

1-1 By: Eiland, Seaman, Taylor H.B. No. 2613
1-2 (Senate Sponsor - Averitt)
1-3 (In the Senate - Received from the House May 10, 2005;
1-4 May 12, 2005, read first time and referred to Committee on Business
1-5 and Commerce; May 20, 2005, reported favorably by the following
1-6 vote: Yeas 8, Nays 0; May 20, 2005, sent to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the adoption of the Interstate Insurance Product
1-10 Regulation Compact.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. The Insurance Code is amended by adding Title 15
1-13 to read as follows:

1-14 TITLE 15. INTERSTATE INSURANCE COMPACTS

1-15 CHAPTER 5001. INTERSTATE INSURANCE PRODUCT REGULATION COMPACT

1-16 Sec. 5001.001. ADOPTION OF COMPACT; REPRESENTATIVE TO
1-17 COMMISSION. Pursuant to the terms and conditions of this chapter,
1-18 the state joins with other states that have adopted the Interstate
1-19 Insurance Product Regulation Compact to establish and become a
1-20 member of the Interstate Insurance Product Regulation Commission.
1-21 The commissioner is the state's representative to that commission.

1-22 Sec. 5001.002. TERMS OF COMPACT.

1-23 ARTICLE I. PURPOSES

1-24 The purposes of this Compact are, through means of joint and
1-25 cooperative action among the Compacting States:

1-26 1. To promote and protect the interest of consumers of
1-27 individual and group annuity, life insurance, disability income and
1-28 long-term care insurance products;

1-29 2. To develop uniform standards for insurance products
1-30 covered under the Compact;

1-31 3. To establish a central clearinghouse to receive and
1-32 provide prompt review of insurance products covered under the
1-33 Compact and in certain cases, advertisements related thereto,
1-34 submitted by insurers authorized to do business in one or more
1-35 Compacting States;

1-36 4. To give appropriate regulatory approval to those
1-37 product filings and advertisements satisfying the applicable
1-38 uniform standard;

1-39 5. To improve coordination of regulatory resources and
1-40 expertise between state insurance departments regarding the
1-41 setting of uniform standards and review of insurance products
1-42 covered under the Compact;

1-43 6. To create the Interstate Insurance Product
1-44 Regulation Commission; and

1-45 7. To perform these and such other related functions
1-46 as may be consistent with the state regulation of the business of
1-47 insurance.

1-48 ARTICLE II. DEFINITIONS

1-49 For purposes of this Compact:

1-50 1. "Advertisement" means any material designed to
1-51 create public interest in a Product, or induce the public to
1-52 purchase, increase, modify, reinstate, borrow on, surrender,
1-53 replace or retain a policy, as more specifically defined in the
1-54 Rules and Operating Procedures of the Commission.

1-55 2. "Bylaws" mean those bylaws established by the
1-56 Commission for its governance, or for directing or controlling the
1-57 Commission's actions or conduct.

1-58 3. "Compacting State" means any State which has
1-59 enacted this Compact legislation and which has not withdrawn
1-60 pursuant to Article XIV, Section 1, or been terminated pursuant to
1-61 Article XIV, Section 2.

1-62 4. "Commission" means the "Interstate Insurance
1-63 Product Regulation Commission" established by this Compact.

1-64 5. "Commissioner" means the chief insurance

2-1 regulatory official of a State including, but not limited to
 2-2 commissioner, superintendent, director or administrator.

2-3 6. "Domiciliary State" means the state in which an
 2-4 Insurer is incorporated or organized; or, in the case of an alien
 2-5 Insurer, its state of entry.

2-6 7. "Insurer" means any entity licensed by a State to
 2-7 issue contracts of insurance for any of the lines of insurance
 2-8 covered by this Act.

2-9 8. "Member" means the person chosen by a Compacting
 2-10 State as its representative to the Commission, or his or her
 2-11 designee.

2-12 9. "Non-compacting State" means any State which is not
 2-13 at the time a Compacting State.

2-14 10. "Operating Procedures" mean procedures
 2-15 promulgated by the Commission implementing a Rule, Uniform Standard
 2-16 or a provision of this Compact.

2-17 11. "Product" means the form of a policy or contract,
 2-18 including any application, endorsement, or related form which is
 2-19 attached to and made a part of the policy or contract, and any
 2-20 evidence of coverage or certificate, for an individual or group
 2-21 annuity, life insurance, disability income or long-term care
 2-22 insurance product that an Insurer is authorized to issue.

2-23 12. "Rule" means a statement of general or particular
 2-24 applicability and future effect promulgated by the Commission,
 2-25 including a Uniform Standard developed pursuant to Article VII of
 2-26 this Compact, designed to implement, interpret, or prescribe law or
 2-27 policy or describing the organization, procedure, or practice
 2-28 requirements of the Commission, which shall have the force and
 2-29 effect of law in the Compacting States.

2-30 13. "State" means any state, district or territory of
 2-31 the United States of America.

2-32 14. "Third-Party Filer" means an entity that submits a
 2-33 Product filing to the Commission on behalf of an Insurer.

2-34 15. "Uniform Standard" means a standard adopted by the
 2-35 Commission for a Product line, pursuant to Article VII of this
 2-36 Compact, and shall include all of the Product requirements in
 2-37 aggregate; provided, that each Uniform Standard shall be construed,
 2-38 whether express or implied, to prohibit the use of any
 2-39 inconsistent, misleading or ambiguous provisions in a Product and
 2-40 the form of the Product made available to the public shall not be
 2-41 unfair, inequitable or against public policy as determined by the
 2-42 Commission.

