

Senate Bill 295

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Enacts Interstate Insurance Product Regulation Compact. Obligates state to use uniform standards adopted by Interstate Insurance Product Regulation Commission unless state opts out of specific standards.

A BILL FOR AN ACT

Relating to the Interstate Insurance Product Regulation Compact.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 to 4 of this 2011 Act are added to and made a part of the Insurance Code.

SECTION 2. The Interstate Insurance Product Regulation Compact is enacted into law and entered into on behalf of this state with all other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I PURPOSE

The purposes of this compact are, through means of joint and cooperative action among the compacting states:

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

(2) To develop uniform standards for insurance products covered under the compact;

(3) To establish a central clearinghouse to receive and provide prompt review of insurance products covered under the compact and, in certain cases, advertisements related to these products, submitted by insurers authorized to do business in one or more compacting states;

(4) To give appropriate regulatory approval to those product filings and advertisements satisfying the applicable uniform standard;

(5) To improve coordination of regulatory resources and expertise between state insurance departments regarding the setting of uniform standards and review of insurance products covered under the compact;

(6) To create the Interstate Insurance Product Regulation Commission; and

(7) To perform these and such other related functions as may be consistent with the

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 state regulation of the business of insurance.

2
3 **ARTICLE II**
4 **DEFINITIONS**

5
6 **As used in this compact:**

7 (1) **“Advertisement”** means any material designed to create public interest in a product,
8 or induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace
9 or retain a policy, as more specifically defined in the rules and operating procedures of the
10 commission.

11 (2) **“Bylaws”** means those bylaws established by the commission for its governance, or
12 for directing or controlling the commission’s actions or conduct.

13 (3) **“Commission”** means the Interstate Insurance Product Regulation Commission es-
14 tablished by this compact.

15 (4) **“Commissioner”** means the chief insurance regulatory official of a state, including,
16 but not limited to, a commissioner, superintendent, director or administrator.

17 (5) **“Compacting state”** means any state that has enacted this compact legislation and
18 that has not withdrawn pursuant to subsection (1), Article XIV, of this compact, or been
19 terminated pursuant to subsection (2), Article XIV, of this compact.

20 (6) **“Insurer”** means any entity licensed by a state to issue contracts of insurance for any
21 of the lines of insurance covered by this compact.

22 (7) **“Member”** means the person chosen by a compacting state as its representative to
23 the commission, or the person’s designee.

24 (8) **“Noncompacting state”** means any state that is not at the time a compacting state.

25 (9) **“Operating procedures”** means procedures adopted by the commission implementing
26 a rule, uniform standard or a provision of this compact.

27 (10) **“Product”** means the form of a policy or contract, including any application,
28 endorsement or related form that is attached to and made a part of the policy or contract,
29 and any evidence of coverage or certificate, for an individual or group annuity, life insurance,
30 disability income or long-term care insurance product that an insurer is authorized to issue.

31 (11) **“Rule”** means a statement of general or particular applicability and future effect
32 adopted by the commission, including a uniform standard developed pursuant to Article VII
33 of this compact, designed to implement, interpret or prescribe law or policy or describing the
34 organization, procedure or practice requirements of the commission, which shall have the
35 force and effect of law in the compacting states.

36 (12) **“State”** means any state, district or territory of the United States of America.

37 (13) **“Third-party filer”** means an entity that submits a product filing to the commission
38 on behalf of an insurer.

39 (14) **“Uniform standard”** means a standard adopted by the commission for a product line,
40 pursuant to Article VII of this compact, and shall include all of the product requirements in
41 aggregate. However, each uniform standard shall be construed, whether express or implied,
42 to prohibit the use of any inconsistent, misleading or ambiguous provisions in a product and
43 the form of the product made available to the public shall not be unfair, inequitable or
44 against public policy as determined by the commission.

1 such approval shall have the force and effect of law and be binding on the compacting states
2 to the extent and in the manner provided in the compact.

