**  
161 **including, but not limited to, employees of a Compacting State;**
- 162           **12. To hire employees, professionals or specialists, and elect or**  
163 **appoint officers, and to fix their compensation, define their duties and**  
164 **give them appropriate authority to carry out the purposes of the**  
165 **Compact, and determine their qualifications; and to establish the**  
166 **Commission's personnel policies and programs relating to, among other**  
167 **things, conflicts of interest, rates of compensation and qualifications of**  
168 **personnel;**
- 169           **13. To accept any and all appropriate donations and grants of**  
170 **money, equipment, supplies, materials and services, and to receive,**  
171 **utilize and dispose of the same; provided that at all times the**  
172 **Commission shall strive to avoid any appearance of impropriety;**
- 173           **14. To lease, purchase, accept appropriate gifts or donations of,**  
174 **or otherwise to own, hold, improve or use, any property, real, personal**  
175 **or mixed; provided that at all times the Commission shall strive to**  
176 **avoid any appearance of impropriety;**
- 177           **15. To sell, convey, mortgage, pledge, lease, exchange, abandon**  
178 **or otherwise dispose of any property, real, personal or mixed;**
- 179           **16. To remit filing fees to Compacting States as may be set forth**  
180 **in the Bylaws, Rules or Operating Procedures;**
- 181           **17. To enforce compliance by Compacting States with Rules,**  
182 **Uniform Standards, Operating Procedures and Bylaws;**
- 183           **18. To provide for dispute resolution among Compacting States;**
- 184           **19. To advise Compacting States on issues relating to Insurers**  
185 **domiciled or doing business in Non-compacting jurisdictions, consistent**  
186 **with the purposes of this Compact;**
- 187           **20. To provide advice and training to those personnel in state**  
188 **insurance departments responsible for product review, and to be a**  
189 **resource for state insurance departments;**
- 190           **21. To establish a budget and make expenditures;**
- 191           **22. To borrow money;**
- 192           **23. To appoint committees, including advisory committees**  
193 **comprising Members, state insurance regulators, state legislators or**  
194 **their representatives, insurance industry and consumer**

195 representatives, and such other interested persons as may be  
196 designated in the Bylaws;

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

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

200       26. To perform such other functions as may be necessary or  
201 appropriate to achieve the purposes of this Compact consistent with  
202 the state regulation of the business of insurance.

#### 203           ARTICLE V. ORGANIZATION OF THE COMMISSION

##### 204           1. Membership, Voting and Bylaws

205           a. Each Compacting State shall have and be limited to one  
206 Member. Each Member shall be qualified to serve in that capacity  
207 pursuant to applicable law of the Compacting State. Any Member may  
208 be removed or suspended from office as provided by the law of the  
209 State from which he or she shall be appointed. Any vacancy occurring  
210 in the Commission shall be filled in accordance with the laws of the  
211 Compacting State wherein the vacancy exists. Nothing herein shall be  
212 construed to affect the manner in which a Compacting State determines  
213 the election or appointment and qualification of its own Commissioner.

214           b. Each Member shall be entitled to one vote and shall have an  
215 opportunity to participate in the governance of the Commission in  
216 accordance with the Bylaws. Notwithstanding any provision herein to  
217 the contrary, no action of the Commission with respect to the  
218 promulgation of a Uniform Standard shall be effective unless two-thirds  
219 (2/3) of the Members vote in favor thereof.

220           c. The Commission shall, by a majority of the Members, prescribe  
221 Bylaws to govern its conduct as may be necessary or appropriate to  
222 carry out the purposes, and exercise the powers, of the Compact,  
223 including, but not limited to:

224           i. Establishing the fiscal year of the Commission;

225           ii. Providing reasonable procedures for appointing and electing  
226 members, as well as holding meetings, of the Management Committee;

227           iii. Providing reasonable standards and procedures: (i) for the  
228 establishment and meetings of other committees, and (ii) governing any  
229 general or specific delegation of any authority or function of the  
230 Commission;

231           iv. Providing reasonable procedures for calling and conducting

232 meetings of the Commission that consists of a majority of Commission  
233 members, ensuring reasonable advance notice of each such meeting and  
234 providing for the right of citizens to attend each such meeting with  
235 enumerated exceptions designed to protect the public's interest, the  
236 privacy of individuals, and insurers' proprietary information, including  
237 trade secrets. The Commission may meet in camera only after a  
238 majority of the entire membership votes to close a meeting *en toto* or  
239 in part. As soon as practicable, the Commission must make public (i)  
240 a copy of the vote to close the meeting revealing the vote of each  
241 Member with no proxy votes allowed, and (ii) votes taken during such  
242 meeting;