2-43 ARTICLE III. ESTABLISHMENT OF THE COMMISSION AND VENUE

2-44 1. The Compacting States hereby create and establish a joint
 2-45 public agency known as the "Interstate Insurance Product Regulation
 2-46 Commission." Pursuant to Article IV, the Commission will have the
 2-47 power to develop Uniform Standards for Product lines, receive and
 2-48 provide prompt review of Products filed therewith, and give
 2-49 approval to those Product filings satisfying applicable Uniform
 2-50 Standards; provided, it is not intended for the Commission to be the
 2-51 exclusive entity for receipt and review of insurance product
 2-52 filings. Nothing herein shall prohibit any Insurer from filing its
 2-53 product in any State wherein the Insurer is licensed to conduct the
 2-54 business of insurance; and any such filing shall be subject to the
 2-55 laws of the State where filed.

2-56 2. The Commission is a body corporate and politic, and an
 2-57 instrumentality of the Compacting States.

2-58 3. The Commission is solely responsible for its liabilities
 2-59 except as otherwise specifically provided in this Compact.

2-60 4. Venue is proper and judicial proceedings by or against
 2-61 the Commission shall be brought solely and exclusively in a Court of
 2-62 competent jurisdiction where the principal office of the Commission
 2-63 is located.

2-64 ARTICLE IV. POWERS OF THE COMMISSION

2-65 The Commission shall have the following powers:

2-66 1. To promulgate Rules, pursuant to Article VII of
 2-67 this Compact, which shall have the force and effect of law and shall
 2-68 be binding in the Compacting States to the extent and in the manner
 2-69 provided in this Compact;

3-1 2. To exercise its rule-making authority and establish
3-2 reasonable Uniform Standards for Products covered under the
3-3 Compact, and Advertisement related thereto, which shall have the
3-4 force and effect of law and shall be binding in the Compacting
3-5 States, but only for those Products filed with the Commission,
3-6 provided, that a Compacting State shall have the right to opt out of
3-7 such Uniform Standard pursuant to Article VII, to the extent and in
3-8 the manner provided in this Compact, and, provided further, that
3-9 any Uniform Standard established by the Commission for long-term
3-10 care insurance products may provide the same or greater protections
3-11 for consumers as, but shall not provide less than, those
3-12 protections set forth in the National Association of Insurance
3-13 Commissioners' Long-Term Care Insurance Model Act and Long-Term
3-14 Care Insurance Model Regulation, respectively, adopted as of 2001.
3-15 The Commission shall consider whether any subsequent amendments to
3-16 the NAIC Long-Term Care Insurance Model Act or Long-Term Care
3-17 Insurance Model Regulation adopted by the NAIC require amending of
3-18 the Uniform Standards established by the Commission for long-term
3-19 care insurance products;

3-20 3. To receive and review in an expeditious manner
3-21 Products filed with the Commission, and rate filings for disability
3-22 income and long-term care insurance Products, and give approval of
3-23 those Products and rate filings that satisfy the applicable Uniform
3-24 Standard, where such approval shall have the force and effect of law
3-25 and be binding on the Compacting States to the extent and in the
3-26 manner provided in the Compact;

3-27 4. To receive and review in an expeditious manner
3-28 Advertisement relating to long-term care insurance products for
3-29 which Uniform Standards have been adopted by the Commission, and
3-30 give approval to all Advertisement that satisfies the applicable
3-31 Uniform Standard. For any product covered under this Compact, other
3-32 than long-term care insurance products, the Commission shall have
3-33 the authority to require an insurer to submit all or any part of its
3-34 Advertisement with respect to that product for review or approval
3-35 prior to use, if the Commission determines that the nature of the
3-36 product is such that an Advertisement of the product could have the
3-37 capacity or tendency to mislead the public. The actions of
3-38 Commission as provided in this section shall have the force and
3-39 effect of law and shall be binding in the Compacting States to the
3-40 extent and in the manner provided in the Compact;

3-41 5. To exercise its rule-making authority and designate
3-42 Products and Advertisement that may be subject to a
3-43 self-certification process without the need for prior approval by
3-44 the Commission;

3-45 6. To promulgate Operating Procedures, pursuant to
3-46 Article VII of this Compact, which shall be binding in the
3-47 Compacting States to the extent and in the manner provided in this
3-48 Compact;

3-49 7. To bring and prosecute legal proceedings or actions
3-50 in its name as the Commission; provided, that the standing of any
3-51 state insurance department to sue or be sued under applicable law
3-52 shall not be affected;

3-53 8. To issue subpoenas requiring the attendance and
3-54 testimony of witnesses and the production of evidence;

3-55 9. To establish and maintain offices;

3-56 10. To purchase and maintain insurance and bonds;

3-57 11. To borrow, accept or contract for services of
3-58 personnel, including, but not limited to, employees of a Compacting
3-59 State;

3-60 12. To hire employees, professionals or specialists,
3-61 and elect or appoint officers, and to fix their compensation,
3-62 define their duties and give them appropriate authority to carry
3-63 out the purposes of the Compact, and determine their
3-64 qualifications; and to establish the Commission's personnel
3-65 policies and programs relating to, among other things, conflicts of
3-66 interest, rates of compensation and qualifications of personnel;

