



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**  
**HB4468**

Introduced 02/03/04, by Frank J. Mautino

**SYNOPSIS AS INTRODUCED:**

New Act

Creates the Interstate Insurance Product Regulation Compact. Provides for the promotion and protection of the interests of consumers of individual and group annuity, life insurance, disability income, and long-term care insurance products. Creates the Interstate Insurance Product Regulation Commission to develop uniform standards for insurance products covered under the Compact, to establish a central clearing house to receive and provide prompt review of insurance products covered under the Compact, to provide appropriate regulatory approval, and to improve coordination of regulatory resources and expertise between state insurance departments. Effective immediately.

LRB093 20788 RAS 46703 b

**A BILL FOR**

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Interstate Insurance Product Regulation Compact.

6 Section 5. Agreement. Pursuant to terms and conditions of  
7 this Act, the State of Illinois seeks to join with other States  
8 and establish the Interstate Insurance Product Regulation  
9 Compact, and thus become a member of the Interstate Insurance  
10 Product Regulation Commission. The representative of this  
11 State to the Commission shall be the Director of Insurance.

12 Section 10. Ratification. The State of Illinois ratifies,  
13 approves, and adopts the following interstate compact:

14 Article I. PURPOSES

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

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

20 2. To develop uniform standards for insurance products  
21 covered under the Compact;

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

27 4. To give appropriate regulatory approval to those  
28 product filings and advertisements satisfying the  
29 applicable uniform standard;

30 5. To improve coordination of regulatory resources and

1 expertise between state insurance departments regarding  
2 the setting of uniform standards and review of insurance  
3 products covered under the Compact;

4 6. To create the Interstate Insurance Product  
5 Regulation Commission; and

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

9 Article II. DEFINITIONS

10 For purposes of this Compact:

11 1. "Advertisement" means any material designed to  
12 create public interest in a Product, or induce the public  
13 to purchase, increase, modify, reinstate, borrow on,  
14 surrender, replace or retain a policy, as more specifically  
15 defined in the Rules and Operating Procedures of the  
16 Commission.

17 2. "Bylaws" mean those bylaws established by the  
18 Commission for its governance, or for directing or  
19 controlling the Commission's actions or conduct.

20 3. "Compacting State" means any State which has enacted  
21 this Compact legislation and which has not withdrawn  
22 pursuant to Article XIV, Section 1, or been terminated  
23 pursuant to Article XIV, Section 2.

24 4. "Commission" means the "Interstate Insurance  
25 Product Regulation Commission" established by this  
26 Compact.

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

30 6. "Domiciliary State" means the state in which an  
31 Insurer is incorporated or organized; or, in the case of an  
32 alien Insurer, its state of entry.

33 7. "Insurer" means any entity licensed by a State to  
34 issue contracts of insurance for any of the lines of  
35 insurance covered by this Act.

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

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

6           10. "Operating Procedures" mean procedures promulgated  
7 by the Commission implementing a Rule, Uniform Standard or  
8 a provision of this Compact.

9           11. "Product" means the form of a policy or contract,  
10 including any application, endorsement, or related form  
11 which is attached to and made a part of the policy or  
12 contract, and any evidence of coverage or certificate, for  
13 an individual or group annuity, life insurance, disability  
14 income or long-term care insurance product that an Insurer  
15 is authorized to issue.

16           12. "Rule" means a statement of general or particular  
17 applicability and future effect promulgated by the  
18 Commission, including a Uniform Standard developed  
19 pursuant to Article VII of this Compact, designed to  
20 implement, interpret, or prescribe law or policy or  
21 describing the organization, procedure, or practice  
22 requirements of the Commission, which shall have the force  
23 and effect of law in the Compacting States.

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

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

28           15. "Uniform Standard" means a standard adopted by the  
29 Commission for a Product line, pursuant to Article VII of  
30 this Compact, and shall include all of the Product  
31 requirements in aggregate; provided, that each Uniform  
32 Standard shall be construed, whether express or implied, to  
33 prohibit the use of any inconsistent, misleading or  
34 ambiguous provisions in a Product and the form of the  
35 Product made available to the public shall not be unfair,  
36 inequitable or against public policy as determined by the

1 Commission.

2 Article III. ESTABLISHMENT OF THE COMMISSION AND VENUE

3 1. The Compacting States hereby create and establish a  
4 joint public agency known as the "Interstate Insurance Product  
5 Regulation Commission." Pursuant to Article IV, the Commission  
6 will have the power to develop Uniform Standards for Product  
7 lines, receive and provide prompt review of Products filed  
8 therewith, and give approval to those Product filings  
9 satisfying applicable Uniform Standards; provided, it is not  
10 intended for the Commission to be the exclusive entity for  
11 receipt and review of insurance product filings. Nothing herein  
12 shall prohibit any Insurer from filing its product in any State  
13 wherein the Insurer is licensed to conduct the business of  
14 insurance; and any such filing shall be subject to the laws of  
15 the State where filed.

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

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

20 4. Venue is proper and judicial proceedings by or against  
21 the Commission shall be brought solely and exclusively in a  
22 Court of competent jurisdiction where the principal office of  
23 the Commission is located.