243 v. Establishing the titles, duties and authority and reasonable  
244 procedures for the election of the officers of the Commission;

245 vi. Providing reasonable standards and procedures for the  
246 establishment of the personnel policies and programs of the  
247 Commission. Notwithstanding any civil service or other similar laws  
248 of any Compacting State, the Bylaws shall exclusively govern the  
249 personnel policies and programs of the Commission;

250 vii. Promulgating a code of ethics to address permissible and  
251 prohibited activities of commission members and employees; and

252 viii. Providing a mechanism for winding up the operations of the  
253 Commission and the equitable disposition of any surplus funds that  
254 may exist after the termination of the Compact after the payment  
255 and/or reserving of all of its debts and obligations.

256 d. The Commission shall publish its bylaws in a convenient form  
257 and file a copy thereof and a copy of any amendment thereto, with the  
258 appropriate agency or officer in each of the Compacting States.

259 2. Management Committee, Officers and Personnel

260 a. A Management Committee comprising no more than fourteen  
261 (14) members shall be established as follows:

262 i. One (1) member from each of the six (6) Compacting States  
263 with the largest premium volume for individual and group annuities,  
264 life, disability income and long-term care insurance products,  
265 determined from the records of the NAIC for the prior year;

266 ii. Four (4) members from those Compacting States with at least  
267 two percent (2%) of the market based on the premium volume described  
268 above, other than the six (6) Compacting States with the largest



269 premium volume, selected on a rotating basis as provided in the  
270 Bylaws; and

271       iii. Four (4) members from those Compacting States with less  
272 than two percent (2%) of the market, based on the premium volume  
273 described above, with one (1) selected from each of the four (4) zone  
274 regions of the NAIC as provided in the Bylaws.

275       b. The Management Committee shall have such authority and  
276 duties as may be set forth in the Bylaws, including but not limited to:

277           i. Managing the affairs of the Commission in a manner consistent  
278 with the Bylaws and purposes of the Commission;

279           ii. Establishing and overseeing an organizational structure  
280 within, and appropriate procedures for, the Commission to provide for  
281 the creation of Uniform Standards and other Rules, receipt and review  
282 of product filings, administrative and technical support functions,  
283 review of decisions regarding the disapproval of a product filing, and  
284 the review of elections made by a Compacting State to opt out of a  
285 Uniform Standard; provided that a Uniform Standard shall not be  
286 submitted to the Compacting States for adoption unless approved by  
287 two-thirds (2/3) of the members of the Management Committee;

288           iii. Overseeing the offices of the Commission; and

289           iv. Planning, implementing, and coordinating communications  
290 and activities with other state, federal and local government  
291 organizations in order to advance the goals of the Commission.

292       c. The Commission shall elect annually officers from the  
293 Management Committee, with each having such authority and duties,  
294 as may be specified in the Bylaws.

295       d. The Management Committee may, subject to the approval of  
296 the Commission, appoint or retain an executive director for such  
297 period, upon such terms and conditions and for such compensation as  
298 the Commission may deem appropriate. The executive director shall  
299 serve as secretary to the Commission, but shall not be a Member of the  
300 Commission. The executive director shall hire and supervise such  
301 other staff as may be authorized by the Commission.

302       3. Legislative and Advisory Committees

303           a. A legislative committee comprising state legislators or their  
304 designees shall be established to monitor the operations of, and make  
305 recommendations to, the Commission, including the Management

306 Committee; provided that the manner of selection and term of any  
307 legislative committee member shall be as set forth in the Bylaws. Prior  
308 to the adoption by the Commission of any Uniform Standard, revision  
309 to the Bylaws, annual budget or other significant matter as may be  
310 provided in the Bylaws, the Management Committee shall consult with  
311 and report to the legislative committee.

312       b. The Commission shall establish two (2) advisory committees,  
313 one of which shall comprise consumer representatives independent of  
314 the insurance industry, and the other comprising insurance industry  
315 representatives.

316       c. The Commission may establish additional advisory committees  
317 as its Bylaws may provide for the carrying out of its functions.