3 (4) To receive and review in an expeditious manner advertisement relating to long-term
4 care insurance products for which uniform standards have been adopted by the commission,
5 and give approval to all advertisement that satisfies the applicable uniform standard. For any
6 product covered under this compact, other than long-term care insurance products, the
7 commission shall have the authority to require an insurer to submit all or any part of its
8 advertisement with respect to that product for review or approval prior to use, if the com-
9 mission determines that the nature of the product is such that an advertisement of the
10 product could have the capacity or tendency to mislead the public. The actions of the com-
11 mission as provided in this section shall have the force and effect of law and shall be binding
12 in the compacting states to the extent and in the manner provided in the compact.

13 (5) To exercise its rulemaking authority and designate products and advertisement that
14 may be subject to a self-certification process without the need for prior approval by the
15 commission.

16 (6) To adopt operating procedures, pursuant to Article VII of this compact, that shall be
17 binding in the compacting states to the extent and in the manner provided in this compact.

18 (7) To bring and prosecute legal proceedings or actions in its name as the commission.
19 However, the standing of any state insurance department to sue or be sued under applicable
20 law shall not be affected.

21 (8) To issue subpoenas requiring the attendance and testimony of witnesses and the
22 production of evidence.

23 (9) To establish and maintain offices.

24 (10) To purchase and maintain insurance and bonds.

25 (11) To borrow, accept or contract for services of personnel, including, but not limited
26 to, employees of a compacting state.

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

32 (13) To accept any and all appropriate donations and grants of money, equipment, sup-
33 plies, materials and services, and to receive, utilize and dispose of the same. However, at all
34 times the commission shall strive to avoid any appearance of impropriety.

35 (14) To lease, purchase, accept appropriate gifts or donations of or otherwise own, hold,
36 improve or use any property, real, personal or mixed. However, at all times the commission
37 shall strive to avoid any appearance of impropriety.

38 (15) To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of
39 any property, real, personal or mixed.

40 (16) To remit filing fees to compacting states as may be set forth in the bylaws, rules or
41 operating procedures.

42 (17) To enforce compliance by compacting states with rules, uniform standards, operating
43 procedures and bylaws.

44 (18) To provide for dispute resolution among compacting states.

45 (19) To advise compacting states on issues relating to insurers domiciled or doing busi-

1 **ness in noncompacting states, consistent with the purposes of this compact.**

2 **(20) To provide advice and training to those personnel in state insurance departments**
 3 **responsible for product review, and to be a resource for state insurance departments.**

4 **(21) To establish a budget and make expenditures.**

5 **(22) To borrow money.**

6 **(23) To appoint committees, including advisory committees comprising members, state**
 7 **insurance regulators, state legislators or their representatives, insurance industry and con-**
 8 **sumer representatives, and such other interested persons as may be designated in the by-**
 9 **laws.**

10 **(24) To provide and receive information from, and to cooperate with, law enforcement**
 11 **agencies.**

12 **(25) To adopt and use a corporate seal.**

13 **(26) To perform such other functions as may be necessary or appropriate to achieve the**
 14 **purposes of this compact consistent with the state regulation of the business of insurance.**

15
 16 **ARTICLE V**
 17 **ORGANIZATION OF THE COMMISSION**
 18

19 **(1)(a) Each compacting state shall have and be limited to one member. Each member**
 20 **shall be qualified to serve in that capacity pursuant to applicable law of the compacting state.**
 21 **Any member may be removed or suspended from office as provided by the law of the state**
 22 **from which the member shall be appointed. Any vacancy occurring in the commission shall**
 23 **be filled in accordance with the laws of the compacting state wherein the vacancy exists.**
 24 **Nothing herein shall be construed to affect the manner in which a compacting state deter-**
 25 **mines the election or appointment and qualification of its own commissioner.**

26 **(b) Each member shall be entitled to one vote and shall have an opportunity to partic-**
 27 **ipate in the governance of the commission in accordance with the bylaws. Notwithstanding**
 28 **any provision in this compact to the contrary, no action of the commission with respect to**
 29 **the adoption of a uniform standard shall be effective unless two-thirds of the members vote**
 30 **in favor thereof.**

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

34 **(A) Establishing the fiscal year of the commission.**

35 **(B) Providing reasonable procedures for appointing and electing members, as well as**
 36 **holding meetings, of the management committee.**

37 **(C) Providing reasonable standards and procedures for:**

38 **(i) The establishment and meetings of other committees; and**

39 **(ii) Governing any general or specific delegation of any authority or function of the**
 40 **commission.**