24 Article IV. POWERS OF THE COMMISSION

25 The Commission shall have the following powers:

26 1. To promulgate Rules, pursuant to Article VII of this  
27 Compact, which shall have the force and effect of law and  
28 shall be binding in the Compacting States to the extent and  
29 in the manner provided in this Compact;

30 2. To exercise its rule-making authority and establish  
31 reasonable Uniform Standards for Products covered under  
32 the Compact, and Advertisement related thereto, which  
33 shall have the force and effect of law and shall be binding  
34 in the Compacting States, but only for those Products filed

1 with the Commission, provided, that a Compacting State  
2 shall have the right to opt out of such Uniform Standard  
3 pursuant to Article VII, to the extent and in the manner  
4 provided in this Compact, and, provided further, that any  
5 Uniform Standard established by the Commission for  
6 long-term care insurance products may provide the same or  
7 greater protections for consumers as, but shall not provide  
8 less than, those protections set forth in the National  
9 Association of Insurance Commissioners' Long-Term Care  
10 Insurance Model Act and Long-Term Care Insurance Model  
11 Regulation, respectively, adopted as of 2001. The  
12 Commission shall consider whether any subsequent  
13 amendments to the NAIC Long-Term Care Insurance Model Act  
14 or Long-Term Care Insurance Model Regulation adopted by the  
15 NAIC require amending of the Uniform Standards established  
16 by the Commission for long-term care insurance products;

17 3. To receive and review in an expeditious manner  
18 Products filed with the Commission, and rate filings for  
19 disability income and long-term care insurance Products,  
20 and give approval of those Products and rate filings that  
21 satisfy the applicable Uniform Standard, where such  
22 approval shall have the force and effect of law and be  
23 binding on the Compacting States to the extent and in the  
24 manner provided in the Compact;

25 4. To receive and review in an expeditious manner  
26 Advertisement relating to long-term care insurance  
27 products for which Uniform Standards have been adopted by  
28 the Commission, and give approval to all Advertisement that  
29 satisfies the applicable Uniform Standard. For any product  
30 covered under this Compact, other than long-term care  
31 insurance products, the Commission shall have the  
32 authority to require an insurer to submit all or any part  
33 of its Advertisement with respect to that product for  
34 review or approval prior to use, if the Commission  
35 determines that the nature of the product is such that an  
36 Advertisement of the product could have the capacity or

1 tendency to mislead the public. The actions of Commission  
2 as provided in this section shall have the force and effect  
3 of law and shall be binding in the Compacting States to the  
4 extent and in the manner provided in the Compact;

5 5. To exercise its rule-making authority and designate  
6 Products and Advertisement that may be subject to a  
7 self-certification process without the need for prior  
8 approval by the Commission.

9 6. To promulgate Operating Procedures, pursuant to  
10 Article VII of this Compact, which shall be binding in the  
11 Compacting States to the extent and in the manner provided  
12 in this Compact;

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

17 8. To issue subpoenas requiring the attendance and  
18 testimony of witnesses and the production of evidence;

19 9. To establish and maintain offices;

20 10. To purchase and maintain insurance and bonds;

21 11. To borrow, accept or contract for services of  
22 personnel, including, but not limited to, employees of a  
23 Compacting State;

24 12. To hire employees, professionals or specialists,  
25 and elect or appoint officers, and to fix their  
26 compensation, define their duties and give them  
27 appropriate authority to carry out the purposes of the  
28 Compact, and determine their qualifications; and to  
29 establish the Commission's personnel policies and programs  
30 relating to, among other things, conflicts of interest,  
31 rates of compensation and qualifications of personnel;

32 13. To accept any and all appropriate donations and  
33 grants of money, equipment, supplies, materials and  
34 services, and to receive, utilize and dispose of the same;  
35 provided that at all times the Commission shall strive to  
36 avoid any appearance of impropriety;

1           14. To lease, purchase, accept appropriate gifts or  
2 donations of, or otherwise to own, hold, improve or use,  
3 any property, real, personal or mixed; provided that at all  
4 times the Commission shall strive to avoid any appearance  
5 of impropriety;

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

9           16. To remit filing fees to Compacting States as may be  
10 set forth in the Bylaws, Rules or Operating Procedures;

11           17. To enforce compliance by Compacting States with  
12 Rules, Uniform Standards, Operating Procedures and Bylaws;  
13 Drafting Note: It is recognized that the Commission must  
14 have authority to enforce compliance by Compacting States  
15 with the Bylaws, Rules or Operating Procedures of the  
16 Commission.

17           18. To provide for dispute resolution among Compacting  
18 States;

19           19. To advise Compacting States on issues relating to  
20 Insurers domiciled or doing business in Non-compacting  
21 jurisdictions, consistent with the purposes of this  
22 Compact;

23           20. To provide advice and training to those personnel  
24 in state insurance departments responsible for product  
25 review, and to be a resource for state insurance  
26 departments;

27           21. To establish a budget and make expenditures;

28           22. To borrow money;

29           23. To appoint committees, including advisory  
30 committees comprising Members, state insurance regulators,  
31 state legislators or their representatives, insurance  
32 industry and consumer representatives, and such other  
33 interested persons as may be designated in the Bylaws;

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

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



1           26. To perform such other functions as may be necessary  
2           or appropriate to achieve the purposes of this Compact  
3           consistent with the state regulation of the business of  
4           insurance.