#### 318       4. Corporate Records of the Commission

319       The Commission shall maintain its corporate books and records  
320 in accordance with the Bylaws.

#### 321       5. Qualified Immunity, Defense and Indemnification

322       a. The Members, officers, executive director, employees and  
323 representatives of the Commission shall be immune from suit and  
324 liability, either personally or in their official capacity, for any claim for  
325 damage to or loss of property or personal injury or other civil liability  
326 caused by or arising out of any actual or alleged act, error or omission  
327 that occurred, or that the person against whom the claim is made had  
328 a reasonable basis for believing occurred within the scope of  
329 Commission employment, duties or responsibilities; provided, that  
330 nothing in this paragraph shall be construed to protect any such person  
331 from suit and/or liability for any damage, loss, injury or liability caused  
332 by the intentional or willful and wanton misconduct of that person.

333       b. The Commission shall defend any Member, officer, executive  
334 director, employee or representative of the Commission in any civil  
335 action seeking to impose liability arising out of any actual or alleged  
336 act, error or omission that occurred within the scope of Commission  
337 employment, duties or responsibilities, or that the person against whom  
338 the claim is made had a reasonable basis for believing occurred within  
339 the scope of Commission employment, duties or responsibilities;  
340 provided, that nothing herein shall be construed to prohibit that person  
341 from retaining his or her own counsel; and provided further, that the  
342 actual or alleged act, error or omission did not result from that

343 person's intentional or willful and wanton misconduct.

344 c. The Commission shall indemnify and hold harmless any  
345 Member, officer, executive director, employee or representative of the  
346 Commission for the amount of any settlement or judgment obtained  
347 against that person arising out of any actual or alleged act, error or  
348 omission that occurred within the scope of Commission employment,  
349 duties or responsibilities, or that such person had a reasonable basis  
350 for believing occurred within the scope of Commission employment,  
351 duties or responsibilities, provided, that the actual or alleged act, error  
352 or omission did not result from the intentional or willful and wanton  
353 misconduct of that person.

354 **ARTICLE VI. MEETINGS AND ACTS OF THE COMMISSION**

355 1. The Commission shall meet and take such actions as are  
356 consistent with the provisions of this Compact and the Bylaws.

357 2. Each Member of the Commission shall have the right and  
358 power to cast a vote to which that Compacting State is entitled and to  
359 participate in the business and affairs of the Commission. A Member  
360 shall vote in person or by such other means as provided in the  
361 Bylaws. The Bylaws may provide for Members' participation in  
362 meetings by telephone or other means of communication.

363 3. The Commission shall meet at least once during each calendar  
364 year. Additional meetings shall be held as set forth in the Bylaws.

365 **ARTICLE VII. RULES AND OPERATING PROCEDURES:**

366 **RULEMAKING FUNCTIONS OF THE COMMISSION AND OPTING**  
367 **OUT OF UNIFORM STANDARDS**

368 1. Rulemaking Authority. The Commission shall promulgate  
369 reasonable Rules, including Uniform Standards, and Operating  
370 Procedures in order to effectively and efficiently achieve the purposes  
371 of this Compact. Notwithstanding the foregoing, in the event the  
372 Commission exercises its rulemaking authority in a manner that is  
373 beyond the scope of the purposes of this Act, or the powers granted  
374 hereunder, then such an action by the Commission shall be invalid and  
375 have no force and effect.

376 2. Rulemaking Procedure. Rules and Operating Procedures shall  
377 be made pursuant to a rulemaking process that conforms to the Model  
378 State Administrative Procedure Act of 1981 as amended, as may be  
379 appropriate to the operations of the Commission. Before the

380 Commission adopts a Uniform Standard, the Commission shall give  
381 written notice to the relevant state legislative committee(s) in each  
382 Compacting State responsible for insurance issues of its intention to  
383 adopt the Uniform Standard. The Commission in adopting a Uniform  
384 Standard shall consider fully all submitted materials and issue a  
385 concise explanation of its decision.

386           3. Effective Date and Opt Out of a Uniform Standard. A Uniform  
387 Standard shall become effective ninety (90) days after its promulgation  
388 by the Commission or such later date as the Commission may  
389 determine; provided, however, that a Compacting State may opt out of  
390 a Uniform Standard as provided in this Article. "Opt out" shall be  
391 defined as any action by a Compacting State to decline to adopt or  
392 participate in a promulgated Uniform Standard. All other Rules and  
393 Operating Procedures, and amendments thereto, shall become effective  
394 as of the date specified in each Rule, Operating Procedure or  
395 amendment.