3-67 13. To accept any and all appropriate donations and
3-68 grants of money, equipment, supplies, materials and services, and
3-69 to receive, utilize and dispose of the same; provided that at all

- 4-1 times the Commission shall strive to avoid any appearance of
 4-2 impropriety;
 4-3 14. To lease, purchase, accept appropriate gifts or
 4-4 donations of, or otherwise to own, hold, improve or use, any
 4-5 property, real, personal or mixed; provided that at all times the
 4-6 Commission shall strive to avoid any appearance of impropriety;
 4-7 15. To sell, convey, mortgage, pledge, lease,
 4-8 exchange, abandon or otherwise dispose of any property, real,
 4-9 personal or mixed;
 4-10 16. To remit filing fees to Compacting States as may be
 4-11 set forth in the Bylaws, Rules or Operating Procedures;
 4-12 17. To enforce compliance by Compacting States with
 4-13 Rules, Uniform Standards, Operating Procedures and Bylaws;
 4-14 18. To provide for dispute resolution among Compacting
 4-15 States;
 4-16 19. To advise Compacting States on issues relating to
 4-17 Insurers domiciled or doing business in Non-compacting
 4-18 jurisdictions, consistent with the purposes of this Compact;
 4-19 20. To provide advice and training to those personnel
 4-20 in state insurance departments responsible for product review, and
 4-21 to be a resource for state insurance departments;
 4-22 21. To establish a budget and make expenditures;
 4-23 22. To borrow money;
 4-24 23. To appoint committees, including advisory
 4-25 committees comprising Members, state insurance regulators, state
 4-26 legislators or their representatives, insurance industry and
 4-27 consumer representatives, and such other interested persons as may
 4-28 be designated in the Bylaws;
 4-29 24. To provide and receive information from, and to
 4-30 cooperate with law enforcement agencies;
 4-31 25. To adopt and use a corporate seal; and
 4-32 26. To perform such other functions as may be
 4-33 necessary or appropriate to achieve the purposes of this Compact
 4-34 consistent with the state regulation of the business of insurance.

4-35 ARTICLE V. ORGANIZATION OF THE COMMISSION

4-36 1. Membership, Voting and Bylaws

- 4-37 a. Each Compacting State shall have and be limited to
 4-38 one Member. Each Member shall be qualified to serve in that
 4-39 capacity pursuant to applicable law of the Compacting State. Any
 4-40 Member may be removed or suspended from office as provided by the
 4-41 law of the State from which he or she shall be appointed. Any
 4-42 vacancy occurring in the Commission shall be filled in accordance
 4-43 with the laws of the Compacting State wherein the vacancy exists.
 4-44 Nothing herein shall be construed to affect the manner in which a
 4-45 Compacting State determines the election or appointment and
 4-46 qualification of its own Commissioner.
 4-47 b. Each Member shall be entitled to one vote and shall
 4-48 have an opportunity to participate in the governance of the
 4-49 Commission in accordance with the Bylaws. Notwithstanding any
 4-50 provision herein to the contrary, no action of the Commission with
 4-51 respect to the promulgation of a Uniform Standard shall be
 4-52 effective unless two-thirds (2/3) of the Members vote in favor
 4-53 thereof.
 4-54 c. The Commission shall, by a majority of the Members,
 4-55 prescribe Bylaws to govern its conduct as may be necessary or
 4-56 appropriate to carry out the purposes, and exercise the powers, of
 4-57 the Compact, including, but not limited to:
 4-58 i. Establishing the fiscal year of the
 4-59 Commission;
 4-60 ii. Providing reasonable procedures for
 4-61 appointing and electing members, as well as holding meetings, of
 4-62 the Management Committee;
 4-63 iii. Providing reasonable standards and
 4-64 procedures: (i) for the establishment and meetings of other
 4-65 committees, and (ii) governing any general or specific delegation
 4-66 of any authority or function of the Commission;
 4-67 iv. Providing reasonable procedures for calling
 4-68 and conducting meetings of the Commission that consist of a
 4-69 majority of Commission members, ensuring reasonable advance notice

5-1 of each such meeting and providing for the right of citizens to
 5-2 attend each such meeting with enumerated exceptions designed to
 5-3 protect the public's interest, the privacy of individuals, and
 5-4 insurers' proprietary information, including trade secrets. The
 5-5 Commission may meet in camera only after a majority of the entire
 5-6 membership votes to close a meeting en toto or in part. As soon as
 5-7 practicable, the Commission must make public (i) a copy of the vote
 5-8 to close the meeting revealing the vote of each Member with no proxy
 5-9 votes allowed, and (ii) votes taken during such meeting;

5-10 v. Establishing the titles, duties and authority
 5-11 and reasonable procedures for the election of the officers of the
 5-12 Commission;

5-13 vi. Providing reasonable standards and
 5-14 procedures for the establishment of the personnel policies and
 5-15 programs of the Commission. Notwithstanding any civil service or
 5-16 other similar laws of any Compacting State, the Bylaws shall
 5-17 exclusively govern the personnel policies and programs of the
 5-18 Commission;

5-19 vii. Promulgating a code of ethics to address
 5-20 permissible and prohibited activities of commission members and
 5-21 employees; and

5-22 viii. Providing a mechanism for winding up the
 5-23 operations of the Commission and the equitable disposition of any
 5-24 surplus funds that may exist after the termination of the Compact
 5-25 after the payment and/or reserving of all of its debts and
 5-26 obligations.