5                   Article V. ORGANIZATION OF THE COMMISSION

6           1. Membership, Voting and Bylaws.

7           a. Each Compacting State shall have and be limited to one  
8           Member. Each Member shall be qualified to serve in that  
9           capacity pursuant to applicable law of the Compacting State.  
10          Any Member may be removed or suspended from office as provided  
11          by the law of the State from which he or she shall be  
12          appointed. Any vacancy occurring in the Commission shall be  
13          filled in accordance with the laws of the Compacting State  
14          wherein the vacancy exists. Nothing herein shall be construed  
15          to affect the manner in which a Compacting State determines the  
16          election or appointment and qualification of its own  
17          Commissioner.

18          b. Each Member shall be entitled to one vote and shall have  
19          an opportunity to participate in the governance of the  
20          Commission in accordance with the Bylaws. Notwithstanding any  
21          provision herein to the contrary, no action of the Commission  
22          with respect to the promulgation of a Uniform Standard shall be  
23          effective unless two-thirds (2/3) of the Members vote in favor  
24          thereof.

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

29                  i. establishing the fiscal year of the Commission;  
30                  ii. providing reasonable procedures for appointing  
31                  and electing members, as well as holding meetings, of  
32                  the Management Committee;

33                  iii. providing reasonable standards and  
34                  procedures:

35                          (i) for the establishment and meetings of other

1 committees, and

2 (ii) governing any general or specific delegation  
3 of any authority or function of the Commission;

4 iv. providing reasonable procedures for calling  
5 and conducting meetings of the Commission that  
6 consists of a majority of Commission members, ensuring  
7 reasonable advance notice of each such meeting, and  
8 providing for the right of citizens to attend each such  
9 meeting with enumerated exceptions designed to protect  
10 the public's interest, the privacy of individuals, and  
11 insurers' proprietary information, including trade  
12 secrets. The Commission may meet in camera only after a  
13 majority of the entire membership votes to close a  
14 meeting en toto or in part. As soon as practicable, the  
15 Commission must make public (i) a copy of the vote to  
16 close the meeting revealing the vote of each Member  
17 with no proxy votes allowed, and (ii) votes taken  
18 during such meeting;

19 v. establishing the titles, duties and authority  
20 and reasonable procedures for the election of the  
21 officers of the Commission;

22 vi. providing reasonable standards and procedures  
23 for the establishment of the personnel policies and  
24 programs of the Commission. Notwithstanding any civil  
25 service or other similar laws of any Compacting State,  
26 the Bylaws shall exclusively govern the personnel  
27 policies and programs of the Commission; vii.  
28 promulgating a code of ethics to address permissible  
29 and prohibited activities of commission members and  
30 employees; and viii. providing a mechanism for winding  
31 up the operations of the Commission and the equitable  
32 disposition of any surplus funds that may exist after  
33 the termination of the Compact after the payment and/or  
34 reserving of all of its debts and obligations.

35 d. The Commission shall publish its bylaws in a convenient  
36 form and file a copy thereof and a copy of any amendment

1 thereto, with the appropriate agency or officer in each of the  
2 Compacting States.

3 2. Management Committee, Officers and Personnel.

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

6 (i) One (1) member from each of the six (6)  
7 Compacting States with the largest premium volume for  
8 individual and group annuities, life, disability  
9 income and long-term care insurance products,  
10 determined from the records of the NAIC for the prior  
11 year;

12 (ii) Four (4) members from those Compacting States  
13 with at least two percent (2%) of the market based on  
14 the premium volume described above, other than the six  
15 (6) Compacting States with the largest premium volume,  
16 selected on a rotating basis as provided in the Bylaws,  
17 and;

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

23 b. The Management Committee shall have such authority and  
24 duties as may be set forth in the Bylaws, including but not  
25 limited to: i. managing the affairs of the Commission in a  
26 manner consistent with the Bylaws and purposes of the  
27 Commission;

28 ii. establishing and overseeing an organizational  
29 structure within, and appropriate procedures for, the  
30 Commission to provide for the creation of Uniform  
31 Standards and other Rules, receipt and review of  
32 product filings, administrative and technical support  
33 functions, review of decisions regarding the  
34 disapproval of a product filing, and the review of  
35 elections made by a Compacting State to opt out of a  
36 Uniform Standard; provided that a Uniform Standard

1 shall not be submitted to the Compacting States for  
2 adoption unless approved by two-thirds (2/3) of the  
3 members of the Management Committee;

4 iii. overseeing the offices of the Commission; and

5 iv. planning, implementing, and coordinating  
6 communications and activities with other state,  
7 federal and local government organizations in order to  
8 advance the goals of the Commission.