41 **(D) Providing reasonable procedures for calling and conducting meetings of the commis-**
 42 **sion that consist of a majority of commission members, ensuring reasonable advance notice**
 43 **of each such meeting and providing for the right of residents to attend each such meeting**
 44 **with enumerated exceptions designed to protect the public's interest, the privacy of individ-**
 45 **uals and insurers' proprietary information, including trade secrets. The commission may**

1 meet in camera only after a majority of the entire membership votes to close a meeting. As
2 soon as practicable, the commission must make public:

3 (i) A copy of the vote to close the meeting revealing the vote of each member with no
4 proxy votes allowed; and

5 (ii) Votes taken during the meeting.

6 (E) Establishing the titles, duties and authority and reasonable procedures for the
7 election of the officers of the commission.

8 (F) Providing reasonable standards and procedures for the establishment of the personnel
9 policies and programs of the commission. Notwithstanding any civil service or other similar
10 laws of any compacting state, the bylaws shall exclusively govern the personnel policies and
11 programs of the commission.

12 (G) Promulgating a code of ethics to address permissible and prohibited activities of
13 commission members and employees.

14 (H) Providing a mechanism for winding up the operations of the commission and the eq-
15 uitable disposition of any surplus funds that may exist after the termination of the compact
16 after the payment or reserving of all of its debts and obligations.

17 (d) The commission shall publish its bylaws in a convenient form and file a copy thereof
18 and a copy of any amendment thereto, with the appropriate agency or officer in each of the
19 compacting states.

20 (2)(a) A management committee comprising no more than 14 members shall be estab-
21 lished as follows:

22 (A) One member from each of the six compacting states with the largest premium vol-
23 ume for individual and group annuities, life, disability income and long-term care insurance
24 products, determined from the records of the National Association of Insurance Commis-
25 sioners for the prior year;

26 (B) Four members from those compacting states with at least two percent of the market
27 based on the premium volume described above, other than the six compacting states with the
28 largest premium volume, selected on a rotating basis as provided in the bylaws; and

29 (C) Four members from those compacting states with less than two percent of the mar-
30 ket based on the premium volume described above, with one selected from each of the four
31 zone regions of the National Association of Insurance Commissioners as provided in the by-
32 laws.

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

35 (A) Managing the affairs of the commission in a manner consistent with the bylaws and
36 purposes of the commission;

37 (B) Establishing and overseeing an organizational structure within, and appropriate pro-
38 cedures for, the commission to provide for the creation of uniform standards and other
39 rules, receipt and review of product filings, administrative and technical support functions,
40 review of decisions regarding the disapproval of a product filing, and the review of elections
41 made by a compacting state to opt out of a uniform standard. However, a uniform standard
42 shall not be submitted to the compacting states for adoption unless approved by two-thirds
43 of the members of the management committee;

44 (C) Overseeing the offices of the commission; and

45 (D) Planning, implementing and coordinating communications and activities with other

1 state, federal and local government organizations in order to advance the goals of the com-
2 mission.

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

5 (d) The management committee may, subject to the approval of the commission, appoint
6 or retain an executive director for any period, upon such terms and conditions and for such
7 compensation as the commission may deem appropriate. The executive director shall serve
8 as secretary to the commission, but shall not be a member of the commission. The executive
9 director shall hire and supervise such other staff as may be authorized by the commission.

10 (3)(a) A legislative committee comprising state legislators or their designees shall be es-
11 tablished to monitor the operations of, and make recommendations to, the commission, in-
12 cluding the management committee. However, the manner of selection and term of any
13 legislative committee member shall be as set forth in the bylaws. Prior to the adoption by
14 the commission of any uniform standard, revision to the bylaws, annual budget or other
15 significant matter as may be provided in the bylaws, the management committee shall con-
16 sult with and report to the legislative committee.

17 (b) The commission shall establish two advisory committees, one of which shall comprise
18 consumer representatives independent of the insurance industry, and the other comprising
19 insurance industry representatives.

20 (c) The commission may establish additional advisory committees as its bylaws may
21 provide for the carrying out of its functions.

22 (4) The commission shall maintain its corporate books and records in accordance with
23 the bylaws.