5-27 d. The Commission shall publish its bylaws in a
 5-28 convenient form and file a copy thereof and a copy of any amendment
 5-29 thereto, with the appropriate agency or officer in each of the
 5-30 Compacting States.

5-31 2. Management Committee, Officers and Personnel

5-32 a. A Management Committee comprising no more than
 5-33 fourteen (14) members shall be established as follows:

5-34 i. One (1) member from each of the six (6)
 5-35 Compacting States with the largest premium volume for individual
 5-36 and group annuities, life, disability income and long-term care
 5-37 insurance products, determined from the records of the NAIC for the
 5-38 prior year;

5-39 ii. Four (4) members from those Compacting States
 5-40 with at least two percent (2%) of the market based on the premium
 5-41 volume described above, other than the six (6) Compacting States
 5-42 with the largest premium volume, selected on a rotating basis as
 5-43 provided in the Bylaws; and

5-44 iii. Four (4) members from those Compacting
 5-45 States with less than two percent (2%) of the market, based on the
 5-46 premium volume described above, with one (1) selected from each of
 5-47 the four (4) zone regions of the NAIC as provided in the Bylaws.

5-48 b. The Management Committee shall have such authority
 5-49 and duties as may be set forth in the Bylaws, including but not
 5-50 limited to:

5-51 i. Managing the affairs of the Commission in a
 5-52 manner consistent with the Bylaws and purposes of the Commission;

5-53 ii. Establishing and overseeing an
 5-54 organizational structure within, and appropriate procedures for,
 5-55 the Commission to provide for the creation of Uniform Standards and
 5-56 other Rules, receipt and review of product filings, administrative
 5-57 and technical support functions, review of decisions regarding the
 5-58 disapproval of a product filing, and the review of elections made by
 5-59 a Compacting State to opt out of a Uniform Standard; provided that a
 5-60 Uniform Standard shall not be submitted to the Compacting States
 5-61 for adoption unless approved by two-thirds (2/3) of the members of
 5-62 the Management Committee;

5-63 iii. Overseeing the offices of the Commission;
 5-64 and

5-65 iv. Planning, implementing, and coordinating
 5-66 communications and activities with other state, federal and local
 5-67 government organizations in order to advance the goals of the
 5-68 Commission.

5-69 c. The Commission shall elect annually officers from

6-1 the Management Committee, with each having such authority and
 6-2 duties, as may be specified in the Bylaws.

6-3 d. The Management Committee may, subject to the
 6-4 approval of the Commission, appoint or retain an executive director
 6-5 for such period, upon such terms and conditions and for such
 6-6 compensation as the Commission may deem appropriate. The executive
 6-7 director shall serve as secretary to the Commission, but shall not
 6-8 be a Member of the Commission. The executive director shall hire
 6-9 and supervise such other staff as may be authorized by the
 6-10 Commission.

6-11 3. Legislative and Advisory Committees

6-12 a. A legislative committee comprising state
 6-13 legislators or their designees shall be established to monitor the
 6-14 operations of, and make recommendations to, the Commission,
 6-15 including the Management Committee; provided that the manner of
 6-16 selection and term of any legislative committee member shall be as
 6-17 set forth in the Bylaws. Prior to the adoption by the Commission of
 6-18 any Uniform Standard, revision to the Bylaws, annual budget or
 6-19 other significant matter as may be provided in the Bylaws, the
 6-20 Management Committee shall consult with and report to the
 6-21 legislative committee.

6-22 b. The Commission shall establish two (2) advisory
 6-23 committees, one of which shall comprise consumer representatives
 6-24 independent of the insurance industry, and the other comprising
 6-25 insurance industry representatives.

6-26 c. The Commission may establish additional advisory
 6-27 committees as its Bylaws may provide for the carrying out of its
 6-28 functions.

6-29 4. Corporate Records of the Commission

6-30 The Commission shall maintain its corporate books and
 6-31 records in accordance with the Bylaws.

6-32 5. Qualified Immunity, Defense and Indemnification

6-33 a. The Members, officers, executive director,
 6-34 employees and representatives of the Commission shall be immune
 6-35 from suit and liability, either personally or in their official
 6-36 capacity, for any claim for damage to or loss of property or
 6-37 personal injury or other civil liability caused by or arising out of
 6-38 any actual or alleged act, error or omission that occurred, or that
 6-39 the person against whom the claim is made had a reasonable basis for
 6-40 believing occurred within the scope of Commission employment,
 6-41 duties or responsibilities; provided, that nothing in this
 6-42 paragraph shall be construed to protect any such person from suit
 6-43 and/or liability for any damage, loss, injury or liability caused
 6-44 by the intentional or willful and wanton misconduct of that person.

6-45 b. The Commission shall defend any Member, officer,
 6-46 executive director, employee or representative of the Commission in
 6-47 any civil action seeking to impose liability arising out of any
 6-48 actual or alleged act, error or omission that occurred within the
 6-49 scope of Commission employment, duties or responsibilities, or that
 6-50 the person against whom the claim is made had a reasonable basis for
 6-51 believing occurred within the scope of Commission employment,
 6-52 duties or responsibilities; provided, that nothing herein shall be
 6-53 construed to prohibit that person from retaining his or her own
 6-54 counsel; and provided further, that the actual or alleged act,
 6-55 error or omission did not result from that person's intentional or
 6-56 willful and wanton misconduct.