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

12 d. The Management Committee may, subject to the approval of  
13 the Commission, appoint or retain an executive director for  
14 such period, upon such terms and conditions and for such  
15 compensation as the Commission may deem appropriate. The  
16 executive director shall serve as secretary to the Commission,  
17 but shall not be a Member of the Commission. The executive  
18 director shall hire and supervise such other staff as may be  
19 authorized by the Commission.

20 3. Legislative and Advisory Committees.

21 a. A legislative committee comprising state legislators or  
22 their designees shall be established to monitor the operations  
23 of, and make recommendations to, the Commission, including the  
24 Management Committee; provided that the manner of selection and  
25 term of any legislative committee member shall be as set forth  
26 in the Bylaws. Prior to the adoption by the Commission of any  
27 Uniform Standard, revision to the Bylaws, annual budget or  
28 other significant matter as may be provided in the Bylaws, the  
29 Management Committee shall consult with and report to the  
30 legislative committee.

31 b. The Commission shall establish two (2) advisory  
32 committees, one of which shall comprise consumer  
33 representatives independent of the insurance industry, and the  
34 other comprising insurance industry representatives.

35 c. The Commission may establish additional advisory  
36 committees as its Bylaws may provide for the carrying out of

1 its functions.

2 4. Corporate Records of the Commission The Commission shall  
3 maintain its corporate books and records in accordance with the  
4 Bylaws.

5 5. Qualified Immunity, Defense and Indemnification.

6 a. The Members, officers, executive director, employees  
7 and representatives of the Commission shall be immune from suit  
8 and liability, either personally or in their official capacity,  
9 for any claim for damage to or loss of property or personal  
10 injury or other civil liability caused by or arising out of any  
11 actual or alleged act, error or omission that occurred, or that  
12 the person against whom the claim is made had a reasonable  
13 basis for believing occurred within the scope of Commission  
14 employment, duties or responsibilities; provided, that nothing  
15 in this paragraph shall be construed to protect any such person  
16 from suit and/or liability for any damage, loss, injury or  
17 liability caused by the intentional or willful and wanton  
18 misconduct of that person.

19 b. The Commission shall defend any Member, officer,  
20 executive director, employee or representative of the  
21 Commission in any civil action seeking to impose liability  
22 arising out of any actual or alleged act, error or omission  
23 that occurred within the scope of Commission employment, duties  
24 or responsibilities, or that the person against whom the claim  
25 is made had a reasonable basis for believing occurred within  
26 the scope of Commission employment, duties or  
27 responsibilities; provided, that nothing herein shall be  
28 construed to prohibit that person from retaining his or her own  
29 counsel; and provided further, that the actual or alleged act,  
30 error or omission did not result from that person's intentional  
31 or willful and wanton misconduct.

32 c. The Commission shall indemnify and hold harmless any  
33 Member, officer, executive director, employee or  
34 representative of the Commission for the amount of any  
35 settlement or judgment obtained against that person arising out  
36 of any actual or alleged act, error or omission that occurred

1 within the scope of Commission employment, duties or  
2 responsibilities, or that such person had a reasonable basis  
3 for believing occurred within the scope of Commission  
4 employment, duties or responsibilities, provided, that the  
5 actual or alleged act, error or omission did not result from  
6 the intentional or willful and wanton misconduct of that  
7 person.

8 Article VI. MEETINGS AND ACTS OF THE COMMISSION

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

11 2. Each Member of the Commission shall have the right and  
12 power to cast a vote to which that Compacting State is entitled  
13 and to participate in the business and affairs of the  
14 Commission. A Member shall vote in person or by such other  
15 means as provided in the Bylaws. The Bylaws may provide for  
16 Members' participation in meetings by telephone or other means  
17 of communication.

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

21 Article VII. RULES & OPERATING PROCEDURES: RULEMAKING  
22 FUNCTIONS OF THE COMMISSION AND OPTING OUT OF UNIFORM STANDARDS

23 1. Rulemaking Authority. The Commission shall promulgate  
24 reasonable Rules, including Uniform Standards, and Operating  
25 Procedures in order to effectively and efficiently achieve the  
26 purposes of this Compact. Notwithstanding the foregoing, in the  
27 event the Commission exercises its rulemaking authority in a  
28 manner that is beyond the scope of the purposes of this Act, or  
29 the powers granted hereunder, then such an action by the  
30 Commission shall be invalid and have no force and effect.

31 2. Rulemaking Procedure. Rules and Operating Procedures  
32 shall be made pursuant to a rulemaking process that conforms to  
33 the Model State Administrative Procedure Act of 1981 as  
34 amended, as may be appropriate to the operations of the

1 Commission. Before the Commission adopts a Uniform Standard,  
2 the Commission shall give written notice to the relevant state  
3 legislative committee(s) in each Compacting State responsible  
4 for insurance issues of its intention to adopt the Uniform  
5 Standard. The Commission in adopting a Uniform Standard shall  
6 consider fully all submitted materials and issue a concise  
7 explanation of its decision.