24 (5)(a) The members, officers, executive director, employees and representatives of the
25 commission shall be immune from suit and liability, either personally or in their official ca-
26 pacity, for any claim for damage to or loss of property or personal injury or other civil li-
27 ability caused by or arising out of any actual or alleged act, error or omission that occurred,
28 or that the person against whom the claim is made had a reasonable basis for believing oc-
29 curred within the scope of commission employment, duties or responsibilities. However, this
30 paragraph does not protect any such person from suit or liability for any damage, loss, injury
31 or liability caused by the intentional or willful and wanton misconduct of that person.

32 (b) The commission shall defend any member, officer, executive director, employee or
33 representative of the commission in any civil action seeking to impose liability arising out
34 of any actual or alleged act, error or omission that occurred within the scope of commission
35 employment, duties or responsibilities, or that the person against whom the claim is made
36 had a reasonable basis for believing occurred within the scope of commission employment,
37 duties or responsibilities. However, this paragraph does not prohibit that person from re-
38 taining the person's own counsel. Also, the actual or alleged act, error or omission must not
39 have resulted from that person's intentional or willful and wanton misconduct.

40 (c) The commission shall indemnify and hold harmless any member, officer, executive
41 director, employee or representative of the commission for the amount of any settlement or
42 judgment obtained against that person arising out of any actual or alleged act, error or
43 omission that occurred within the scope of commission employment, duties or responsibil-
44 ities, or that such person had a reasonable basis for believing occurred within the scope of
45 commission employment, duties or responsibilities. However, the actual or alleged act, error

1 or omission must not have resulted from the intentional or willful and wanton misconduct
 2 of that person.

3
 4 **ARTICLE VI**
 5 **MEETINGS AND ACTS OF THE COMMISSION**
 6

7 (1) The commission shall meet and take such actions as are consistent with the pro-
 8 visions of this compact and the bylaws.

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

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

16
 17 **ARTICLE VII**
 18 **RULES AND OPERATING PROCEDURES:**
 19 **RULEMAKING FUNCTIONS OF THE COMMISSION**
 20 **AND OPTING OUT OF UNIFORM STANDARDS**
 21

22 (1) The commission shall adopt reasonable rules, including uniform standards, and oper-
 23 ating procedures in order to effectively and efficiently achieve the purposes of this compact.
 24 In the event the commission exercises its rulemaking authority in a manner that is beyond
 25 the scope of the purposes of this compact, then such an action by the commission shall be
 26 invalid and have no force and effect.

27 (2) Rules and operating procedures shall be made pursuant to a rulemaking process that
 28 conforms to the Model State Administrative Procedure Act of 1981 as amended, as may be
 29 appropriate to the operations of the commission. Before the commission adopts a uniform
 30 standard, the commission shall give written notice to the relevant state legislative commit-
 31 tee in each compacting state responsible for insurance issues of its intention to adopt the
 32 uniform standard. The commission in adopting a uniform standard shall consider fully all
 33 submitted materials and issue a concise explanation of its decision.

34 (3) A uniform standard shall become effective 90 days after its adoption by the commis-
 35 sion or on such later date as the commission may determine. However, a compacting state
 36 may opt out of a uniform standard as provided in this Article. All other rules and operating
 37 procedures, and amendments thereto, shall become effective as of the date specified in each
 38 rule, operating procedure or amendment.

39 (4)(a) A compacting state may opt out of a uniform standard either by legislation or
 40 regulation adopted by the insurance department under the compacting state's Administrative
 41 Procedure Act. If a compacting state elects to opt out of a uniform standard by regulation,
 42 the compacting state must:

43 (A) Give written notice to the commission no later than 10 business days after the uni-
 44 form standard is adopted, or at the time the state becomes a compacting state; and

45 (B) Find that the uniform standard does not provide reasonable protections to the resi-

1 dents of the state, given the conditions in the state.

2 (b) The commissioner shall make specific findings of fact and conclusions of law, based
3 on a preponderance of the evidence, detailing the conditions in the state that warrant a de-
4 parture from the uniform standard and determining that the uniform standard would not
5 reasonably protect the residents of the state. The commissioner must consider and balance
6 the following factors and find that the conditions in the state and needs of the residents of
7 the state outweigh:

8 (A) The intent of the legislature to participate in, and the benefits of, an interstate
9 agreement to establish national uniform consumer protections for the products subject to
10 this compact; and

11 (B) The presumption that a uniform standard adopted by the commission provides rea-
12 sonable protections to consumers of the relevant product.