396           4. Opt Out Procedure. A Compacting State may opt out of a  
397 Uniform Standard, either by legislation or regulation duly promulgated  
398 by the Insurance Department under the Compacting State's  
399 Administrative Procedure Act. If a Compacting State elects to opt out  
400 of a Uniform Standard by regulation, it must (a) give written notice to  
401 the Commission no later than ten (10) business days after the Uniform  
402 Standard is promulgated, or at the time the State becomes a  
403 Compacting State and (b) find that the Uniform Standard does not  
404 provide reasonable protections to the citizens of the State, given the  
405 conditions in the State. The Commissioner shall make specific findings  
406 of fact and conclusions of law, based on a preponderance of the  
407 evidence, detailing the conditions in the State which warrant a  
408 departure from the Uniform Standard and determining that the  
409 Uniform Standard would not reasonably protect the citizens of the  
410 State. The Commissioner must consider and balance the following  
411 factors and find that the conditions in the State and needs of the  
412 citizens of the State outweigh: (i) the intent of the legislature to  
413 participate in, and the benefits of, an interstate agreement to establish  
414 national uniform consumer protections for the Products subject to this  
415 Act; and (ii) the presumption that a Uniform Standard adopted by the  
416 Commission provides reasonable protections to consumers of the

417 relevant Product. Notwithstanding the foregoing, a Compacting State  
418 may, at the time of its enactment of this Compact, prospectively opt out  
419 of all Uniform Standards involving long-term care insurance products  
420 by expressly providing for such opt out in the enacted Compact, and  
421 such an opt out shall not be treated as a material variance in the offer  
422 or acceptance of any State to participate in this Compact. Such an opt  
423 out shall be effective at the time of enactment of this Compact by the  
424 Compacting State and shall apply to all existing Uniform Standards  
425 involving long-term care insurance products and those subsequently  
426 promulgated.

427         **5. Effect of Opt Out.** If a Compacting State elects to opt out of a  
428 Uniform Standard, the Uniform Standard shall remain applicable in the  
429 Compacting State electing to opt out until such time the opt out  
430 legislation is enacted into law or the regulation opting out becomes  
431 effective. Once the opt out of a Uniform Standard by a Compacting  
432 State becomes effective as provided under the laws of that State, the  
433 Uniform Standard shall have no further force and effect in that State  
434 unless and until the legislation or regulation implementing the opt out  
435 is repealed or otherwise becomes ineffective under the laws of the  
436 State. If a Compacting State opts out of a Uniform Standard after the  
437 Uniform Standard has been made effective in that State, the opt out  
438 shall have the same prospective effect as provided under Article XIV  
439 for withdrawals.

440         **6. Stay of Uniform Standard.** If a Compacting State has formally  
441 initiated the process of opting out of a Uniform Standard by regulation,  
442 and while the regulatory opt out is pending, the Compacting State may  
443 petition the Commission, at least fifteen (15) days before the effective  
444 date of the Uniform Standard, to stay the effectiveness of the Uniform  
445 Standard in that State. The Commission may grant a stay if it  
446 determines the regulatory opt out is being pursued in a reasonable  
447 manner and there is a likelihood of success. If a stay is granted or  
448 extended by the Commission, the stay or extension thereof may  
449 postpone the effective date by up to ninety (90) days, unless  
450 affirmatively extended by the Commission; provided, a stay may not be  
451 permitted to remain in effect for more than one (1) year unless the  
452 Compacting State can show extraordinary circumstances which  
453 warrant a continuance of the stay, including, but not limited to, the

454 existence of a legal challenge which prevents the Compacting State  
455 from opting out. A stay may be terminated by the Commission upon  
456 notice that the rulemaking process has been terminated.

457         7. Not later than thirty (30) days after a Rule or Operating  
458 Procedure is promulgated, any person may file a petition for judicial  
459 review of the Rule or Operating Procedure; provided, that the filing of  
460 such a petition shall not stay or otherwise prevent the Rule or  
461 Operating Procedure from becoming effective unless the court finds  
462 that the petitioner has a substantial likelihood of success. The court  
463 shall give deference to the actions of the Commission consistent with  
464 applicable law and shall not find the Rule or Operating Procedure to  
465 be unlawful if the Rule or Operating Procedure represents a reasonable  
466 exercise of the Commission's authority.