8 3. Effective Date and Opt Out of a Uniform Standard. A  
9 Uniform Standard shall become effective ninety (90) days after  
10 its promulgation by the Commission or such later date as the  
11 Commission may determine; provided, however, that a Compacting  
12 State may opt out of a Uniform Standard as provided in this  
13 Article. "Opt out" shall be defined as any action by a  
14 Compacting State to decline to adopt or participate in a  
15 promulgated Uniform Standard. All other Rules and Operating  
16 Procedures, and amendments thereto, shall become effective as  
17 of the date specified in each Rule, Operating Procedure or  
18 amendment.

19 4. Opt Out Procedure. A Compacting State may opt out of a  
20 Uniform Standard, either by legislation or regulation duly  
21 promulgated by the Insurance Department under the Compacting  
22 State's Administrative Procedure Act. If a Compacting State  
23 elects to opt out of a Uniform Standard by regulation, it must  
24 (a) give written notice to the Commission no later than ten  
25 (10) business days after the Uniform Standard is promulgated,  
26 or at the time the State becomes a Compacting State and (b)  
27 find that the Uniform Standard does not provide reasonable  
28 protections to the citizens of the State, given the conditions  
29 in the State. The Commissioner shall make specific findings of  
30 fact and conclusions of law, based on a preponderance of the  
31 evidence, detailing the conditions in the State which warrant a  
32 departure from the Uniform Standard and determining that the  
33 Uniform Standard would not reasonably protect the citizens of  
34 the State. The Commissioner must consider and balance the  
35 following factors and find that the conditions in the State and  
36 needs of the citizens of the State outweigh:

1 (i) the intent of the legislature to participate in,  
2 and the benefits of, an interstate agreement to establish  
3 national uniform consumer protections for the Products  
4 subject to this Act; and

5 (ii) the presumption that a Uniform Standard adopted by  
6 the Commission provides reasonable protections to  
7 consumers of the relevant Product. Notwithstanding the  
8 foregoing, a Compacting State may, at the time of its  
9 enactment of this Compact, prospectively opt out of all  
10 Uniform Standards involving long-term care insurance  
11 products by expressly providing for such opt out in the  
12 enacted Compact, and such an opt out shall not be treated  
13 as a material variance in the offer or acceptance of any  
14 State to participate in this Compact. Such an opt out shall  
15 be effective at the time of enactment of this Compact by  
16 the Compacting State and shall apply to all existing  
17 Uniform Standards involving long-term care insurance  
18 products and those subsequently promulgated.

19 5. Effect of Opt Out. If a Compacting State elects to opt  
20 out of a Uniform Standard, the Uniform Standard shall remain  
21 applicable in the Compacting State electing to opt out until  
22 such time the opt out legislation is enacted into law or the  
23 regulation opting out becomes effective. Once the opt out of a  
24 Uniform Standard by a Compacting State becomes effective as  
25 provided under the laws of that State, the Uniform Standard  
26 shall have no further force and effect in that State unless and  
27 until the legislation or regulation implementing the opt out is  
28 repealed or otherwise becomes ineffective under the laws of the  
29 State. If a Compacting State opts out of a Uniform Standard  
30 after the Uniform Standard has been made effective in that  
31 State, the opt out shall have the same prospective effect as  
32 provided under Article XIV for withdrawals.

33 6. Stay of Uniform Standard. If a Compacting State has  
34 formally initiated the process of opting out of a Uniform  
35 Standard by regulation, and while the regulatory opt out is  
36 pending, the Compacting State may petition the Commission, at



1 least fifteen (15) days before the effective date of the  
2 Uniform Standard, to stay the effectiveness of the Uniform  
3 Standard in that State. The Commission may grant a stay if it  
4 determines the regulatory opt out is being pursued in a  
5 reasonable manner and there is a likelihood of success. If a  
6 stay is granted or extended by the Commission, the stay or  
7 extension thereof may postpone the effective date by up to  
8 ninety (90) days, unless affirmatively extended by the  
9 Commission; provided, a stay may not be permitted to remain in  
10 effect for more than one (1) year unless the Compacting State  
11 can show extraordinary circumstances which warrant a  
12 continuance of the stay, including, but not limited to, the  
13 existence of a legal challenge which prevents the Compacting  
14 State from opting out. A stay may be terminated by the  
15 Commission upon notice that the rulemaking process has been  
16 terminated.

17 7. Not later than thirty (30) days after a Rule or  
18 Operating Procedure is promulgated, any person may file a  
19 petition for judicial review of the Rule or Operating  
20 Procedure; provided, that the filing of such a petition shall  
21 not stay or otherwise prevent the Rule or Operating Procedure  
22 from becoming effective unless the court finds that the  
23 petitioner has a substantial likelihood of success. The court  
24 shall give deference to the actions of the Commission  
25 consistent with applicable law and shall not find the Rule or  
26 Operating Procedure to be unlawful if the Rule or Operating  
27 Procedure represents a reasonable exercise of the Commission's  
28 authority.