13 (c) A compacting state may, at the time of its enactment of this compact, prospectively
14 opt out of all uniform standards involving long-term care insurance products by expressly
15 providing for such opt out in the enacted compact, and such an opt out shall not be treated
16 as a material variance in the offer or acceptance of any state to participate in this compact.
17 Such opt out shall be effective at the time of enactment of this compact by the compacting
18 state and shall apply to all existing uniform standards involving long-term care insurance
19 products and those subsequently adopted.

20 (5) If a compacting state elects to opt out of a uniform standard, the uniform standard
21 shall remain applicable in the compacting state electing to opt out until such time the opt
22 out legislation is enacted into law or the regulation opting out becomes effective. Once the
23 opt out of a uniform standard by a compacting state becomes effective as provided under the
24 laws of that state, the uniform standard shall have no further force and effect in that state
25 unless and until the legislation or regulation implementing the opt out is repealed or other-
26 wise becomes ineffective under the laws of the state. If a compacting state opts out of a
27 uniform standard after the uniform standard has been made effective in that state, the opt
28 out shall have the same prospective effect as provided under Article XIV of this compact for
29 withdrawals.

30 (6) If a compacting state has formally initiated the process of opting out of a uniform
31 standard by regulation, and while the regulatory opt out is pending, the compacting state
32 may petition the commission, at least 15 days before the effective date of the uniform
33 standard, to stay the effectiveness of the uniform standard in that state. The commission
34 may grant a stay if it determines the regulatory opt out is being pursued in a reasonable
35 manner and there is a likelihood of success. If a stay is granted or extended by the com-
36 mission, the stay or extension thereof may postpone the effective date by up to 90 days, un-
37 less affirmatively extended by the commission. However, a stay may not be permitted to
38 remain in effect for more than one year unless the compacting state can show extraordinary
39 circumstances that warrant a continuance of the stay, including, but not limited to, the ex-
40 istence of a legal challenge that prevents the compacting state from opting out. A stay may
41 be terminated by the commission upon notice that the rulemaking process has been termi-
42 nated.

43 (7) Not later than 30 days after a rule or operating procedure is adopted, any person may
44 file a petition for judicial review of the rule or operating procedure. However, the filing of
45 such a petition shall not stay or otherwise prevent the rule or operating procedure from

1 becoming effective unless the court finds that the petitioner has a substantial likelihood of
2 success. The court shall give deference to the actions of the commission consistent with
3 applicable law and shall not find the rule or operating procedure to be unlawful if the rule
4 or operating procedure represents a reasonable exercise of the commission's authority.

5 (8) As used in this article, "opt out" means any action by a compacting state to decline
6 to adopt or participate in an adopted uniform standard.

7
8 **ARTICLE VIII**
9 **COMMISSION RECORDS AND ENFORCEMENT**

10
11 (1) The commission shall adopt rules establishing conditions and procedures for public
12 inspection and copying of its information and official records, except such information and
13 records involving the privacy of individuals and insurers' trade secrets. The commission may
14 adopt additional rules under which it may make available to federal and state agencies, in-
15 cluding law enforcement agencies, records and information otherwise exempt from disclo-
16 sure, and may enter into agreements with such agencies to receive or exchange information
17 or records subject to nondisclosure and confidentiality provisions.

18 (2) Except as to privileged records, data and information, the laws of any compacting
19 state pertaining to confidentiality or nondisclosure shall not relieve any compacting state of
20 the duty to disclose any relevant records, data or information to the commission. However,
21 disclosure to the commission shall not be deemed to waive or otherwise affect any
22 confidentiality requirement. Except as otherwise expressly provided in this compact, the
23 commission shall not be subject to the compacting state's laws pertaining to confidentiality
24 and nondisclosure with respect to records, data and information in its possession. Confi-
25 dential information of the commission shall remain confidential after such information is
26 provided to any commissioner.