467         **ARTICLE VIII. COMMISSION RECORDS AND ENFORCEMENT**

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

478         2. Except as to privileged records, data and information, the laws  
479 of any Compacting State pertaining to confidentiality or nondisclosure  
480 shall not relieve any Compacting State Commissioner of the duty to  
481 disclose any relevant records, data or information to the Commission;  
482 provided, that disclosure to the Commission shall not be deemed to  
483 waive or otherwise affect any confidentiality requirement; and further  
484 provided, that, except as otherwise expressly provided in this Act, the  
485 Commission shall not be subject to the Compacting State's laws  
486 pertaining to confidentiality and nondisclosure with respect to records,  
487 data and information in its possession. Confidential information of the  
488 Commission shall remain confidential after such information is  
489 provided to any Commissioner.

490         3. The Commission shall monitor Compacting States for

491 compliance with duly adopted Bylaws, Rules, including Uniform  
492 Standards, and Operating Procedures. The Commission shall notify any  
493 non-complying Compacting State in writing of its noncompliance with  
494 Commission Bylaws, Rules or Operating Procedures. If a non-  
495 complying Compacting State fails to remedy its noncompliance within  
496 the time specified in the notice of noncompliance, the Compacting State  
497 shall be deemed to be in default as set forth in Article XIV.

498 4. The Commissioner of any State in which an Insurer is  
499 authorized to do business, or is conducting the business of insurance,  
500 shall continue to exercise his or her authority to oversee the market  
501 regulation of the activities of the Insurer in accordance with the  
502 provisions of the State's law. The Commissioner's enforcement of  
503 compliance with the Compact is governed by the following provisions:

504 a. With respect to the Commissioner's market regulation of a  
505 Product or Advertisement that is approved or certified to the  
506 Commission, the content of the Product or Advertisement shall not  
507 constitute a violation of the provisions, standards or requirements of  
508 the Compact except upon a final order of the Commission, issued at the  
509 request of a Commissioner after prior notice to the Insurer and an  
510 opportunity for hearing before the Commission.

511 b. Before a Commissioner may bring an action for violation of  
512 any provision, standard or requirement of the Compact relating to the  
513 content of an Advertisement not approved or certified to the  
514 Commission, the Commission, or an authorized Commission officer or  
515 employee, must authorize the action. However, authorization pursuant  
516 to this paragraph does not require notice to the Insurer, opportunity  
517 for hearing or disclosure of requests for authorization or records of the  
518 Commission's action on such requests.

#### 519 ARTICLE IX. DISPUTE RESOLUTION

520 The Commission shall attempt, upon the request of a Member, to  
521 resolve any disputes or other issues that are subject to this Compact  
522 and which may arise between two or more Compacting States, or  
523 between Compacting States and Non-compacting States, and the  
524 Commission shall promulgate an Operating Procedure providing for  
525 resolution of such disputes.

#### 526 ARTICLE X. PRODUCT FILING AND APPROVAL

527 1. Insurers and Third-Party Filers seeking to have a Product





565 appeal process in Section 1 above.

566 **ARTICLE XII. FINANCE**

567 **1. The Commission shall pay or provide for the payment of the**  
568 **reasonable expenses of its establishment and organization. To fund the**  
569 **cost of its initial operations, the Commission may accept contributions**  
570 **and other forms of funding from the National Association of Insurance**  
571 **Commissioners, Compacting States and other sources. Contributions**  
572 **and other forms of funding from other sources shall be of such a nature**  
573 **that the independence of the Commission concerning the performance**  
574 **of its duties shall not be compromised.**

575 **2. The Commission shall collect a filing fee from each Insurer**  
576 **and Third Party Filer filing a product with the Commission to cover the**  
577 **cost of the operations and activities of the Commission and its staff in**  
578 **a total amount sufficient to cover the Commission's annual budget.**

579 **3. The Commission's budget for a fiscal year shall not be**  
580 **approved until it has been subject to notice and comment as set forth**  
581 **in Article VII of this Compact.**

582 **4. The Commission shall be exempt from all taxation in and by**  
583 **the Compacting States.**

584 **5. The Commission shall not pledge the credit of any Compacting**  
585 **State, except by and with the appropriate legal authority of that**  
586 **Compacting State.**