29 Article VIII. COMMISSION RECORDS AND ENFORCEMENT

30 1. The Commission shall promulgate Rules establishing  
31 conditions and procedures for public inspection and copying of  
32 its information and official records, except such information  
33 and records involving the privacy of individuals and insurers'  
34 trade secrets. The Commission may promulgate additional Rules  
35 under which it may make available to federal and state

1 agencies, including law enforcement agencies, records and  
2 information otherwise exempt from disclosure, and may enter  
3 into agreements with such agencies to receive or exchange  
4 information or records subject to nondisclosure and  
5 confidentiality provisions.

6 2. Except as to privileged records, data and information,  
7 the laws of any Compacting State pertaining to confidentiality  
8 or nondisclosure shall not relieve any Compacting State  
9 Commissioner of the duty to disclose any relevant records, data  
10 or information to the Commission; provided, that disclosure to  
11 the Commission shall not be deemed to waive or otherwise affect  
12 any confidentiality requirement; and further provided, that,  
13 except as otherwise expressly provided in this Act, the  
14 Commission shall not be subject to the Compacting State's laws  
15 pertaining to confidentiality and nondisclosure with respect  
16 to records, data and information in its possession.  
17 Confidential information of the Commission shall remain  
18 confidential after such information is provided to any  
19 Commissioner.

20 3. The Commission shall monitor Compacting States for  
21 compliance with duly adopted Bylaws, Rules, including Uniform  
22 Standards, and Operating Procedures. The Commission shall  
23 notify any non-complying Compacting State in writing of its  
24 noncompliance with Commission Bylaws, Rules or Operating  
25 Procedures. If a non-complying Compacting State fails to remedy  
26 its noncompliance within the time specified in the notice of  
27 noncompliance, the Compacting State shall be deemed to be in  
28 default as set forth in Article XIV.

29 4. The Commissioner of any State in which an Insurer is  
30 authorized to do business, or is conducting the business of  
31 insurance, shall continue to exercise his or her authority to  
32 oversee the market regulation of the activities of the Insurer  
33 in accordance with the provisions of the State's law. The  
34 Commissioner's enforcement of compliance with the Compact is  
35 governed by the following provisions:

36 a. With respect to the Commissioner's market

1 regulation of a Product or Advertisement that is approved  
2 or certified to the Commission, the content of the Product  
3 or Advertisement shall not constitute a violation of the  
4 provisions, standards or requirements of the Compact  
5 except upon a final order of the Commission, issued at the  
6 request of a Commissioner after prior notice to the Insurer  
7 and an opportunity for hearing before the Commission.

8 b. Before a Commissioner may bring an action for  
9 violation of any provision, standard or requirement of the  
10 Compact relating to the content of an Advertisement not  
11 approved or certified to the Commission, the Commission, or  
12 an authorized Commission officer or employee, must  
13 authorize the action. However, authorization pursuant to  
14 this Paragraph does not require notice to the Insurer,  
15 opportunity for hearing or disclosure of requests for  
16 authorization or records of the Commission's action on such  
17 requests.

#### 18 Article IX. DISPUTE RESOLUTION

19 The Commission shall attempt, upon the request of a Member,  
20 to resolve any disputes or other issues that are subject to  
21 this Compact and which may arise between two or more Compacting  
22 States, or between Compacting States and Non-compacting  
23 States, and the Commission shall promulgate an Operating  
24 Procedure providing for resolution of such disputes.

#### 25 Article X. PRODUCT FILING AND APPROVAL

26 1. Insurers and Third-Party Filers seeking to have a  
27 Product approved by the Commission shall file the Product with,  
28 and pay applicable filing fees to, the Commission. Nothing in  
29 this Act shall be construed to restrict or otherwise prevent an  
30 insurer from filing its Product with the insurance department  
31 in any State wherein the insurer is licensed to conduct the  
32 business of insurance, and such filing shall be subject to the  
33 laws of the States where filed.

34 2. The Commission shall establish appropriate filing and

1 review processes and procedures pursuant to Commission Rules  
2 and Operating Procedures. Notwithstanding any provision herein  
3 to the contrary, the Commission shall promulgate Rules to  
4 establish conditions and procedures under which the Commission  
5 will provide public access to Product filing information. In  
6 establishing such Rules, the Commission shall consider the  
7 interests of the public in having access to such information,  
8 as well as protection of personal medical and financial  
9 information and trade secrets, that may be contained in a  
10 Product filing or supporting information.

11 3. Any Product approved by the Commission may be sold or  
12 otherwise issued in those Compacting States for which the  
13 Insurer is legally authorized to do business.

#### 14 Article XI. REVIEW OF COMMISSION DECISIONS REGARDING FILINGS

15 1. Not later than thirty (30) days after the Commission has  
16 given notice of a disapproved Product or Advertisement filed  
17 with the Commission, the Insurer or Third Party Filer whose  
18 filing was disapproved may appeal the determination to a review  
19 panel appointed by the Commission. The Commission shall  
20 promulgate Rules to establish procedures for appointing such  
21 review panels and provide for notice and hearing. An allegation  
22 that the Commission, in disapproving a Product or Advertisement  
23 filed with the Commission, acted arbitrarily, capriciously, or  
24 in a manner that is an abuse of discretion or otherwise not in  
25 accordance with the law, is subject to judicial review in  
26 accordance with Article III, section 5.