6-57 c. The Commission shall indemnify and hold harmless
 6-58 any Member, officer, executive director, employee or
 6-59 representative of the Commission for the amount of any settlement
 6-60 or judgment obtained against that person arising out of any actual
 6-61 or alleged act, error or omission that occurred within the scope of
 6-62 Commission employment, duties or responsibilities, or that such
 6-63 person had a reasonable basis for believing occurred within the
 6-64 scope of Commission employment, duties or responsibilities,
 6-65 provided, that the actual or alleged act, error or omission did not
 6-66 result from the intentional or willful and wanton misconduct of
 6-67 that person.

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ARTICLE VI. MEETINGS AND ACTS
OF THE COMMISSION

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

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

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

ARTICLE VII. RULES AND OPERATING PROCEDURES:
RULEMAKING FUNCTIONS OF THE COMMISSION
AND OPTING OUT OF UNIFORM STANDARDS

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

2. Rulemaking Procedure. Rules and Operating Procedures shall be made pursuant to a rulemaking process that conforms to the Model State Administrative Procedure Act of 1981 as amended, as may be appropriate to the operations of the Commission. Before the Commission adopts a Uniform Standard, the Commission shall give written notice to the relevant state legislative committee(s) in each Compacting State responsible for insurance issues of its intention to adopt the Uniform Standard. The Commission in adopting a Uniform Standard shall consider fully all submitted materials and issue a concise explanation of its decision.

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

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

Notwithstanding the foregoing, a Compacting State may, at the time of its enactment of this Compact, prospectively opt out of all

8-1 Uniform Standards involving long-term care insurance products by
8-2 expressly providing for such opt out in the enacted Compact, and
8-3 such an opt out shall not be treated as a material variance in the
8-4 offer or acceptance of any State to participate in this Compact.
8-5 Such an opt out shall be effective at the time of enactment of this
8-6 Compact by the Compacting State and shall apply to all existing
8-7 Uniform Standards involving long-term care insurance products and
8-8 those subsequently promulgated.

8-9 5. Effect of Opt Out. If a Compacting State elects to opt
8-10 out of a Uniform Standard, the Uniform Standard shall remain
8-11 applicable in the Compacting State electing to opt out until such
8-12 time the opt out legislation is enacted into law or the regulation
8-13 opting out becomes effective.

8-14 Once the opt out of a Uniform Standard by a Compacting State
8-15 becomes effective as provided under the laws of that State, the
8-16 Uniform Standard shall have no further force and effect in that
8-17 State unless and until the legislation or regulation implementing
8-18 the opt out is repealed or otherwise becomes ineffective under the
8-19 laws of the State. If a Compacting State opts out of a Uniform
8-20 Standard after the Uniform Standard has been made effective in that
8-21 State, the opt out shall have the same prospective effect as
8-22 provided under Article XIV for withdrawals.

8-23 6. Stay of Uniform Standard. If a Compacting State has
8-24 formally initiated the process of opting out of a Uniform Standard
8-25 by regulation, and while the regulatory opt out is pending, the
8-26 Compacting State may petition the Commission, at least fifteen (15)
8-27 days before the effective date of the Uniform Standard, to stay the
8-28 effectiveness of the Uniform Standard in that State. The Commission
8-29 may grant a stay if it determines the regulatory opt out is being
8-30 pursued in a reasonable manner and there is a likelihood of success.
8-31 If a stay is granted or extended by the Commission, the stay or
8-32 extension thereof may postpone the effective date by up to ninety
8-33 (90) days, unless affirmatively extended by the Commission;
8-34 provided, a stay may not be permitted to remain in effect for more
8-35 than one (1) year unless the Compacting State can show
8-36 extraordinary circumstances which warrant a continuance of the
8-37 stay, including, but not limited to, the existence of a legal
8-38 challenge which prevents the Compacting State from opting out. A
8-39 stay may be terminated by the Commission upon notice that the
8-40 rulemaking process has been terminated.

8-41 7. Not later than thirty (30) days after a Rule or Operating
8-42 Procedure is promulgated, any person may file a petition for
8-43 judicial review of the Rule or Operating Procedure; provided, that
8-44 the filing of such a petition shall not stay or otherwise prevent
8-45 the Rule or Operating Procedure from becoming effective unless the
8-46 court finds that the petitioner has a substantial likelihood of
8-47 success. The court shall give deference to the actions of the
8-48 Commission consistent with applicable law and shall not find the
8-49 Rule or Operating Procedure to be unlawful if the Rule or Operating
8-50 Procedure represents a reasonable exercise of the Commission's
8-51 authority.

8-52 ARTICLE VIII. COMMISSION RECORDS AND ENFORCEMENT

8-53 1. The Commission shall promulgate Rules establishing
8-54 conditions and procedures for public inspection and copying of its
8-55 information and official records, except such information and
8-56 records involving the privacy of individuals and insurers' trade
8-57 secrets. The Commission may promulgate additional Rules under
8-58 which it may make available to federal and state agencies,
8-59 including law enforcement agencies, records and information
8-60 otherwise exempt from disclosure, and may enter into agreements
8-61 with such agencies to receive or exchange information or records
8-62 subject to nondisclosure and confidentiality provisions.