587 **6. The Commission shall keep complete and accurate accounts of**  
588 **all its internal receipts, including grants and donations, and**  
589 **disbursements of all funds under its control. The internal financial**  
590 **accounts of the Commission shall be subject to the accounting**  
591 **procedures established under its Bylaws. The financial accounts and**  
592 **reports including the system of internal controls and procedures of the**  
593 **Commission shall be audited annually by an independent certified**  
594 **public accountant. Upon the determination of the Commission, but no**  
595 **less frequently than every three (3) years, the review of the**  
596 **independent auditor shall include a management and performance**  
597 **audit of the Commission. The Commission shall make an Annual Report**  
598 **to the Governor and legislature of the Compacting States, which shall**  
599 **include a report of the independent audit. The Commission's internal**  
600 **accounts shall not be confidential and such materials may be shared**  
601 **with the Commissioner of any Compacting State upon request provided,**

602 however, that any work papers related to any internal or independent  
603 audit and any information regarding the privacy of individuals and  
604 insurers' proprietary information, including trade secrets, shall remain  
605 confidential.

606 7. No Compacting State shall have any claim to or ownership of  
607 any property held by or vested in the Commission or to any  
608 Commission funds held pursuant to the provisions of this Compact.

609 **ARTICLE XIII. COMPACTING STATES, EFFECTIVE DATE AND**  
610 **AMENDMENT**

611 1. Any State is eligible to become a Compacting State.

612 2. The Compact shall become effective and binding upon  
613 legislative enactment of the Compact into law by two Compacting  
614 States; provided, the Commission shall become effective for purposes  
615 of adopting Uniform Standards for, reviewing, and giving approval or  
616 disapproval of, Products filed with the Commission that satisfy  
617 applicable Uniform Standards only after twenty-six (26) States are  
618 Compacting States or, alternatively, by States representing greater  
619 than forty percent (40%) of the premium volume for life insurance,  
620 annuity, disability income and long-term care insurance products,  
621 based on records of the NAIC for the prior year. Thereafter, it shall  
622 become effective and binding as to any other Compacting State upon  
623 enactment of the Compact into law by that State.

624 3. Amendments to the Compact may be proposed by the  
625 Commission for enactment by the Compacting States. No amendment  
626 shall become effective and binding upon the Commission and the  
627 Compacting States unless and until all Compacting States enact the  
628 amendment into law.

629 **ARTICLE XIV. WITHDRAWAL, DEFAULT AND TERMINATION**

630 1. Withdrawal

631 a. Once effective, the Compact shall continue in force and remain  
632 binding upon each and every Compacting State; provided, that a  
633 Compacting State may withdraw from the Compact ("Withdrawing  
634 State") by enacting a statute specifically repealing the statute which  
635 enacted the Compact into law.

636 b. The effective date of withdrawal is the effective date of the  
637 repealing statute. However, the withdrawal shall not apply to any  
638 product filings approved or self-certified, or any Advertisement of such

639 **products, on the date the repealing statute becomes effective, except by**  
640 **mutual agreement of the Commission and the Withdrawing State unless**  
641 **the approval is rescinded by the Withdrawing State as provided in**  
642 **Paragraph e of this section.**

643 **c. The Commissioner of the Withdrawing State shall immediately**  
644 **notify the Management Committee in writing upon the introduction of**  
645 **legislation repealing this Compact in the Withdrawing State.**

646 **d. The Commission shall notify the other Compacting States of**  
647 **the introduction of such legislation within ten (10) days after its receipt**  
648 **of notice thereof.**

649 **e. The Withdrawing State is responsible for all obligations,**  
650 **duties and liabilities incurred through the effective date of withdrawal,**  
651 **including any obligations, the performance of which extend beyond the**  
652 **effective date of withdrawal, except to the extent those obligations may**  
653 **have been released or relinquished by mutual agreement of the**  
654 **Commission and the Withdrawing State. The Commission's approval of**  
655 **Products and Advertisement prior to the effective date of withdrawal**  
656 **shall continue to be effective and be given full force and effect in the**  
657 **Withdrawing State, unless formally rescinded by the Withdrawing State**  
658 **in the same manner as provided by the laws of the Withdrawing State**  
659 **for the prospective disapproval of products or advertisement**  
660 **previously approved under state law.**

661 **f. Reinstatement following withdrawal of any Compacting State**  
662 **shall occur upon the effective date of the Withdrawing State reenacting**  
663 **the Compact.**