27 2. The Commission shall have authority to monitor, review  
28 and reconsider Products and Advertisement subsequent to their  
29 filing or approval upon a finding that the product does not  
30 meet the relevant Uniform Standard. Where appropriate, the  
31 Commission may withdraw or modify its approval after proper  
32 notice and hearing, subject to the appeal process in section 1  
33 above.

#### 34 Article XII. FINANCE

1           1. The Commission shall pay or provide for the payment of  
2 the reasonable expenses of its establishment and organization.  
3 To fund the cost of its initial operations, the Commission may  
4 accept contributions and other forms of funding from the  
5 National Association of Insurance Commissioners, Compacting  
6 States and other sources. Contributions and other forms of  
7 funding from other sources shall be of such a nature that the  
8 independence of the Commission concerning the performance of  
9 its duties shall not be compromised.

10           2. The Commission shall collect a filing fee from each  
11 Insurer and Third Party Filer filing a product with the  
12 Commission to cover the cost of the operations and activities  
13 of the Commission and its staff in a total amount sufficient to  
14 cover the Commission's annual budget.

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

18           4. The Commission shall be exempt from all taxation in and  
19 by the Compacting States.

20           5. The Commission shall not pledge the credit of any  
21 Compacting State, except by and with the appropriate legal  
22 authority of that Compacting State.

23           6. The Commission shall keep complete and accurate accounts  
24 of all its internal receipts, including grants and donations,  
25 and disbursements of all funds under its control. The internal  
26 financial accounts of the Commission shall be subject to the  
27 accounting procedures established under its Bylaws. The  
28 financial accounts and reports including the system of internal  
29 controls and procedures of the Commission shall be audited  
30 annually by an independent certified public accountant. Upon  
31 the determination of the Commission, but no less frequently  
32 than every three (3) years, the review of the independent  
33 auditor shall include a management and performance audit of the  
34 Commission. The Commission shall make an Annual Report to the  
35 Governor and legislature of the Compacting States, which shall  
36 include a report of the independent audit. The Commission's

1 internal accounts shall not be confidential and such materials  
2 may be shared with the Commissioner of any Compacting State  
3 upon request, provided, however, that any work papers related  
4 to any internal or independent audit and any information  
5 regarding the privacy of individuals and insurers' proprietary  
6 information, including trade secrets, shall remain  
7 confidential.

8 7. No Compacting State shall have any claim to or ownership  
9 of any property held by or vested in the Commission or to any  
10 Commission funds held pursuant to the provisions of this  
11 Compact.

12 Article XIII. COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

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

14 2. The Compact shall become effective and binding upon  
15 legislative enactment of the Compact into law by two Compacting  
16 States; provided, the Commission shall become effective for  
17 purposes of adopting Uniform Standards for, reviewing, and  
18 giving approval or disapproval of, Products filed with the  
19 Commission that satisfy applicable Uniform Standards only  
20 after twenty-six (26) States are Compacting States or,  
21 alternatively, by States representing greater than forty  
22 percent (40%) of the premium volume for life insurance,  
23 annuity, disability income and long-term care insurance  
24 products, based on records of the NAIC for the prior year.  
25 Thereafter, it shall become effective and binding as to any  
26 other Compacting State upon enactment of the Compact into law  
27 by that State.

28 3. Amendments to the Compact may be proposed by the  
29 Commission for enactment by the Compacting States. No amendment  
30 shall become effective and binding upon the Commission and the  
31 Compacting States unless and until all Compacting States enact  
32 the amendment into law.

33 Article XIV. WITHDRAWAL, DEFAULT AND TERMINATION

34 1. Withdrawal.

1 a. Once effective, the Compact shall continue in force and  
2 remain binding upon each and every Compacting State; provided,  
3 that a Compacting State may withdraw from the Compact  
4 ("Withdrawing State") by enacting a statute specifically  
5 repealing the statute which enacted the Compact into law.

6 b. The effective date of withdrawal is the effective date  
7 of the repealing statute. However, the withdrawal shall not  
8 apply to any product filings approved or self-certified, or any  
9 Advertisement of such products, on the date the repealing  
10 statute becomes effective, except by mutual agreement of the  
11 Commission and the Withdrawing State unless the approval is  
12 rescinded by the Withdrawing State as provided in subsection e.  
13 of this section.

14 c. The Commissioner of the Withdrawing State shall  
15 immediately notify the Management Committee in writing upon the  
16 introduction of legislation repealing this Compact in the  
17 Withdrawing State.

18 d. The Commission shall notify the other Compacting States  
19 of the introduction of such legislation within ten (10) days  
20 after its receipt of notice thereof.