8-63 2. Except as to privileged records, data and information,
8-64 the laws of any Compacting State pertaining to confidentiality or
8-65 nondisclosure shall not relieve any Compacting State Commissioner
8-66 of the duty to disclose any relevant records, data or information to
8-67 the Commission; provided, that disclosure to the Commission shall
8-68 not be deemed to waive or otherwise affect any confidentiality
8-69 requirement; and further provided, that, except as otherwise

9-1 expressly provided in this Act, the Commission shall not be subject
9-2 to the Compacting State's laws pertaining to confidentiality and
9-3 nondisclosure with respect to records, data and information in its
9-4 possession. Confidential information of the Commission shall
9-5 remain confidential after such information is provided to any
9-6 Commissioner.

9-7 3. The Commission shall monitor Compacting States for
9-8 compliance with duly adopted Bylaws, Rules, including Uniform
9-9 Standards, and Operating Procedures. The Commission shall notify
9-10 any non-complying Compacting State in writing of its noncompliance
9-11 with Commission Bylaws, Rules or Operating Procedures. If a
9-12 non-complying Compacting State fails to remedy its noncompliance
9-13 within the time specified in the notice of noncompliance, the
9-14 Compacting State shall be deemed to be in default as set forth in
9-15 Article XIV.

9-16 4. The Commissioner of any State in which an Insurer is
9-17 authorized to do business, or is conducting the business of
9-18 insurance, shall continue to exercise his or her authority to
9-19 oversee the market regulation of the activities of the Insurer in
9-20 accordance with the provisions of the State's law. The
9-21 Commissioner's enforcement of compliance with the Compact is
9-22 governed by the following provisions:

9-23 a. With respect to the Commissioner's market
9-24 regulation of a Product or Advertisement that is approved or
9-25 certified to the Commission, the content of the Product or
9-26 Advertisement shall not constitute a violation of the provisions,
9-27 standards or requirements of the Compact except upon a final order
9-28 of the Commission, issued at the request of a Commissioner after
9-29 prior notice to the Insurer and an opportunity for hearing before
9-30 the Commission.

9-31 b. Before a Commissioner may bring an action for
9-32 violation of any provision, standard or requirement of the Compact
9-33 relating to the content of an Advertisement not approved or
9-34 certified to the Commission, the Commission, or an authorized
9-35 Commission officer or employee, must authorize the action.
9-36 However, authorization pursuant to this paragraph does not require
9-37 notice to the Insurer, opportunity for hearing or disclosure of
9-38 requests for authorization or records of the Commission's action on
9-39 such requests.

9-40 ARTICLE IX. DISPUTE RESOLUTION

9-41 The Commission shall attempt, upon the request of a Member,
9-42 to resolve any disputes or other issues that are subject to this
9-43 Compact and which may arise between two or more Compacting States,
9-44 or between Compacting States and Non-compacting States, and the
9-45 Commission shall promulgate an Operating Procedure providing for
9-46 resolution of such disputes.

9-47 ARTICLE X. PRODUCT FILING AND APPROVAL

9-48 1. Insurers and Third-Party Filers seeking to have a Product
9-49 approved by the Commission shall file the Product with, and pay
9-50 applicable filing fees to, the Commission. Nothing in this Act
9-51 shall be construed to restrict or otherwise prevent an insurer from
9-52 filing its Product with the insurance department in any State
9-53 wherein the insurer is licensed to conduct the business of
9-54 insurance, and such filing shall be subject to the laws of the
9-55 States where filed.

9-56 2. The Commission shall establish appropriate filing and
9-57 review processes and procedures pursuant to Commission Rules and
9-58 Operating Procedures. Notwithstanding any provision herein to the
9-59 contrary, the Commission shall promulgate Rules to establish
9-60 conditions and procedures under which the Commission will provide
9-61 public access to Product filing information. In establishing such
9-62 Rules, the Commission shall consider the interests of the public in
9-63 having access to such information, as well as protection of
9-64 personal medical and financial information and trade secrets, that
9-65 may be contained in a Product filing or supporting information.

9-66 3. Any Product approved by the Commission may be sold or
9-67 otherwise issued in those Compacting States for which the Insurer
9-68 is legally authorized to do business.

9-69 ARTICLE XI. REVIEW OF COMMISSION DECISIONS

REGARDING FILINGS

10-1
10-2 1. Not later than thirty (30) days after the Commission has
10-3 given notice of a disapproved Product or Advertisement filed with
10-4 the Commission, the Insurer or Third Party Filer whose filing was
10-5 disapproved may appeal the determination to a review panel
10-6 appointed by the Commission. The Commission shall promulgate Rules
10-7 to establish procedures for appointing such review panels and
10-8 provide for notice and hearing. An allegation that the Commission,
10-9 in disapproving a Product or Advertisement filed with the
10-10 Commission, acted arbitrarily, capriciously, or in a manner that is
10-11 an abuse of discretion or otherwise not in accordance with the law,
10-12 is subject to judicial review in accordance with Article III,
10-13 Section 4.

10-14 2. The Commission shall have authority to monitor, review
10-15 and reconsider Products and Advertisement subsequent to their
10-16 filing or approval upon a finding that the product does not meet the
10-17 relevant Uniform Standard. Where appropriate, the Commission may
10-18 withdraw or modify its approval after proper notice and hearing,
10-19 subject to the appeal process in Section 1 above.

ARTICLE XII. FINANCE

10-20
10-21 1. The Commission shall pay or provide for the payment of
10-22 the reasonable expenses of its establishment and organization. To
10-23 fund the cost of its initial operations, the Commission may accept
10-24 contributions and other forms of funding from the National
10-25 Association of Insurance Commissioners, Compacting States and
10-26 other sources. Contributions and other forms of funding from other
10-27 sources shall be of such a nature that the independence of the
10-28 Commission concerning the performance of its duties shall not be
10-29 compromised.