664 **2. Default**

665 **a. If the Commission determines that any Compacting State has**  
666 **at any time defaulted ("Defaulting State") in the performance of any of**  
667 **its obligations or responsibilities under this Compact, the Bylaws or**  
668 **duly promulgated Rules or Operating Procedures, then, after notice and**  
669 **hearing as set forth in the Bylaws, all rights, privileges and benefits**  
670 **conferred by this Compact on the Defaulting State shall be suspended**  
671 **from the effective date of default as fixed by the Commission. The**  
672 **grounds for default include, but are not limited to, failure of a**  
673 **Compacting State to perform its obligations or responsibilities, and any**  
674 **other grounds designated in Commission Rules. The Commission shall**  
675 **immediately notify the Defaulting State in writing of the Defaulting**

676 State's suspension pending a cure of the default. The Commission shall  
677 stipulate the conditions and the time period within which the  
678 Defaulting State must cure its default. If the Defaulting State fails to  
679 cure the default within the time period specified by the Commission,  
680 the Defaulting State shall be terminated from the Compact and all  
681 rights, privileges and benefits conferred by this Compact shall be  
682 terminated from the effective date of termination.

683         b. Product approvals by the Commission or product self-  
684 certifications, or any Advertisement in connection with such product,  
685 that are in force on the effective date of termination shall remain in  
686 force in the Defaulting State in the same manner as if the Defaulting  
687 State had withdrawn voluntarily pursuant to Section 1 of this article.

688         c. Reinstatement following termination of any Compacting State  
689 requires a reenactment of the Compact.

### 690         3. Dissolution of Compact

691         a. The Compact dissolves effective upon the date of the  
692 withdrawal or default of the Compacting State which reduces  
693 membership in the Compact to one Compacting State.

694         b. Upon the dissolution of this Compact, the Compact becomes  
695 null and void and shall be of no further force or effect, and the business  
696 and affairs of the Commission shall be wound up and any surplus funds  
697 shall be distributed in accordance with the Bylaws.

## 698         ARTICLE XV. SEVERABILITY AND CONSTRUCTION

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

702         2. The provisions of this Compact shall be liberally construed to  
703 effectuate its purposes.

## 704         ARTICLE XVI. BINDING EFFECT OF COMPACT AND OTHER LAWS

### 705         1. Other Laws

706         a. Nothing herein prevents the enforcement of any other law of  
707 a Compacting State, except as provided in Paragraph b of this section.

708         b. For any Product approved or certified to the Commission, the  
709 Rules, Uniform Standards and any other requirements of the  
710 Commission shall constitute the exclusive provisions applicable to the  
711 content, approval and certification of such Products. For  
712 Advertisement that is subject to the Commission's authority, any Rule,

713 **Uniform Standard or other requirement of the Commission which**  
714 **governs the content of the Advertisement shall constitute the exclusive**  
715 **provision that a Commissioner may apply to the content of the**  
716 **Advertisement. Notwithstanding the foregoing, no action taken by the**  
717 **Commission shall abrogate or restrict: (i) the access of any person to**  
718 **state courts; (ii) remedies available under state law related to breach**  
719 **of contract, tort, or other laws not specifically directed to the content**  
720 **of the Product; (iii) state law relating to the construction of insurance**  
721 **contracts; or (iv) the authority of the attorney general of the state,**  
722 **including but not limited to maintaining any actions or proceedings, as**  
723 **authorized by law.**

724 **c. All insurance products filed with individual States shall be**  
725 **subject to the laws of those States.**

726 **2. Binding Effect of this Compact**

727 **a. All lawful actions of the Commission, including all Rules and**  
728 **Operating Procedures promulgated by the Commission, are binding**  
729 **upon the Compacting States.**

730 **b. All agreements between the Commission and the Compacting**  
731 **States are binding in accordance with their terms.**

732 **c. Upon the request of a party to a conflict over the meaning or**  
733 **interpretation of Commission actions, and upon a majority vote of the**  
734 **Compacting States, the Commission may issue advisory opinions**  
735 **regarding the meaning or interpretation in dispute.**

736 **d. In the event any provision of this Compact exceeds the**  
737 **constitutional limits imposed on the legislature of any Compacting**  
738 **State, the obligations, duties, powers or jurisdiction sought to be**  
739 **conferred by that provision upon the Commission shall be ineffective**  
740 **as to that Compacting State, and those obligations, duties, powers or**  
741 **jurisdiction shall remain in the Compacting State and shall be**  
742 **exercised by the agency thereof to which those obligations, duties,**  
743 **powers or jurisdiction are delegated by law in effect at the time this**  
744 **Compact becomes effective.**