21 e. The Withdrawing State is responsible for all  
22 obligations, duties and liabilities incurred through the  
23 effective date of withdrawal, including any obligations, the  
24 performance of which extend beyond the effective date of  
25 withdrawal, except to the extent those obligations may have  
26 been released or relinquished by mutual agreement of the  
27 Commission and the Withdrawing State. The Commission's  
28 approval of Products and Advertisement prior to the effective  
29 date of withdrawal shall continue to be effective and be given  
30 full force and effect in the Withdrawing State, unless formally  
31 rescinded by the Withdrawing State in the same manner as  
32 provided by the laws of the Withdrawing State for the  
33 prospective disapproval of products or advertisement  
34 previously approved under state law.

35 f. Reinstatement following withdrawal of any Compacting  
36 State shall occur upon the effective date of the Withdrawing

1 State reenacting the Compact.

2 2. Default.

3 a. If the Commission determines that any Compacting State  
4 has at any time defaulted ("Defaulting State") in the  
5 performance of any of its obligations or responsibilities under  
6 this Compact, the Bylaws or duly promulgated Rules or Operating  
7 Procedures, then, after notice and hearing as set forth in the  
8 Bylaws, all rights, privileges and benefits conferred by this  
9 Compact on the Defaulting State shall be suspended from the  
10 effective date of default as fixed by the Commission. The  
11 grounds for default include, but are not limited to, failure of  
12 a Compacting State to perform its obligations or  
13 responsibilities, and any other grounds designated in  
14 Commission Rules. The Commission shall immediately notify the  
15 Defaulting State in writing of the Defaulting State's  
16 suspension pending a cure of the default. The Commission shall  
17 stipulate the conditions and the time period within which the  
18 Defaulting State must cure its default. If the Defaulting State  
19 fails to cure the default within the time period specified by  
20 the Commission, the Defaulting State shall be terminated from  
21 the Compact and all rights, privileges and benefits conferred  
22 by this Compact shall be terminated from the effective date of  
23 termination.

24 b. Product approvals by the Commission or product  
25 self-certifications, or any Advertisement in connection with  
26 such product, that are in force on the effective date of  
27 termination shall remain in force in the Defaulting State in  
28 the same manner as if the Defaulting State had withdrawn  
29 voluntarily pursuant to paragraph 1 of this Article.

30 c. Reinstatement following termination of any Compacting  
31 State requires a reenactment of the Compact.

32 3. Dissolution of Compact.

33 a. The Compact dissolves effective upon the date of the  
34 withdrawal or default of the Compacting State which reduces  
35 membership in the Compact to one Compacting State.

36 b. Upon the dissolution of this Compact, the Compact



1 becomes null and void and shall be of no further force or  
2 effect, and the business and affairs of the Commission shall be  
3 wound up and any surplus funds shall be distributed in  
4 accordance with the Bylaws.

5 Article XV. SEVERABILITY AND CONSTRUCTION

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

10 2. The provisions of this Compact shall be liberally  
11 construed to effectuate its purposes.

12 Article XVI. BINDING EFFECT OF COMPACT AND OTHER LAWS

13 1. Other Laws.

14 a. Nothing herein prevents the enforcement of any other law  
15 of a Compacting State, except as provided in paragraph b of  
16 this Article.

17 b. For any Product approved or certified to the Commission,  
18 the Rules, Uniform Standards and any other requirements of the  
19 Commission shall constitute the exclusive provisions  
20 applicable to the content, approval and certification of such  
21 Products. For Advertisement that is subject to the Commission's  
22 authority, any Rule, Uniform Standard or other requirement of  
23 the Commission which governs the content of the Advertisement  
24 shall constitute the exclusive provision that a Commissioner  
25 may apply to the content of the Advertisement. Notwithstanding  
26 the foregoing, no action taken by the Commission shall abrogate  
27 or restrict:

28 (i) the access of any person to state courts;

29 (ii) remedies available under state law related to  
30 breach of contract, tort, or other laws not specifically  
31 directed to the content of the Product;

32 (iii) state law relating to the construction of  
33 insurance contracts; or

34 (iv) the authority of the attorney general of the

1 state, including but not limited to maintaining any actions  
2 or proceedings, as authorized by law.

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

5 2. Binding Effect of this Compact.

6 a. All lawful actions of the Commission, including all  
7 Rules and Operating Procedures promulgated by the Commission,  
8 are binding upon the Compacting States.

9 b. All agreements between the Commission and the Compacting  
10 States are binding in accordance with their terms.

11 c. Upon the request of a party to a conflict over the  
12 meaning or interpretation of Commission actions, and upon a  
13 majority vote of the Compacting States, the Commission may  
14 issue advisory opinions regarding the meaning or  
15 interpretation in dispute.

16 d. In the event any provision of this Compact exceeds the  
17 constitutional limits imposed on the legislature of any  
18 Compacting State, the obligations, duties, powers or  
19 jurisdiction sought to be conferred by that provision upon the  
20 Commission shall be ineffective as to that Compacting State,  
21 and those obligations, duties, powers or jurisdiction shall  
22 remain in the Compacting State and shall be exercised by the  
23 agency thereof to which those obligations, duties, powers or  
24 jurisdiction are delegated by law in effect at the time this  
25 Compact becomes effective.

26 Section 99. Effective date. This Act takes effect upon  
27 becoming law.