27 (3) The commission shall monitor compacting states for compliance with duly adopted
28 bylaws, rules, including uniform standards, and operating procedures. The commission shall
29 notify any noncomplying compacting state in writing of its noncompliance with commission
30 bylaws, rules or operating procedures. If a noncomplying compacting state fails to remedy
31 its noncompliance within the time specified in the notice of noncompliance, the compacting
32 state shall be deemed to be in default as set forth in Article XIV of this compact.

33 (4) Any commissioner of a compacting state in which an insurer is authorized to do
34 business, or is conducting the business of insurance, shall continue to exercise the state's
35 authority to oversee the market regulation of the activities of the insurer in accordance with
36 the provisions of the state's law. The commissioner's enforcement of compliance with the
37 compact is governed by the following provisions:

38 (a) With respect to the commissioner's market regulation of a product or advertisement
39 that is approved or certified to the commission, the content of the product or advertisement
40 shall not constitute a violation of the provisions, standards or requirements of the compact
41 except upon a final order of the commission, issued at the request of a commissioner after
42 prior notice to the insurer and an opportunity for hearing before the commission.

43 (b) Before a commissioner may bring an action for violation of any provision, standard
44 or requirement of the compact relating to the content of an advertisement not approved or
45 certified to the commission, the commission, or an authorized commission officer or em-

1 ployee, must authorize the action. However, authorization under this paragraph does not
2 require notice to the insurer, opportunity for hearing or disclosure of requests for authori-
3 zation or records of the commission's action on such requests.

4
5 **ARTICLE IX**
6 **DISPUTE RESOLUTION**

7
8 **The commission shall attempt, upon the request of a member, to resolve any disputes**
9 **or other issues that are subject to this compact and that may arise among two or more**
10 **compacting states, or between compacting states and noncompacting states. The commission**
11 **shall adopt an operating procedure providing for resolution of such disputes.**

12
13 **ARTICLE X**
14 **PRODUCT FILING AND APPROVAL**

15
16 **(1) Insurers and third-party filers seeking to have a product approved by the commission**
17 **shall file the product with, and pay applicable filing fees to, the commission. Nothing in this**
18 **compact shall be construed to restrict or otherwise prevent an insurer from filing its product**
19 **with the insurance department in any state wherein the insurer is licensed to conduct the**
20 **business of insurance, and such filing shall be subject to the laws of the states where filed.**

21 **(2) The commission shall establish appropriate filing and review processes and procedures**
22 **pursuant to commission rules and operating procedures. The commission shall adopt rules**
23 **to establish conditions and procedures under which the commission will provide public access**
24 **to product filing information. In establishing such rules, the commission shall consider the**
25 **interests of the public in having access to such information, as well as protection of personal**
26 **medical and financial information and trade secrets, that may be contained in a product fil-**
27 **ing or supporting information.**

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

30
31 **ARTICLE XI**
32 **REVIEW OF COMMISSION DECISIONS REGARDING FILINGS**

33
34 **(1) Not later than 30 days after the commission has given notice of a disapproved product**
35 **or advertisement filed with the commission, the insurer or third-party filer whose filing was**
36 **disapproved may appeal the determination to a review panel appointed by the commission.**
37 **The commission shall adopt rules to establish procedures for appointing such review panels**
38 **and provide for notice and hearing. An allegation that the commission, in disapproving a**
39 **product or advertisement filed with the commission, acted arbitrarily, capriciously or in a**
40 **manner that is an abuse of discretion or otherwise not in accordance with the law is subject**
41 **to judicial review in accordance with subsection (4) of Article III of this compact.**

42 **(2) The commission shall have authority to monitor, review and reconsider products and**
43 **advertisement subsequent to their filing or approval upon a finding that the product does**
44 **not meet the relevant uniform standard. Where appropriate, the commission may withdraw**
45 **or modify its approval after proper notice and hearing, subject to the appeal process in sub-**

1 section (1) of this Article.

2
3 **ARTICLE XII**
4 **FINANCE**

5
6 (1) The commission shall pay or provide for the payment of the reasonable expenses of
7 its establishment and organization. To fund the cost of its initial operations, the commission
8 may accept contributions and other forms of funding from the National Association of In-
9 surance Commissioners, compacting states and other sources. Contributions and other forms
10 of funding from other sources shall be of such a nature that the independence of the com-
11 mission concerning the performance of its duties is not compromised.