10-30 2. The Commission shall collect a filing fee from each
10-31 Insurer and Third Party Filer filing a product with the Commission
10-32 to cover the cost of the operations and activities of the Commission
10-33 and its staff in a total amount sufficient to cover the Commission's
10-34 annual budget.

10-35 3. The Commission's budget for a fiscal year shall not be
10-36 approved until it has been subject to notice and comment as set
10-37 forth in Article VII of this Compact.

10-38 4. The Commission shall be exempt from all taxation in and
10-39 by the Compacting States.

10-40 5. The Commission shall not pledge the credit of any
10-41 Compacting State, except by and with the appropriate legal
10-42 authority of that Compacting State.

10-43 6. The Commission shall keep complete and accurate accounts
10-44 of all its internal receipts, including grants and donations, and
10-45 disbursements of all funds under its control. The internal
10-46 financial accounts of the Commission shall be subject to the
10-47 accounting procedures established under its Bylaws. The financial
10-48 accounts and reports including the system of internal controls and
10-49 procedures of the Commission shall be audited annually by an
10-50 independent certified public accountant. Upon the determination of
10-51 the Commission, but no less frequently than every three (3) years,
10-52 the review of the independent auditor shall include a management
10-53 and performance audit of the Commission. The Commission shall make
10-54 an Annual Report to the Governor and legislature of the Compacting
10-55 States, which shall include a report of the independent audit. The
10-56 Commission's internal accounts shall not be confidential and such
10-57 materials may be shared with the Commissioner of any Compacting
10-58 State upon request provided, however, that any work papers related
10-59 to any internal or independent audit and any information regarding
10-60 the privacy of individuals and insurers' proprietary information,
10-61 including trade secrets, shall remain confidential.

10-62 7. No Compacting State shall have any claim to or ownership
10-63 of any property held by or vested in the Commission or to any
10-64 Commission funds held pursuant to the provisions of this Compact.

ARTICLE XIII. COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

10-65 1. Any State is eligible to become a Compacting State.

10-66 2. The Compact shall become effective and binding upon
10-67 legislative enactment of the Compact into law by two Compacting
10-68 States; provided, the Commission shall become effective for
10-69

11-1 purposes of adopting Uniform Standards for, reviewing, and giving
 11-2 approval or disapproval of, Products filed with the Commission that
 11-3 satisfy applicable Uniform Standards only after twenty-six (26)
 11-4 States are Compacting States or, alternatively, by States
 11-5 representing greater than forty percent (40%) of the premium volume
 11-6 for life insurance, annuity, disability income and long-term care
 11-7 insurance products, based on records of the NAIC for the prior year.
 11-8 Thereafter, it shall become effective and binding as to any other
 11-9 Compacting State upon enactment of the Compact into law by that
 11-10 State.

11-11 3. Amendments to the Compact may be proposed by the
 11-12 Commission for enactment by the Compacting States. No amendment
 11-13 shall become effective and binding upon the Commission and the
 11-14 Compacting States unless and until all Compacting States enact the
 11-15 amendment into law.

11-16 ARTICLE XIV. WITHDRAWAL, DEFAULT AND TERMINATION

11-17 1. Withdrawal

11-18 a. Once effective, the Compact shall continue in force
 11-19 and remain binding upon each and every Compacting State; provided,
 11-20 that a Compacting State may withdraw from the Compact ("Withdrawing
 11-21 State") by enacting a statute specifically repealing the statute
 11-22 which enacted the Compact into law.

11-23 b. The effective date of withdrawal is the effective
 11-24 date of the repealing statute. However, the withdrawal shall not
 11-25 apply to any product filings approved or self-certified, or any
 11-26 Advertisement of such products, on the date the repealing statute
 11-27 becomes effective, except by mutual agreement of the Commission and
 11-28 the Withdrawing State unless the approval is rescinded by the
 11-29 Withdrawing State as provided in Paragraph e of this section.

11-30 c. The Commissioner of the Withdrawing State shall
 11-31 immediately notify the Management Committee in writing upon the
 11-32 introduction of legislation repealing this Compact in the
 11-33 Withdrawing State.

11-34 d. The Commission shall notify the other Compacting
 11-35 States of the introduction of such legislation within ten (10) days
 11-36 after its receipt of notice thereof.

11-37 e. The Withdrawing State is responsible for all
 11-38 obligations, duties and liabilities incurred through the effective
 11-39 date of withdrawal, including any obligations, the performance of
 11-40 which extend beyond the effective date of withdrawal, except to the
 11-41 extent those obligations may have been released or relinquished by
 11-42 mutual agreement of the Commission and the Withdrawing State. The
 11-43 Commission's approval of Products and Advertisement prior to the
 11-44 effective date of withdrawal shall continue to be effective and be
 11-45 given full force and effect in the Withdrawing State, unless
 11-46 formally rescinded by the Withdrawing State in the same manner as
 11-47 provided by the laws of the Withdrawing State for the prospective
 11-48 disapproval of products or advertisement previously approved under
 11-49 state law.

11-50 f. Reinstatement following withdrawal of any
 11-51 Compacting State shall occur upon the effective date of the
 11-52 Withdrawing State reenacting the Compact.