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

16 (3) The commission's budget for a fiscal year may not be approved until it has been
17 subject to notice and comment as set forth in Article VII of this compact.

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

19 (5) The commission may not pledge the credit of any compacting state, except by and
20 with the appropriate legal authority of that compacting state.

21 (6) The commission shall keep complete and accurate accounts of all its internal receipts,
22 including grants and donations, and disbursements of all funds under its control. The inter-
23 nal financial accounts of the commission shall be subject to the accounting procedures es-
24 tablished under its bylaws. The financial accounts and reports including the system of
25 internal controls and procedures of the commission shall be audited annually by an inde-
26 pendent certified public accountant. Upon the determination of the commission, but no less
27 frequently than every three years, the review of the independent auditor shall include a
28 management and performance audit of the commission. The commission shall make an an-
29 nual report to the governor and legislature of the compacting states, which shall include a
30 report of the independent audit. The commission's internal accounts shall not be confidential
31 and such materials may be shared with the commissioner of any compacting state upon re-
32 quest. However, any work papers related to any internal or independent audit and any in-
33 formation regarding the privacy of individuals and insurers' proprietary information,
34 including trade secrets, shall remain confidential.

35 (7) A compacting state does not have any claim to or ownership of any property held by
36 or vested in the commission or to any commission funds held under the provisions of this
37 compact.

38
39 **ARTICLE XIII**
40 **COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT**

41
42 (1) Any state is eligible to become a compacting state.

43 (2) The compact shall become effective and binding upon legislative enactment of the
44 compact into law by two compacting states. However, the commission shall become effective
45 for purposes of adopting uniform standards for, reviewing and giving approval or disapproval

1 of products filed with the commission that satisfy applicable uniform standards only after
 2 26 states are compacting states or, alternatively, states representing greater than 40 percent
 3 of the premium volume for life insurance, annuity, disability income and long-term care in-
 4 surance products, based on records of the National Association of Insurance Commissioners
 5 for the prior year, are compacting states. Thereafter, the compact becomes effective and
 6 binding as to any other compacting state upon enactment of the compact into law by that
 7 state.

8 (3) Amendments to the compact may be proposed by the commission for enactment by
 9 the compacting states. An amendment does not become effective and binding upon the com-
 10 mission and the compacting states unless and until all compacting states enact the amend-
 11 ment into law.

12
 13 **ARTICLE XIV**
 14 **WITHDRAWAL, DEFAULT AND TERMINATION**
 15

16 (1)(a) Once effective, the compact shall continue in force and remain binding upon each
 17 and every compacting state. However, a compacting state may withdraw from the compact
 18 by enacting a statute specifically repealing the statute that enacted the compact into law.

19 (b) The effective date of withdrawal is the effective date of the repealing statute. How-
 20 ever, the withdrawal shall not apply to any product filings approved or self-certified, or any
 21 advertisement of such products, on the date the repealing statute becomes effective, except
 22 by mutual agreement of the commission and the withdrawing state unless the approval is
 23 rescinded by the withdrawing state as provided in paragraph (e) of this subsection.

24 (c) The commissioner of a withdrawing state shall immediately notify the management
 25 committee in writing upon the introduction of legislation repealing this compact in the
 26 withdrawing state.

27 (d) The commission shall notify the other compacting states of the introduction of such
 28 legislation within 10 days after its receipt of notice thereof.

29 (e) The withdrawing state is responsible for all obligations, duties and liabilities incurred
 30 through the effective date of withdrawal, including any obligations, the performance of which
 31 extend beyond the effective date of withdrawal, except to the extent those obligations may
 32 have been released or relinquished by mutual agreement of the commission and the with-
 33 drawing state. The commission's approval of products and advertisement prior to the effec-
 34 tive date of withdrawal shall continue to be effective and be given full force and effect in the
 35 withdrawing state, unless formally rescinded by the withdrawing state in the same manner
 36 as provided by the laws of the withdrawing state for the prospective disapproval of products
 37 or advertisement previously approved under state law.

38 (f) Reinstatement following withdrawal of any compacting state shall occur upon the ef-
 39 fective date of the withdrawing state reenacting the compact.

40 (2)(a) If the commission determines that any compacting state has at any time defaulted
 41 in the performance of any of its obligations or responsibilities under this compact, the bylaws
 42 or adopted rules or operating procedures, then the commission may suspend, after notice and
 43 hearing as set forth in the bylaws, all rights, privileges and benefits conferred by this com-
 44 pact on the defaulting state from the effective date of default as fixed by the commission.
 45 The grounds for default include, but are not limited to, failure of a compacting state to

1 perform its obligations or responsibilities, and any other grounds designated in commission
 2 rules. The commission shall immediately notify the defaulting state in writing of the de-
 3 faulting state's suspension pending a cure of the default. The commission shall stipulate the
 4 conditions and the time period within which the defaulting state must cure its default. If the
 5 defaulting state fails to cure the default within the time period specified by the commission,
 6 the defaulting state shall be terminated from the compact and all rights, privileges and
 7 benefits conferred by this compact shall be terminated from the effective date of termi-
 8 nation.

9 (b) Product approvals by the commission or product self-certifications, or any advertise-
 10 ment in connection with such product, that are in force on the effective date of termination
 11 shall remain in force in the defaulting state in the same manner as if the defaulting state
 12 had withdrawn voluntarily pursuant to subsection (1) of this Article.

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

15 (3)(a) Dissolution of the compact is effective upon the date of the withdrawal or default
 16 of the compacting state that reduces membership in the compact to one compacting state.

17 (b) Upon the dissolution of this compact, the compact becomes null and void and shall
 18 be of no further force or effect, and the business and affairs of the commission shall be
 19 wound up and any surplus funds shall be distributed in accordance with the bylaws.

20
 21 **ARTICLE XV**
 22 **SEVERABILITY AND CONSTRUCTION**
 23

24 (1) The provisions of this compact shall be severable, and if any phrase, clause, sentence
 25 or provision is deemed unenforceable, the remaining provisions of the compact shall be en-
 26 forceable.

27 (2) The provisions of this compact shall be liberally construed.

28
 29 **ARTICLE XVI**
 30 **BINDING EFFECT OF COMPACT AND OTHER LAWS**
 31

32 (1)(a) This compact does not prevent the enforcement of any other law of a compacting
 33 state, except as provided in paragraph (b) of this subsection.

34 (b) For any product approved or certified to the commission, the rules, uniform stan-
 35 dards and any other requirements of the commission shall constitute the exclusive provisions
 36 applicable to the content, approval and certification of such products. For advertisement that
 37 is subject to the commission's authority, any rule, uniform standard or other requirement
 38 of the commission that governs the content of the advertisement shall constitute the exclu-
 39 sive provision that a commissioner may apply to the content of the advertisement. However,
 40 no action taken by the commission shall abrogate or restrict:

41 (A) The access of any person to state courts;

42 (B) Remedies available under state law related to breach of contract, tort or other laws
 43 not specifically directed to the content of the product;

44 (C) State law relating to the construction of insurance contracts; or

45 (D) The authority of the attorney general of the state, including but not limited to

1 **maintaining any actions or proceedings, as authorized by law.**

2 **(c) All insurance products filed with individual states shall be subject to the laws of those**
3 **states.**

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

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

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

11 **(d) In the event any provision of this compact exceeds the constitutional limits imposed**
12 **on the legislature of any compacting state, the obligations, duties, powers or jurisdiction**
13 **sought to be conferred by that provision upon the commission shall be ineffective as to that**
14 **compacting state, and those obligations, duties, powers or jurisdiction shall remain in the**
15 **compacting state and shall be exercised by the agency thereof to which those obligations,**
16 **duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes**
17 **effective.**

18
19
20 **SECTION 3. The Director of the Department of Consumer and Business Services or a**
21 **designee of the director shall serve as this state's member of the Interstate Insurance**
22 **Product Regulation Commission established under the Interstate Insurance Product Regu-**
23 **lation Compact set forth in section 2 of this 2011 Act.**

24 **SECTION 4. The provisions of section 2 of this 2011 Act apply to product forms filed with**
25 **the Department of Consumer and Business Services on or after the effective date of this 2011**
26 **Act.**