11-53 2. Default

11-54 a. If the Commission determines that any Compacting
 11-55 State has at any time defaulted ("Defaulting State") in the
 11-56 performance of any of its obligations or responsibilities under
 11-57 this Compact, the Bylaws or duly promulgated Rules or Operating
 11-58 Procedures, then, after notice and hearing as set forth in the
 11-59 Bylaws, all rights, privileges and benefits conferred by this
 11-60 Compact on the Defaulting State shall be suspended from the
 11-61 effective date of default as fixed by the Commission. The grounds
 11-62 for default include, but are not limited to, failure of a Compacting
 11-63 State to perform its obligations or responsibilities, and any other
 11-64 grounds designated in Commission Rules. The Commission shall
 11-65 immediately notify the Defaulting State in writing of the
 11-66 Defaulting State's suspension pending a cure of the default. The
 11-67 Commission shall stipulate the conditions and the time period
 11-68 within which the Defaulting State must cure its default. If the
 11-69 Defaulting State fails to cure the default within the time period

12-1 specified by the Commission, the Defaulting State shall be
 12-2 terminated from the Compact and all rights, privileges and benefits
 12-3 conferred by this Compact shall be terminated from the effective
 12-4 date of termination.

12-5 b. Product approvals by the Commission or product
 12-6 self-certifications, or any Advertisement in connection with such
 12-7 product, that are in force on the effective date of termination
 12-8 shall remain in force in the Defaulting State in the same manner as
 12-9 if the Defaulting State had withdrawn voluntarily pursuant to
 12-10 Section 1 of this article.

12-11 c. Reinstatement following termination of any
 12-12 Compacting State requires a reenactment of the Compact.

12-13 3. Dissolution of Compact

12-14 a. The Compact dissolves effective upon the date of
 12-15 the withdrawal or default of the Compacting State which reduces
 12-16 membership in the Compact to one Compacting State.

12-17 b. Upon the dissolution of this Compact, the Compact
 12-18 becomes null and void and shall be of no further force or effect,
 12-19 and the business and affairs of the Commission shall be wound up and
 12-20 any surplus funds shall be distributed in accordance with the
 12-21 Bylaws.

12-22 ARTICLE XV. SEVERABILITY AND CONSTRUCTION

12-23 1. The provisions of this Compact shall be severable; and if
 12-24 any phrase, clause, sentence or provision is deemed unenforceable,
 12-25 the remaining provisions of the Compact shall be enforceable.

12-26 2. The provisions of this Compact shall be liberally
 12-27 construed to effectuate its purposes.

12-28 ARTICLE XVI. BINDING EFFECT OF COMPACT AND OTHER LAWS

12-29 1. Other Laws

12-30 a. Nothing herein prevents the enforcement of any
 12-31 other law of a Compacting State, except as provided in Paragraph b
 12-32 of this section.

12-33 b. For any Product approved or certified to the
 12-34 Commission, the Rules, Uniform Standards and any other requirements
 12-35 of the Commission shall constitute the exclusive provisions
 12-36 applicable to the content, approval and certification of such
 12-37 Products. For Advertisement that is subject to the Commission's
 12-38 authority, any Rule, Uniform Standard or other requirement of the
 12-39 Commission which governs the content of the Advertisement shall
 12-40 constitute the exclusive provision that a Commissioner may apply to
 12-41 the content of the Advertisement. Notwithstanding the foregoing,
 12-42 no action taken by the Commission shall abrogate or restrict: (i)
 12-43 the access of any person to state courts; (ii) remedies available
 12-44 under state law related to breach of contract, tort, or other laws
 12-45 not specifically directed to the content of the Product; (iii)
 12-46 state law relating to the construction of insurance contracts; or
 12-47 (iv) the authority of the attorney general of the state, including
 12-48 but not limited to maintaining any actions or proceedings, as
 12-49 authorized by law.

12-50 c. All insurance products filed with individual States
 12-51 shall be subject to the laws of those States.

12-52 2. Binding Effect of this Compact

12-53 a. All lawful actions of the Commission, including all
 12-54 Rules and Operating Procedures promulgated by the Commission, are
 12-55 binding upon the Compacting States.

12-56 b. All agreements between the Commission and the
 12-57 Compacting States are binding in accordance with their terms.

12-58 c. Upon the request of a party to a conflict over the
 12-59 meaning or interpretation of Commission actions, and upon a
 12-60 majority vote of the Compacting States, the Commission may issue
 12-61 advisory opinions regarding the meaning or interpretation in
 12-62 dispute.

12-63 d. In the event any provision of this Compact exceeds
 12-64 the constitutional limits imposed on the legislature of any
 12-65 Compacting State, the obligations, duties, powers or jurisdiction
 12-66 sought to be conferred by that provision upon the Commission shall
 12-67 be ineffective as to that Compacting State, and those obligations,
 12-68 duties, powers or jurisdiction shall remain in the Compacting State
 12-69 and shall be exercised by the agency thereof to which those

13-1 obligations, duties, powers or jurisdiction are delegated by law in
13-2 effect at the time this Compact becomes effective.

13-3 SECTION 2. This Act takes effect immediately if it receives
13-4 a vote of two-thirds of all the members elected to each house, as
13-5 provided by Section 39, Article III, Texas Constitution. If this
13-6 Act does not receive the vote necessary for immediate effect, this
13-7 Act takes effect September 1, 2005.

13-8 * * * * *